

CUSTOMER CONTRACT REQUIREMENTS
57827 Ph2 -ARPAe - Development Of Ultra-High Performance Metallic Turbine Blades For Extreme Environments
CUSTOMER CONTRACT DE-AR0001861

CUSTOMER CONTRACT REQUIREMENTS

The following customer contract requirements apply to this Contract to the extent indicated below. Please note, the requirements below are developed in accordance with Buyer's prime contract and are not modified by Buyer for each individual Seller or statement of work. Seller will remain at all times responsible for providing to any government agency, Buyer, or Buyer's customer, evidence of compliance with the requirements herein or that such requirements are not applicable to the extent satisfactory to the requesting party.

1. FAR Clauses 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.

52.227-1 Authorization and Consent (DEC 2007).

52.227-1 Authorization and Consent Alternate I (APR 1984).

52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007). A copy of each notice sent to the Government shall be sent to Buyer.

2. Prime Contract Special Provisions The following prime contract special provisions apply to this purchase order

DE-AR0001861 Special Provisions .

CLAUSE 10. FOREIGN WORK AND TRAVEL

a. Performance of Work in United States

All work performed for this contract must be performed in the United States unless the Buyer has received advance written authorization from the ARPA-E Contracting Officer to perform certain work overseas and provided that authorization specifically to the Seller.

b. Travel Outside the United States

The Seller is required to obtain written authorization from the ARPA-E Program Director, via the Buyer, before incurring any costs related to foreign travel.

In seeking prior approval for costs related to foreign travel, the Seller is required to provide a submittal to the ARPA-E Program Director, via the Buyer, which explains:

- (i) where the Seller will travel,
- (ii) the purpose of the trip,
- (iii) what the Seller will do, and
- (iv) how the travel relates to this contract.

CLAUSE 11. PURCHASES

a. Sense of Congress

To the greatest extent practicable, all equipment and products purchased with funds made available under this contract should be made in the United States.

b. Purchase of Equipment/Supplies

Any new equipment acquired under this contract must be made or manufactured in the United States, to the maximum

extent practicable. This requirement does not apply to used or leased equipment. Any supplies acquired under this contract must be made or manufactured in the United States, to the maximum extent practicable.

c. Purchase of Foreign Equipment/Supplies

The Seller shall notify the ARPA-E Contracting Officer, via the Buyer, reasonably in advance of purchasing any equipment with a total acquisition cost of \$250,000 or more not made or manufactured in the United States. The notification shall include:

- (a) a description of the equipment or supplies to be purchased,
- (b) identification of the proposed supplier,
- (c) the proposed price,
- (d) identification of the country of origin and the reason for acquiring the equipment or supplies outside of the United States.

The ARPA-E Contracting Officer, via the Buyer, will provide consent to purchase or reject within 60 calendar days of receipt of the Seller's notification. If the ARPA-E Contracting Officer, via the Buyer, fails to respond within the timeframe above, the Seller may proceed with the purchase.

CLAUSE 12. LOBBYING RESTRICTIONS

By accepting funds under this contract, the Seller agrees that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C.

§ 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

CLAUSE 17. PROPERTY – SUPPLIES AND EQUIPMENT

a. Reserved.

b. Equipment

Post-Award equipment purchases with a total acquisition cost of \$250,000 or greater may be purchased only with the prior approval of the Contracting Officer, provided via the Buyer.

CLAUSE 21. CLAIMS, DISPUTES, AND APPEALS

a. Reserved

b. Limitation of Damages

Under no circumstances shall the Federal Government be liable for consequential, punitive, special, or incidental damages, claims for lost profits, or similar damages arising out of or relating to this contract or the Buyer's contract with Buyer's customer. Buyer's customer's, ARPA-E's, liability for direct damages will not exceed the limitation of funds of the Buyer's agreement with government less amounts previously reimbursed for costs incurred under Buyer's agreement with government.

c. Reserved

CLAUSE 27. APPLICABLE COST PRINCIPLES

a. Cost Principles for For-Profit Sellers

Pursuant to 2 C.F.R. § 910.352, the cost principles in the Federal Acquisition Regulations (48 C.F.R. Part 31.2) apply to for-profit Sellers.

b. Cost Principles for Sellers other than For-Profits

The cost principles contained in 2 C.F.R. Part 200 Subpart E apply to all Sellers other than for-profits.

