

**GUAM MEMORIAL HOSPITAL AUTHORITY
850 GOV. CARLOS G. CAMACHO ROAD
TAMUNING, GUAM 96913
PHONE: 671-647-2165 FAX: 671-649-3640**

FAX TRANSMITTAL SHEET

TO: Prospective Bidders
FROM: Hospital Materials Management Administrator
DATE: January 17, 2024
SUBJECT: **GMHA IFB 006-2024 New Tiny Small Form Factor Desktop,
Computers, Monitors and UPS
Amendment No. 1**
PAGES: 11 including cover sheet

NOTES:

An acknowledgement via a return email would be appreciated as soon as possible.

DATE / VENDOR ACKNOWLEDGEMENT

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GUAM MEMORIAL HOSPITAL AUTHORITY

ATURIDÁT ESPETÁT MIMURIÁT GUÅHÅN

850 Governor Carlos Camacho Road, Tamuning, Guam 96913
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AMENDMENT #1 FOR GMHA IFB 006-2024

New Tiny Small Form Factor Desktop Computers, Monitors and UPS

This amendment is in response to clarifications received from Pacific Data Systems.

QUESTION #1:

1. For item 2, will the attached monitor be acceptably by GMHA. This monitor will eliminate the need for a display cable, use one power cord for both the monitor and the "Tiny" PC while also allowing full access to all available USB ports, Audio Out Port & HDMI port (Display Port is used by the Monitor's Built-In Combo Port Slot) on the "Tiny" PC.

Response:

If the item offered meets specification, it will be considered acceptable.

QUESTION #2:

Please confirm if this IFB will be an "All-or None" Award as indicated on page 26, #7, or by each item as indicated in letter I on page 41.

Response:

Page 26, #7 was checked in error, please see corrected bid document and follow the instructions listed on Page 41, letter I.

QUESTION #3:

Are the bidders required to comply with the National Defense Authorization Act (NDAA), Section 889 limiting the government's access to covered equipment or services provided by certain companies or their subsidiaries or affiliates with known ties to the People's Republic of China? It is also PDS's understanding that Government of Guam follows the policy of the United States Department of Homeland Security that has warned against the use of Information Technology Services and Equipment from the Chinese Telecom Firms. Please confirm if compliance with these policies are requirements of this IFB.

Response:

Due to the funding source for this IFB 006-2024, all bidders must comply with The Buy American Act under the NDAA, Section 889.

QUESTION #4:

Please provide the source of the specifications the bid items were derived from.

RESPONSE:

The specifications was web search by the end-user.

Amendment also issued to change bid submission and opening date as stated below:

Bid Submission as reads: 9:30 a.m., Thursday, January 18, 2024
Change bid submission date to read as: 9:30 a.m., Monday, January 22, 2024
Bid Opening date as reads: 10:00 a.m., Thursday, January 18, 2024
Bid Opening date change to read as: 10:00 a.m., Monday, January 22, 2024

If you have any questions, please feel free to address your letter to Lillian Perez-Posadas MN, RN, and send to the Materials Management Office by email to the materials.mgmt@gmha.org.

Sincerely;



DOLORES PANGELINAN
Hospital Materials Management Department

Attachments (8)

ACKNOWLEDGMENT:

PRINT NAME

SIGNATURE

DATE

**GUAM MEMORIAL HOSPITAL AUTHORITY
GENERAL TERMS AND CONDITIONS
REQUEST FOR PROPOSAL GMHA IFB 006-2024
SEALED IFB SOLICITATION AND AWARD**

(Only those items checked below are applicable to this Request for Proposal.)

