

**WARRANTIES AND REPRESENTATIONS**  
**AOS CFS**

In accordance with Section 4022 of Title 10, Amendments to Other Transaction Authority, of the National Defense Authorization Act (NDAA) for Fiscal Year 2018, which governs the authority to use an Other Transaction Agreement to carry out prototype projects that are directly relevant to enhancing the mission effectiveness of military personnel and the supporting platforms, systems, components, or materials proposed to be acquired or developed by the Department of Defense, or to improvement of platforms, systems, components, or materials in use by the armed forces, Prime Contractor hereby provides the following Warranties and Representations. **Each Prototype Project awarded under an OTA must meet at least one of the following conditions:**

- There is at least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project; or
- All significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional defense contractors; or
- At least one third of the total cost of the prototype project will be paid out of funds provided by parties other than the Federal Government.

**A. Prime Contractor:** The prime contractor must complete the following table.

|                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |               |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------|--|
| <b>1. Legal Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |  | <b>2. UEI</b> |  |
| <b>3. Point of Contact:</b>                                                                                                                                                                                                                                                                                                                                                                                                                  |  |               |  |
| <b>4. Total Proposed Dollars:</b>                                                                                                                                                                                                                                                                                                                                                                                                            |  |               |  |
| <b>5. Prime Contractor is a nontraditional defense contractor. Prime Contractor certifies that it has not performed, for at least the one-year period preceding the issue date of the solicitation, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to Section 1502 of Title 41 and the regulations implementing such section. (Y/N)?</b> |  |               |  |
| <b>6. Prime Contractor is a nonprofit research institution. (Y/N)?</b>                                                                                                                                                                                                                                                                                                                                                                       |  |               |  |
| <b>7. Prime Contractor will provide at least one third of the total cost of the prototype project out of funds provided by sources other than the Federal Government. (Y/N)?</b>                                                                                                                                                                                                                                                             |  |               |  |
| <b>8. Prime Contractor is a small business in accordance with Section 9 of the Small Business Act (15 U.S.C. 638) under NAICS 541715. (Y/N)?</b>                                                                                                                                                                                                                                                                                             |  |               |  |
| <b>9. Prime Contractor has performed R&amp;D under a FAR based contract within last 12 months. (Y/N)?</b>                                                                                                                                                                                                                                                                                                                                    |  |               |  |
| <i>Note: This is for informational purposes only.</i>                                                                                                                                                                                                                                                                                                                                                                                        |  |               |  |
| <b>10. Prime Contractor Contribution:</b>                                                                                                                                                                                                                                                                                                                                                                                                    |  |               |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |               |  |

**B. Nontraditional and/or Nonprofit Research Institutions:** If the significant use of one or more nontraditional defense contractor and/or nonprofit research institution is proposed, the following information is required **for each significantly participating** nontraditional defense contractor and/or nonprofit research institution.

|                                                                                                                                                                                                                                                                                                                                                                                                                                           |  |                        |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|------------------------|--|
| <b>11. Legal Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |  | <b>12. UEI:</b>        |  |
| <b>13. Dollar Value to be Awarded:</b>                                                                                                                                                                                                                                                                                                                                                                                                    |  |                        |  |
| <b>14. Point of Contact:</b>                                                                                                                                                                                                                                                                                                                                                                                                              |  | <b>15. Task/Phase:</b> |  |
| <b>16. Organization is a nontraditional defense contractor. Organization has certified that it has not performed, for at least the one-year period preceding the issue date of the solicitation, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to Section 1502 of Title 41 and the regulations implementing such section. (Y/N)?</b> |  |                        |  |
| <b>17. Organization is a nonprofit research institution. (Y/N)?</b>                                                                                                                                                                                                                                                                                                                                                                       |  |                        |  |
| <b>18. Organization is a small business in accordance with Section 9 of the Small Business Act (15 U.S.C. 638) under NAICS 541715. (Y/N)?</b>                                                                                                                                                                                                                                                                                             |  |                        |  |
| <b>19. Organization has performed R&amp;D under a FAR based contract within last 12 months. (Y/N)?</b> <i>Note: This is for informational purposes only.</i>                                                                                                                                                                                                                                                                              |  |                        |  |
| <b>20. Contribution (Replace Red Font with Contribution in detail):</b> <i>Please reference item 20 in the instructions section of this form for further guidance</i>                                                                                                                                                                                                                                                                     |  |                        |  |

**C. Signature:** The contractor must check the box and type or sign name.

☐

By checking this box and by typing my name below, I authorize my electronic signature to carry the same weight and legal effect as my written signature.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

## WARRANTIES AND REPRESENTATIONS

### Instructions

Section A must be completed for the prime contractor.

