

**CUSTOMER CONTRACT REQUIREMENTS
(MULTI-MISSION RADIOISOTOPE THERMOELECTRIC GENERATOR - MMRTG)
CUSTOMER CONTRACT DE-AC03-03SF22307**

CUSTOMER CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 28. If Form GP3 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 41. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31. If this contract is for the procurement of commercial items, as defined in FAR Part 2.101, see Section 3 below.

1. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" mean Seller.

52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995). This clause applies only if this contract exceeds \$100,000.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)) (JUL 1995). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. This clause applies only if this contract exceeds \$100,000.

52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997). This clause applies to this contract if the Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. The Seller shall indemnify Buyer for any and all losses suffered by the Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This clause applies only if this Contract exceeds \$100,000. Paragraph (c)(4) is modified to read as follows: "(c)(4) Seller will promptly submit any disclosure required (with written notice to Boeing) directly to the PCO for the prime contract. Boeing will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor.

52.215-2 Audit and Records - Negotiation (JUN 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types: (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

52.215-11 Price Reduction For Defective Cost or Pricing Data - Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. "Contracting Officer" shall mean "Contracting Officer or Buyer." In subparagraph (d)(2)(i)(A), delete "to the Contracting Officer." In subparagraph (d)(2)(ii)(B), "Government" means "Government" or "Buyer." In Paragraph (e), "United States" shall mean "United States or Buyer."

52.215-13 Subcontractor Cost or Pricing Data – Modifications (OCT 1997). This clause applies only if this contract exceeds \$550,000 and is not otherwise exempt. The certificate required by paragraph (b) of the referenced clause shall be modified as follows: delete "to the Contracting Officer or the Contracting Officer's."

52.215-15 Pension Adjustments and Asset Reversions (DEC 1998). This Clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB) (OCT 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-19 Notification of Ownership Changes (OCT 1997). This Clause applies to this contract if it meets the requirements of FAR 15.408(k).

219-8 Utilization of Small Business Concerns (OCT 2000).

52.219-9 Small Business Subcontracting Plan (OCT 2000). Alt II (MAR 1996) In paragraph (c), "Contracting Officer" shall mean Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes (FEB 1997). "Contracting Officer" shall mean Buyer.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)) (FEB 1999).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (DEC 2001). This clause applies only if this contract exceeds \$25,000.

52.223-14 Toxic Chemical Release Reporting (excluding subparagraph (e)) (OCT 2000). This clause applies only if this contract exceeds \$100,000 (including all options).

52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000).

52.227-1 Authorization and Consent (JUL 1995).

52.227-1 Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996). A copy of each notice sent to the Government will be sent to Buyer. "Contracting Officer" shall mean "Buyer". This clause applies only if this contract exceeds \$100,000.

52.227-11 Patent Rights - Retention by the Contractor (Short Form) (JUN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is a small business firm or nonprofit organization.

52.227-12 Patent Rights - Retention by the Contractor (Long Form) (JUN 1997). This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

52.227-14 Rights in Data — General (JUN 1987). ALT V (JUN 1987) and paragraphs (a) and (d)(3). This clause applies only if data will be produced, furnished or acquired under this contract.

52.230-6 Administration of Cost Accounting Standards (NOV 1999). Add "Buyer and the" before "Contracting Officer in paragraph (f). This provision applies if Clause H002 is included in Buyer's contract.

52.242-15 Stop Work Order (AUG 1989). Change "90 days" and "30 days" to "100 days" and "20 days" respectively. The terms "Contracting Officer" and "Government" shall mean Buyer.

52.244-5 Competition in Subcontracting (DEC 1996)

52.244-6 Subcontracts for Commercial Items (DEC 2001)

52.245-2 Government Property (Fixed Price Contracts) (DEC 1989). "Government" shall mean Government throughout except the first time it appears in paragraph (f) when "Government" shall mean the Government or the Buyer.

52.245-18 Special Test Equipment (FEB 1993). Change "30 days" to "45 days" in paragraph (b) and (c). The notice of intent to procure special test equipment required by this clause shall be forwarded to the Buyer.

52.247-63 Preference for U.S.-Flag Air Carriers (JAN 1997). This clause only applies if this contract involves international air transportation.

52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit (JUN 1997).

