



November 11, 2020

Subject: Austal USA's Representations & Certifications Updates

Austal USA Suppliers,

As you are aware, Austal requires an annual renewal of the Representations & Certifications (Reps & Certs). As new or updated regulations and requirements are implemented, we revise our Reps & Certs accordingly; however, based on the cycle of renewal, your company may not be privy to the latest revisions.

I wanted to take a moment to inform you of a couple new or updated items that have been recently added to the current version. In the event your renewal cycle isn't of late, I'm requesting you please take the time to read through the items on the following pages to ensure you're up-to-date. Again, this is meant to be informative, so unless you need to disclose information, no action is required at this time.

If you have any questions or need to disclose information as a result of these new flowdowns or certifications, please contact your Austal Purchasing Rep or me immediately.

Very Truly Yours,

A handwritten signature in cursive script that reads "Carey Uhle".

Carey Daniel Uhle  
SCM Compliance Manager & Small Business Liaison



## **Changes/Additions in July 2020**

### *Part II – Section 11, 12 & 13 are new*

#### **11. CONTROL OF MERCURY, PCB, AND RESTRICTION OF USE OF YELLOW PACKING MATERIALS**

**Control of Mercury.** Materials supplied or processed under any Purchase Order shall not contain functional mercury. In addition external contamination by metallic mercury or mercury compounds will be cause for rejection. Prior to shipment, the supplier agrees to notify Austal if mercury contamination is suspected.

**Polychlorinated Biphenyls Prohibition.** Seller shall not employ equipment or use material that is known or suspected of containing polychlorinated biphenyls.

**Prohibition of yellow wrappings or protection devices.** Seller shall not use yellow wrapping materials or attach yellow protection devices such as caps, plugs, or sleeves.

#### **12. PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS--REPRESENTATION (JAN 2017)**

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use funds appropriated (or otherwise made available) for assistance instruments with an entity that requires employees or subawardees of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subawardees from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The prohibition in paragraph (a) of this provision does not contravene requirements applicable to Standard Form 312, (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(c) Representation. By submission of its offer, the Offeror represents that it will not require its employees or subawardees to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subawardees from lawfully reporting waste, fraud, or abuse related to the performance of a Government award to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

#### **13. REPRESENTATION REGARDING THE PROHIBITION ON USING FUNDS UNDER GRANTS AND COOPERATIVE AGREEMENTS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS (JUNE 2015)**

By submission of its proposal or application, the applicant represents that it does not require any of its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting those employees, contractors, or subrecipients from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Note that: (1) the basis for this representation is a prohibition in section 743 of the Financial Services and General Government Appropriations Act, 2015 (Division E of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235) and any successor provision of law on making funds available through grants and cooperative agreements to entities with certain internal confidentiality agreements or statements; and (2) section 743 states that it does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.



*Part VI – Attestation statement was updated with highlighted section*

<b>PART VI – CYBERSECURITY COMPLIANCE</b> <b>[CLICK ON LINK FOR MORE INFO: <a href="#">DFARS 252.204-7008</a> AND <a href="#">252.204-7012</a>]</b>	
8.	Does your company include DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting clause in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties? <input type="checkbox"/> YES <input type="checkbox"/> NO
9.	Additional Comments:  By signing herewith, I attest that either our company does not store, process, or transmit any “controlled technical information” or “covered defense information” in the production or assembly of our end product(s) for Austal OR our company’s storage, processing, or transmission of any “controlled technical information” or “covered defense information” in the production or assembly of our end product(s) for Austal meets all the requirements of DFARS 252.204-7008 and DFARS 252.204-7012.

**Changes/Additions in October 2020**

*Part II – Item 10.2 -- subsection iv was added*

10.	<b>BUSINESS ETHICS AND CONDUCT [FAR 52.203-13 (Jun 2020) AND 52.203-14 (Jun 2020) AND DFARS 252.203-7004 (Aug 2019)]</b>
(1)	The Seller has an ongoing business ethics awareness and compliance program.
(i)	This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.
(ii)	The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.
(2)	During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—
(i)	Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and
(ii)	Any DHS fraud hotline poster subsequently identified by the Contracting Officer.
(iii)	Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.
(iv)	Applicable to lower tier subcontractors, in all subcontracts that exceed \$5.5M, except when the subcontract is for the acquisition of a commercial item.



*Part VII is new (prior version Part VII & VIII are now VIII & IX, respectively)*

**PART VII – TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES  
OR EQUIPMENT**

**[CLICK ON LINK FOR MORE INFO: [FAR 52.204-24 \(Aug 2020\)](#), [FAR 52.204-25 \(Aug 2020\)](#) and [FAR 52.204-26 \(Dec 2019\)](#)]**

Section 889(a)(1) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232)

(A) prohibits the head of an executive agency on or after August 13, 2019, 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. The Contractor is prohibited from providing to the Government 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 at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(B) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, 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 at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that it  does  does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services.

If your company does use the aforementioned covered telecommunications equipment or services, the following information is required:

- A description of the equipment
- How the entity is using the equipment
- For services, a description of the services being offered (maintenance services have different requirements)