1. **AUTHORITY:** This solicitation is issued subject to all the provisions of the Guam Procurement Law 5 GCA and the Guam Memorial Hospital Authority Procurement Rules and Regulations 26 GAR Div. 2 (available online via the Office of the Compiler of Laws at http://www.justice.gov.gu/compiler_of_laws/), which require all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.
2. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the offeror to provide the Guam Memorial Hospital Authority (Government) with specified services or with materials, supplies or equipment completely assembled and ready to use.
3. **TAXES:** Offerors are cautioned that they are subject to Guam Income Taxes as well as all other taxes on Guam transactions. Specific information on taxes may be obtained from the Director of Revenue and Taxation.
4. **LICENSING:** Offerors are cautioned that the Government will not consider for award any offer submitted by an offeror who has not complied with licensing laws. Specific information on licenses may be obtained from the Director of Revenue and Taxation.
5. **LOCAL PROCUREMENT PREFERENCE:** All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with Guam Procurement Law.
6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:** Offerors shall comply with all specifications and other requirement for the solicitation.
7. **"ALL OR NONE" PROPOSALS:** By checking this item, the GMHA and the Government is requesting all of the proposal items to be proposed or none at all. The Government will not award on an itemized basis.
8. **INDEPENDENT PRICE DETERMINATION:** The offeror, upon signing the Request for Proposal, certifies that the prices submitted on the proposal were derived at without collusion, and acknowledges that collusion and anti-competitive practices are prohibited by law. Violations will be subject to the provision of 5 GCA Ch. 5, § 5650, et seq. of the Guam Procurement Act. Other existing civil, criminal or administrative remedies are not impaired and may be in addition to the remedies described in § 5659 et seq. of the Government Code.

Section 889 Policies

FAR Rules Issued by DoD, GSA, and NASA

DoD, GSA, and NASA issued multiple rules amending the Federal Acquisition Regulation (FAR) to implement section 889 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232).

Section 889 Part A

Section 889(a)(1)(A) prohibits the Federal Government from procuring or obtaining, or extending or renewing a contract to procure or obtain "any equipment, system, or service 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," on or after August 13, 2019, unless an exception applies or a waiver is granted.

The rules implementing the requirements of section 889(a)(1)(A) are:

1. Federal Acquisition Circular (FAC) 2019-05 published in the Federal Register on August 13, 2019. The documents related to this publication are:
 - a. [Introduction](#) of
 - b. [FAR case 2018-017, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment](#) of Effective August 13, 2019
 - c. [Small Entity Compliance Guide](#) of
 - d. Public comments received on this publication are located at: <https://www.regulations.gov/doctype/FAR-2018-0017/comments> of

2. FAC 2020-03 published in the Federal Register on December 13, 2019. The documents related to this publication are:

- a. [Introduction](#) of
- b. [FAR case 2018-017, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment](#) of Effective December 13, 2019
- c. [Small Entity Compliance Guide](#) of
- d. Public comments received on this publication are located at: <https://www.regulations.gov/doctype/FAR-2018-0017/comments> of

Section 889 Part B

Section 889(a)(1)(B) prohibits executive agencies from entering into, or extending or renewing, a contract with an entity that uses any equipment, system, or service 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 unless an exception applies or a waiver is granted.

The rules implementing the requirements of section 889(a)(1)(B) are:

1. FAC 2020-08 published in the Federal Register on July 14, 2020. The documents related to this publication are:
 - a. [Introduction](#)
 - b. [FAR Case 2019-009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment](#); Interim rule. Effective August 13, 2020.
 - c. [Small Entity Compliance Guide \(SECG\)](#)
 - d. Public comments received on this publication are located at: <https://www.regulations.gov/document/FAR-2019-0009-0000>.

2. FAC 2020-09 published in the Federal Register on August 27, 2020. The documents related to this publication are:
 - a. [Introduction](#)
 - b. [FAR Case 2019-009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment](#); Interim rule. Effective October 26, 2020.
 - c. [Small Entity Compliance Guide \(SECG\)](#)
 - d. Public comments received on this publication are located at: <https://www.regulations.gov/document/FAR-2020-0051-0009>.

The Buy American Act and Buy America requirements

- **Buy American** requirements apply to direct purchases by the U.S. federal government valued at more than US\$10,000.
- **Buy America** requirements apply to purchases of iron, steel and other manufactured products permanently incorporated into infrastructure projects. Further, these projects must be undertaken by U.S. states and municipalities with funds issued by certain U.S. federal departments and agencies.
- These departments and agencies are: the U.S. Environmental Protection Agency (EPA), the U.S. Federal Transit Administration (FTA), the U.S. Federal Highway Administration (FHWA), the U.S. Federal Railroad Administration (FRA), Amtrak and the U.S. Federal Aviation Administration (FAA).