52.248-1 Value Engineering (excluding subparagraph (f)) (FEB 2000). The term "Contracting Officer" means Buyer. This clause applies only if this contract is for \$100,000 or more. If Value Engineering Change Proposal is accepted by the Government, Seller's share will be 50% of the instant, concurrent and future contract net acquisition savings and collateral savings that Buyer receives from the Government. Seller's negotiated share of the net acquisition savings and collateral savings shall not reduce the Government's share of concurrent or future savings or collateral savings. Buyer's payments to Seller under this clause are conditioned upon Buyer's receipt of authorization for such payments from the Government.

2. The following additional provisions from the Department of Energy Acquisition Regulations (DEAR) apply:

952.204-2 Security (SEP 1997)

952.227-9 Refund of Royalties (FEB 1995)

952.227-11 Patent Rights – Retention by the Contractor (FEB 1995)

952.227-13 Patent Rights – Acquisition by the Government (SEP 1997)

952.227-84 Notice of Right to Request Patent Waiver (FEB 1998)

952.250-70 Nuclear Hazards Indemnity Agreement (JUN 1996). Applicable if order involves the risk of public liability as defined by the Atomic Energy Act; it is not applicable if Seller is subject to Nuclear Regulatory Commission financial protection requirements or NRC agreements of indemnification.

3. If goods or services being procured under this contract are for commercial items and [Clause H203](#) is set forth in the purchase order, the foregoing Government clauses in Sections 1 above are deleted and the following FAR/DFARS clauses are inserted in lieu thereof:

52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include FAR 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

52.222-26, Equal Opportunity (subparagraphs (b) (1) through (11)) (Feb 1999).

52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001). This clause applies only if this contract exceeds \$25,000

52.222-36, Affirmative Action for Workers with Disabilities (June 1998). This clause applies only if this contract exceeds \$10,000.

4. Cost Accounting Standards

- (1) (Applicable if this contract incorporates clause H001). The version of FAR 52.230-2, Cost Accounting Standards, incorporated by clause H001 is the version dated *April 1998*
- (2) (Applicable if this contract incorporates clause H002). The version of FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, incorporated by clause H002 is the version dated *April 1998*.
- (3) (Applicable if this contract incorporates clause H003). The version of FAR 52.230-4, Consistency in Cost Accounting Practices, incorporated by clause H003 is the version dated *August 1992*).
- (4) (Applicable if this contract incorporates clause H004). The version of FAR 52.230-5, Cost Accounting Standards – Educational Institution, incorporated by clause H004 is the version dated *April 1998*

4. The following prime contract special provisions apply to this purchase order:

A.. CONFIDENTIALITY OF INFORMATION

- (1) To the extent that work under this order requires that Seller be given access to or be furnished with confidential or proprietary business, technical or financial information or data belonging to other entities which is clearly marked as confidential or proprietary, Seller shall after receipt of such information treat it in confidence and agrees not to appropriate such information to its own use or to disclose such information to 3rd parties unless specifically authorized in writing by Buyer. However, the foregoing obligations shall not apply to information or data which is in the public domain at the time of receipt by Seller, information or data which is published or otherwise subsequently becomes part of the public domain through no fault of Seller, information or data which Seller can demonstrate was already in its possession at the time of receipt thereof, or information or data which Seller can demonstrate was received by it from a 3rd party who did not require Seller to treat it in confidence.
- (2) Seller agrees to enter into an agreement, identical in all material respects to the requirements set forth in (1) above, with each entity supplying such confidential or proprietary information or data to Seller under this order; and to supply a copy of such agreement to Buyer. Upon the request of Buyer, Seller shall furnish Buyer with reports which specify any information or data received as confidential or proprietary and which identify the entity or entities that supplied Seller with such information or data.
- (3) Seller shall obtain the written agreement of each employee permitted access to or furnished with confidential or proprietary business, technical or financial information or data, whereby the employee agrees that such information or data which Seller is obligated to treat in confidence will not be discussed, divulged or disclosed except to those persons with Seller's organization directly concerned with the performance of this order or to Buyer or Government representatives. Notwithstanding the foregoing Seller-employee agreement, upon request by Buyer, Seller agrees to obtain from each employee a confidentiality agreement acceptable to Buyer.
- (4) This clause shall be included in any subcontract under which there is a requirement or there becomes a requirement that the subcontractor be given access to or be furnished with confidential or proprietary business, technical, or financial information or data.