1. Insert the prime contractor's legal name.
2. Insert the prime contractor's UEI.
3. Insert the point of contact (name, title, phone #, email) for the prime contractor.
4. Insert the dollar value of the proposed prototype project (i.e., ceiling). This includes both in-house work and outsourced work.
5. Indicate Yes (Y) or No (N) if the prime contractor is a nontraditional defense contractor.
6. Indicate Yes (Y) or No (N) if the prime contractor is a nonprofit research institution. (Note: A nonprofit research institution is based on the profit structure assertion in the entities approved registration in the System for Award Management (SAM)).
7. Indicate Yes (Y) or No (N) if the prime contractor will provide at least one third of the total cost of the prototype project out of funds provided by sources other than the Federal Government (i.e. will the project contain at least a 1/3 cost share).
8. Indicate Yes (Y) or No (N) if the prime contractor is a small business (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) under NAICS 541715.
9. Indicate Yes (Y) or No (N) if the prime contractor previously performed R&D work under a FAR based contract as a prime or subcontractor (not including OTA, CRADA, Grant, etc.) for the Department of Defense within the past year. Note: This is for informational purposes only.
10. As the prime contractor, explain the importance of the work to be completed in-house. If work is being outsourced, please also describe how the in-house performance is critical to the successful development, completion, or delivery of a prototype solution.

Section B must be completed if the prime contractor is proposing work for nontraditional defense contractors and/or nonprofit research institutions. Copy, paste, and complete the table found in Section B **for each** participating nontraditional defense contractor or nonprofit research institution. Alternatively, if the prime contractor is a traditional small business, and all significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) under NAICS 541715 or nontraditional defense contractors, the table found in Section B is required for each participating small business or nontraditional defense contractor.

11. Insert the organization's legal name.
12. Insert the organization's UEI.
13. Insert the dollar value to be awarded to the organization.
14. Insert the point of contact (name, title, phone #, email) for the organization.
15. Indicate in which specific task/phase(s) of the effort the organization will be used.
16. Indicate Yes (Y) or No (N) if the organization is a nontraditional defense contractor.
17. Indicate Yes (Y) or No (N) if the organization is a nonprofit research institution.

18. Indicate Yes (Y) or No (N) if the organization is a small business (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) under NAICS 541715.
19. Indicate Yes (Y) or No (N) if the organization previously performed R&D work under a FAR based contract as a prime or subcontractor (not including OTA, CRADA, Grant, etc.) for the Department of Defense within the past year. Note: This is for informational purposes only.
20. Explain the organization's contribution to the project using the guidance provided below. As significance is to be determined by way of illustration and not limitation, the description should go straight to the point of what makes this contribution significant for this specific prototype project.
- Contributions should be based on at least one of the following factors:
    - Supplying a new key technology, product or process;
    - Supplying a novel application or approach to an existing technology, product or process;
    - Creating a material increase in the performance, efficiency, quality, or versatility of a key technology, product or process;
    - Causing a material reduction in the cost or schedule of the prototype project; and/or
    - Accomplishing a significant amount of the prototype project
    - Providing for a material increase in performance of the prototype project
  - The following should be considered when drafting the contribution description:
    - Justify why and how the contribution supports the successful development, completion, or delivery of a prototype solution in qualitative and quantitative terms that could be readily understood by non-technical reviewers.
    - Address how the contribution ties into, supports, or is the primary innovation/enhancement of the overall prototype project.
    - Identify any unique skilled personnel, facilities and/or equipment that will be used, particularly if they are commercial in nature (not typically found in the defense industry).
    - Focus on the highly specialized aspects of the contribution, not general capabilities. Identify whether it is a non-standard item or service.
    - Identify if it is more than a business decision to outsource certain work.
    - As applicable, identify any intellectual property, trade secrets, patents, or other proprietary information that will be used. This includes any prior investments in non-recurring engineering (NRE).
    - As applicable, qualify and quantify any cost or schedule savings that will be realized due to the contribution (use specific, defensible numbers).

Section C must be completed by the prime contractor. Check the box and type or sign name. The completed Warranties and Representations should be submitted in MS Word.

### **General Guidance**

- Nontraditional defense contractors and/or nonprofit research institutions can be at the prime level, team members, subcontractors, lower tier vendors, or "intra-company" business units, provided that the business unit makes a significant contribution to the prototype project.
- All nontraditional defense contractors and/or nonprofit research institutions must have a UEI.
- A foreign business can be considered a nontraditional if it has a UEI, meets the requirements for being a nontraditional, and can comply with specifically aspects involving ITAR/EAR.
- STE VSW projects should strive to include as much nontraditional/nonprofit participation as possible.
- A Non-Traditional Defense Contractor (NDC) is referenced in 10 USC 4022 as "The term nontraditional defense contractor has the meaning given the term under section 3014 of this title. Section 3014 states "In this part, the term "nontraditional defense contractor", with respect to a procurement or with respect to a transaction authorized under section 4021(a) or 4022 of this title, means an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any contract or subcontract for the Department of Defense that is subject to full coverage under the cost accounting standards prescribed pursuant to section 1502 of title 41 and the regulations implementing such section."