The 1933 Buy American Act^{[Footnote 1](#)}

The *Buy American Act* applies to all U.S. federal government agency purchases of goods (articles, materials, or supplies) valued over the U.S. micro-purchase threshold (currently set at US\$10,000). When purchased by federal entities for public use, the *Act* requires that these goods be produced in the U.S.

To be considered as being produced in the U.S., goods must be manufactured in the U.S. and at least 50% of the cost of their components must come from the U.S.

There are exceptions to Buy American requirements. Waivers can be granted for the public interest, or if the cost of U.S. products is unreasonable compared to equivalent foreign products.

Waivers may also be granted if products are not produced in the U.S. in sufficient and reasonably available commercial quantities of satisfactory quality. For more information, please see [Exceptions and Waivers](#).

Buy American requirements do not apply to Canada for U.S. federal purchases covered by the revised *World Trade Organization Agreement on Government Procurement* (WTO GPA), to which Canada, the U.S. and 46 other countries are Parties (see below).

When bidding on U.S. federal procurements covered by these agreements, Canadian suppliers benefit from the same treatment as American suppliers^{[Footnote 2](#)}.

Buy America requirements attached to U.S. federal funding

Over the years, the U.S. Congress has enacted a number of Buy America requirements applying to purchases of iron, steel and other manufactured products used in infrastructure projects that receive federal funding from specific departments and agencies (hereafter 'agencies').

While [waivers](#) are possible, these requirements put Canadian goods and services at a serious disadvantage when they are applied to a procurement process.

Buy America requirements vary depending on the funding agency as well as the type of good being purchased. Even if a federal agency funds only a small part of an infrastructure project undertaken by a state or municipality, Buy America requirements apply to the project as a whole.

The following table summarizes the most important Buy America requirements. For the complete details, consult the relevant U.S. agency’s website.

	Contract value threshold at or above which the requirements apply	Impacted goods
Federal Transit Administration (FTA) – Buses, highways and other mass transit project.	US\$150,000	Iron, steel and other components of rolling stock (defined in 49 CFR Part 661.3 as transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats) Non-rolling stock
Federal Highway Administration (FHWA) – highways	US\$2,500 or 0.1% of the contract value, whichever is higher	Iron, steel and manufactured goods made predominantly of Steel and iron Does not apply to raw materials such as iron ore, pig iron, scrap steel and limestone
Federal Railroad Administration (FRA) - Trains	US\$100,000	Iron, steel and manufactured goods
Amtrak – National Railroad Passenger Corporation	US\$1 million	All manufactured and unmanufactured goods
Federal Aviation Administration (FAA) – Airport construction	No threshold	Steel and manufactured goods
Environmental Protection Agency	No threshold	Manufactured goods made with iron and steel funded by the following EPA programs: Clean Water State Revolving Fund ; Drinking Water State Revolving Fund ; Water Resources Reform and Development Act ; and Water Infrastructure Finance and Innovation Act

Buy America requirements at the state level

Many U.S. states include Buy American-like local content requirements in their procurement legislation. Refer to the website of the relevant state-level government for more information.

Set asides for small businesses

The U.S. federal government requires that procurements below US\$250,000 be set aside for U.S. small businesses if at least two of them are expected to be qualified to bid on a specific procurement.

Canadian firms legally do not qualify to bid directly on contracts set aside for small, minority or disadvantaged businesses. However, there are a number of ways Canadian suppliers may participate in such a contract:

- **Subcontracting:** The small business prime contractor may spend up to 50% of the value of a contract set aside for a small business on any other type of business.
- **Joint venture – small business:** If you are a small business under the size standards applicable to a procurement, you may form a joint venture with a U.S. small business to bid on a set aside contract.
- **Joint venture – mentor:** If you are a large business, you may enter into a protégé-mentor joint venture with a U.S. small business, and be able to bid on a set aside contract. A mentor must provide assistance to a protégé (it can be technical or financial). The small business must be designated as the manager of the joint venture, and perform at least 40% of the work performed by the joint venture. For a legally established joint venture, the small business must own at least 51% of the joint venture entity.