B. AMERICAN MADE EQUIPMENT AND PRODUCTS

To the greatest extent practicable, all equipment and products purchased with funds made available to Seller by Buyer under this contract should be American-made.

C. SENSITIVE FOREIGN NATIONS CONTROLS (MAY 1996)

(a) In connection with the contract activities, Seller agrees to comply with the Sensitive Foreign Nations Requirement set forth below. From time to time, Buyer may change the listing of countries therein by a change to this Purchase Contract. Seller shall have the right to terminate its performance under this contract upon at least 90 days prior written notice to Buyer, if Seller determines that it is unable, without substantially interfering with its policies or without adversely affecting its performance, to continue performance of the work under this contract as a result of said change. If Seller elects to terminate performance, the provisions of this contract respecting Termination for Convenience shall apply.

Sensitive Foreign Nations Requirement

Seller shall comply with DOE Order 1240.2B, Unclassified Visits and Assignments by Foreign Nationals, as of 8/21/92, as amended and DOE Order 1500.3 Foreign Travel Authorization, as of 11/10/86, as amended.

The following is the list of Sensitive Countries: Algeria, Armenia, Azerbaijan, Belarus, People's Republic of China, Cuba, Georgia, India, Iran, Iraq, Israel, Kazakhstan, Kyrgyzstan, Libya, Moldova, Democratic People's Republic of North Korea, Pakistan, Russia, Sudan, Syria, Taiwan, Tajikistan, Turkmenistan, Ukraine, Uzbekistan. Due to changing world circumstances, Seller shall exercise caution in dealing with citizens of countries not listed to assure that sensitive information, although unclassified in nature, is not in advertently disclosed. This includes nuclear and other U.S. technology and economic information. The above listing replaces in its entirety Attachment 3 Sensitive Countries (dated 8/21/92) of DOE Order 1240.2B and Attachment 2 Sensitive Countries (dated 2/28/92) of DOE Order 1500.3.

(b) The provisions of this clause shall be included in any subcontracts.

D. FAR 52.227-14 RIGHTS IN DATA - GENERAL (JUN 1987) - ALTERNATE II (MODIFIED) (JUN 1987)

The following subparagraph (g)(2) is hereby inserted in the clause, FAR 52.227-14 RIGHTS IN DATA - GENERAL WITH ALTERNATE V (JUN 1987) and shall become applicable automatically if the Contracting Officer determines it is necessary to obtain the delivery of limited rights data:

"(g)(2) Notwithstanding subparagraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be withholdable. If delivery of such data is so required, the Contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with such Notice:

LIMITED RIGHTS NOTICE (JUN 1987)

(a) These data are submitted with limited rights under Government Contract No. _____ (and subcontract _____, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

- (1) Use, except for manufacture, by Government support service contractors.
- (2) Evaluation by nongovernment evaluators.
- (3) Use by other contractors participating in the Government program of which the specific contract is a part, for information and use in connection with the work performed under each contract.
- (4) Emergency repair or overhaul work.
- (5) Release to a foreign government, or instrumentality thereof, as the interest of the United States Government may require, for information or evaluation, or for emergency repair or overhaul work by such government.

(b) The technical data submitted under this Notice may have been developed, in whole or in part, under previous contracts or grants and may be subject to a license(s) for the benefit of the U.S. Government. Accordingly, the Department of Energy, by accepting delivery of this data, does not intend to waive any

rights and/or license(s) which it may otherwise be entitled and the Government shall not be prevented at any time from contesting the unenforceability, validity, or scope of this restrictive Notice.

(c) This Notice shall be marked on any reproduction of these data, in whole or in part."

E. FAR 52.227-14 RIGHTS IN DATA - GENERAL - ALTERNATE III (JUN 1987)

The following subparagraph (g)(3) is hereby inserted in the clause, FAR 52.227-14 RIGHTS IN DATA - GENERAL WITH ALTERNATE V (JUN 1987) and shall become applicable automatically if the Contracting Officer determines it is necessary to obtain the delivery of restricted computer software:

"(g)(3)(i) Notwithstanding subparagraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be withhold-able. If delivery of such computer software is so required, the Contractor may affix the following "Restricted Rights Notice" to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the Notice:

RESTRICTED RIGHTS NOTICE (JUN 1987)

(a) This computer software is submitted with restricted rights under Government Contract No. _____ (and subcontract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this Notice or as otherwise expressly stated in the contract.