CLAUSE 39. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Per 2 C.F.R. § 200.216, the Seller and any sub-tier or subcontractor supporting this effort are prohibited from obligating or expending funds to:

- (1) procure or obtain;
- (2) extend or renew a contract to procure or obtain; or
- (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Refer to 2 C.F.R. § 200.216 for possible additional prohibitions and limitations.

Small Business Sellers Intellectual Property Rights:

II of the intellectual property provisions found in Attachment 2 (Domestic Small Businesses) INCLUDING ENHANCED U.S. COMPETITIVENESS of the ARPA-E Model Cooperative Agreement (published at <http://arpa-e.energy.gov/>) apply for Sellers who are domestic small businesses. Compliance with these referenced terms and conditions is expressly required.

University and Nonprofit Organization Sellers Intellectual Property Rights:

All of the intellectual property provisions found in Attachment 2 (Domestic Universities and Nonprofit Organizations INCLUDING ENHANCED U.S. COMPETITIVENESS) of the ARPA-E Model Cooperative Agreement (published at <http://arpa-e.energy.gov/>) apply for Sellers who are domestic universities or domestic nonprofit organizations. Compliance with these referenced terms and conditions is expressly required.

Large Business and Foreign Entity Sellers Intellectual Property Rights:

- (1) If Seller is large business receiving a contract with cost sharing of at least 20% under its contract, all of the intellectual property provisions found in this Attachment 2 (Large Businesses)—Waiver (Patent Rights) INCLUDING ENHANCED U.S. COMPETITIVENESS IN SUBAWARDS of the ARPA-E Model Cooperative Agreement (published at <http://arpa-e.energy.gov/>) apply and are expressly required for compliance.
- (2) If Seller is a a large business receiving a contract that does not provide cost sharing of at least 20% or Seller is a foreign, all of the intellectual property provisions found in Attachment 2 (Large Businesses)—No Waiver (Patent Rights) INCLUDING ENHANCED U.S. COMPETITIVENESS IN SUBAWARDS of the ARPA-E Model Cooperative Agreement (published at <http://arpa-e.energy.gov/>) apply and are expressly required for compliance.
- (3) In incorporating the above-referenced intellectual property provisions, the Recipient shall expressly require compliance with their terms and conditions.

Seller Unlimited Rights Data List:

Any contract Seller who is a for-profit entity (including contracts with for-profit vendors) for experimental, developmental or research work, shall include the unlimited rights data list found below:

Protected data, as used in this clause, means technical data or commercial or financial data first produced in the performance of the award which, if it had been obtained from and first produced by a non-federal party, would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of 5 U.S.C.552(b)(4) and which data is marked as being protected data by a party to the award.

Seller agrees that the following types of data are not considered to be protected and shall be provided to the Government when required without any claim that the data are Protected Data. The parties agree that notwithstanding the following lists of types of data, nothing precludes the Government from seeking delivery of

additional data, or from making publicly available additional non-protected data, nor does the following list constitute any admission by the Government that technical data not on the list is Protected Data.

1. Basic physics; materials science; engineering principles; and general, non-enabling, non-proprietary descriptions of the technology.
2. General, non-enabling, non-proprietary data reflecting the material chemistry, material properties, manufacturing processes, testing methods and component design envisioned for successful commercialization of the technology.
3. General, non-enabling, non-proprietary illustrations (written summaries, graphics, pictures and videos) used for describing the material, process, system and its components.
4. All data and information publicly released by the performer team, such as through journal articles, workshop and conference presentations, and press releases.
5. General, non-enabling, non-proprietary data reflecting the physical attributes of the developed materials/process/design to the extent that it informs the possible applications and/or limitations of the proposed technology.
6. General, non-proprietary, key technical and economic performance metrics of the proposed material/process including at least one key performance parameter (e.g. cost, critical properties, design etc.)
7. Generalized, non-proprietary achievable cost vs. properties/performance results substantiated through demonstrations and/or analysis first produced in performance of this award including the impact on gas-turbine system cost.

The Government's sole obligation with respect to any protected data is set forth here.