You can find out more about rules applicable to small business set asides at [13 C.F.R. Subpart 125](#).

The U.S. government procurement trade obligations

Revised WTO Agreement on Government Procurement

Canada, the U.S. and 46 other countries are Parties to the revised [World Trade Organization Agreement on Government Procurement](#) (WTO GPA), which came into force in April 2014^{Footnote 3}. The WTO GPA sets out common rules and procedures regarding covered government procurement activities, which reflect the principles of non-discrimination, transparency, impartiality and fairness.

All parties to the WTO GPA have adopted specific commitments with regard to their procurement markets, which indicate which of their entities, goods and services are covered by the obligations of the Agreement. They have also identified thresholds (monetary contract values) above which the obligations apply, as well as specific exceptions. The U.S.' and other Parties' specific obligations can be found in their market access schedule (annex) to the WTO GPA, accessible through the [e-GPA Portal](#).

In addition to covering the procurement of most federal entities, the U.S. has adopted WTO GPA commitments to varying degrees for 37 states^{Footnote 4}.

When bidding on these covered procurements in the U.S., Canadian suppliers benefit from the rules set out in the WTO GPA, including the requirement to treat foreign suppliers no less

favourably than U.S. domestic suppliers. For a list of covered entities at the U.S. federal and state level, refer to the [WTO GPA Market Access Schedule \(Annex\) for the United States](#). Note that none of the U.S.' WTO GPA commitments apply to procurements at the municipal level.

Footnote 1

[United States Code](#) Title 41-Public Contracts, Subtitle IV-Miscellaneous, Chapter 83-Buy American

[Return to footnote 1 referrer](#)

Footnote 2

Canada and the U.S. were also Parties to the 1994 GPA, the predecessor of the 2014 revised GPA.

[Return to footnote 2 referrer](#)

Footnote 3

The Canada-United States-Mexico Agreement (CUSMA), which entered into force on July 1, 2020, replaces the North American Free Trade Agreement (NAFTA) and does not contain any government procurement commitments between Canada and the US.

[Return to footnote 3 referrer](#)

Footnote 4

Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wisconsin and Wyoming.

PF 2023-08 Amendments to the FAR Buy American Act Requirements

DATE: *November 3, 2022*

SUBJECT: *Amendments to the FAR Buy American Act Requirements*

TO: HCAS/PROCUREMENT DIRECTORS/CONTRACTING OFFICERS
FROM: DIRECTOR, CONTRACT AND FINANCIAL ASSISTANCE POLICY DIVISION,
OFFICE OF POLICY, OFFICE OF ACQUISITION MANAGEMENT

SUMMARY: This Policy Flash provides a reminder for Contracting Officers that the FAR Amendments to the Buy American Act Requirements were effective on October 25, 2022. This final rule amends FAR Parts 25 and 52 to implement section 8 of E.O. 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Upon the October 25, 2022, effective date, the final FAR rule changes the domestic content threshold to 60 percent immediately, then to 65 percent for items delivered starting in calendar year 2024, and then to 75 percent for items delivered starting in calendar year 2029. While a supplier that is awarded a contract with a period of performance that spans this schedule of domestic content threshold increases will be required to comply with each increased threshold for the items in the year of delivery, this rule allows for the agency senior procurement executive to apply an alternate domestic content test under which the contractor would be required to comply with the domestic content threshold in place at time of award for the entire life of the contract.

This final rule also creates a fallback threshold that would allow for products and construction material meeting a 55 percent domestic content threshold to qualify as "domestic" under certain circumstances.

In addition, the final rule creates a framework for application of an enhanced price preference for a domestic product/domestic construction material that is considered a critical item or made up of critical components. The list of critical items and critical components, along with the associated enhanced price preference, will be incorporated in the FAR through a separate rulemaking.

For DOE questions concerning this policy flash, please email: DOE_oapmpolicy@hq.doe.gov

For NNSA questions concerning this policy flash, please contact NNSA at (505) 845-4337.