(b) This computer software may be-

(1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used or copied for use in a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software are made subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors in accordance with subparagraphs (b)(1) through (4) of this clause, provided the Government makes such disclosure or reproduction subject to these restricted rights; and

(6) Used or copied for use in or transferred to a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

**RESTRICTED RIGHTS NOTICE
SHORT FORM (JUN 1987)**

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. _____ if appropriate) with _____.

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause, unless the Contractor includes the following statement with such copyright notice: "Unpublished - rights reserved under the

Copyright Laws of the United States."''

F. DEAR 952.227-14 RIGHTS IN DATA - GENERAL - ALTERNATE VI (FEB 1998)

The following subparagraph (k) is hereby inserted in the clause, FAR 52.227-14 RIGHTS IN DATA - GENERAL WITH ALTERNATE V (JUN 1987) and shall become applicable automatically if the Contracting Officer determines it is necessary to license limited and/or restricted rights data:

“(k) Contractor Licensing. Except as may be otherwise specified in this contract as data not subject to this paragraph, the contractor agrees that upon written application by DOE, it will grant to the Government and responsible third parties, for purposes of practicing a subject of this contract, a nonexclusive license in any limited rights data or restricted computer software on terms and conditions reasonable under the circumstances including appropriate provisions for confidentiality; provided, however, the contractor shall not be obliged to license any such data if the contractor demonstrates to the satisfaction of the Secretary of Energy or designee that:

- (1) Such data are not essential to the manufacture or practice of hardware designed or fabricated, or processes developed, under this contract;
- (2) Such data, in the form of results obtained by their use, have a commercially competitive alternate available or readily introducible from one or more other sources;
- (3) Such data, in the form of results obtained by their use, are being supplied by the contractor or its licensees in sufficient quantity and at reasonable prices to satisfy market needs, or the contractor or its licensees have taken effective steps or within a reasonable time are expected to take effective steps to so supply such data in the form of results obtained by their use; or
- (4) Such data, in the form of results obtained by their use, can be furnished by another firm skilled in the art of manufacturing items or performing processes of the same general type and character necessary to achieve the contract results.”

G. DEAR 952.204-73 FACILITY CLEARANCE (MAY 2002)

Notices

Section 2536 of title 10, United States Code, prohibits the award of a contract under a national security program to an entity controlled by a foreign government if it is necessary for that entity to be given access to information in a proscribed category of information in order to perform the contract unless a waiver is granted by the Secretary of **Energy**. In addition, a Facility Clearance and foreign ownership, control and influence (FOCI) information are required when the contract or subcontract to be awarded is expected to require employees to have access authorizations.

Offerors who have either a **Department of Defense** or a **Department of Energy** Facility Clearance generally need not resubmit the following foreign ownership information unless specifically requested to do so. Instead, provide your DOE Facility Clearance code or your DOD assigned commercial and government entity (CAGE) code. If uncertain, consult the office which issued this solicitation.

- (a) Use of Certificate Pertaining to Foreign Interests, Standard Form 328.
 - (1) The contract work anticipated by this solicitation will require access to classified information or special nuclear material. Such access will require a Facility Clearance for the Contractor organization and access authorizations (security clearances) for Contractor personnel working with

the classified information or special nuclear material. To obtain a Facility Clearance the offeror must submit a Certificate Pertaining to Foreign Interests, Standard Form 328, and all required supporting documents to form a complete Foreign Ownership, Control or Influence (FOCI) Package.

- (2) Information submitted by the offeror in response to the Standard Form 328 will be used solely for the purposes of evaluating foreign ownership, control or influence and will be treated by DOE, to the extent permitted by law, as business or financial information submitted in confidence.
 - (3) Following submission of a Standard Form 328 and prior to contract award, the Contractor shall immediately submit to the Contracting Officer written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Following award of a contract, the Contractor must immediately submit to the cognizant security office written notification of any changes in the extent and nature of FOCI which could affect the offeror's answers to the questions in Standard Form 328. Notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the **Department of Justice** must also be furnished concurrently to the cognizant security office.
- (b) Definitions.
- (1) Foreign Interest means any of the following:
 - (i) A foreign government, foreign government agency, or representative of a foreign government;
 - (ii) Any form of business enterprise or legal entity organized, chartered or incorporated under the laws of any country other than the United States or its possessions and trust territories; and
 - (iii) Any person who is not a citizen or national of the United States.
 - (2) Foreign Ownership, Control, or Influence (FOCI) means the situation where the degree of ownership, control, or influence over a Contractor by a foreign interest is such that a reasonable basis exists for concluding that compromise of classified information or special nuclear material may result.
- (c) Facility Clearance means an administrative determination that a facility is eligible to access, produce, use or store classified information, or special nuclear material. A Facility Clearance is based upon a determination that satisfactory safeguards and security measures are carried out for the activities being performed at the facility. It is DOE policy that all Contractors or Subcontractors requiring access authorizations be processed for a Facility Clearance at the level appropriate to the activities being performed under the contract. Approval for a Facility Clearance shall be based upon:
- (1) A favorable foreign ownership, control, or influence (FOCI) determination based upon the Contractor's response to the ten questions in Standard Form 328 and any required, supporting data provided by the Contractor;
 - (2) A contract or proposed contract containing the appropriate security clauses;
 - (3) Approved safeguards and security plans which describe protective measures appropriate to the activities being performed at the facility;
 - (4) An established Reporting Identification Symbol code for the Nuclear Materials Management and Safeguards Reporting System if access to nuclear materials is involved;

- (5) A survey conducted no more than 6 months before the Facility Clearance date, with a composite facility rating **of** satisfactory, if the facility is to possess classified matter or special nuclear material at its location;
 - (6) Appointment **of** a Facility Security Officer, who must possess or be in the process **of** obtaining an access authorization equivalent to the Facility Clearance; and, if applicable, appointment **of** a Materials Control and Accountability Representative; and
 - (7) Access authorizations for key management personnel who will be determined on a case-by-case basis, and must possess or be in the process **of** obtaining access authorizations equivalent to the level **of** the Facility Clearance.
- (d) A Facility Clearance is required prior to the award **of** a contract requiring access to classified information and the granting **of** any access authorizations under a contract. Prior to award **of** a contract, the DOE must determine that award **of** the contract to the offeror will not pose an undue risk to the common defense and security as a result **of** its access to classified information or special nuclear material in the performance **of** the contract. The Contracting Officer may require the offeror to submit such additional information as deemed pertinent to this determination.
- (e) A Facility Clearance is required even for contracts that do not require the Contractor's corporate offices to receive, process, reproduce, store, transmit, or handle classified information or special nuclear material, but which require DOE access authorizations for the Contractor's employees to perform work at a DOE location. This type facility is identified as a non-possessing facility.
- (f) Except as otherwise authorized in writing by the Contracting Officer, the provisions **of** any resulting contract must require that the contractor insert provisions similar to the foregoing in all subcontracts and purchase orders. Any Subcontractors requiring access authorizations for access to classified information or special nuclear material shall be directed to provide responses to the questions in Standard Form 328, Certificate Pertaining to Foreign Interests, directly to the prime contractor or the Contracting Officer for the prime contract.

Notice to Offerors--Contents Review (Please Review Before Submitting)

Prior to submitting the Standard Form 328, required by paragraph (a)(1) **of** this clause, the offeror should review the FOCI submission to ensure that:

- (1) The Standard Form 328 has been signed and dated by an authorized official **of** the company;
- (2) If publicly owned, the Contractor's most recent annual report, and its most recent proxy statement for its annual meeting **of** stockholders have been attached; or, if privately owned, the audited, consolidated financial information for the most recently closed accounting year has been attached;
- (3) A copy **of** the company's articles **of** incorporation and an attested copy **of** the company's by-laws, or similar documents filed for the company's existence and management, and all amendments to those documents;
- (4) A list identifying the organization's owners, officers, directors, and executive personnel, including their names, social security numbers, citizenship, titles **of** all positions they hold within the organization, and what clearances, if any, they possess or are in the process **of** obtaining, and identification **of** the government agency(ies) that granted or will be granting those clearances; and
- (5) A summary FOCI data sheet.

Note: A FOCI submission must be attached for each tier parent organization (i.e. ultimate parent and any intervening levels **of** ownership). If any **of** these documents are missing, award **of** the contract cannot be completed.