

52.250-3 SAFETY Act Block Designation/Certification.

As prescribed in 50.206(b)(1), insert the following provision:

Safety Act *Block Designation/Certification* (Feb 2009)

(a) *Definitions*. As used in this provision-

Act of terrorism means any act determined to have met the following requirements or such other requirements as defined and specified by the Secretary of Homeland Security:

(1) Is unlawful.

(2) Causes harm, including financial harm, to a person, property, or entity, in the *United States*, or in the case of a domestic *United States* air carrier or a *United States*-flag vessel (or a vessel based principally in the *United States* on which *United States* income tax is paid and whose *insurance* coverage is subject to regulation in the *United States*), in or outside the *United States*.

(3) Uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the *United States*.

Block certification means SAFETY Act certification of a technology class that the Department of Homeland Security (DHS) has determined to be an approved class of approved *products* for homeland security.

Block designation means *SAFETY Act designation* of a technology class that the DHS has determined to be a *Qualified Anti-Terrorism Technology (QATT)*.

Qualified Anti-Terrorism Technology (QATT) means any technology designed, developed, modified, procured, or sold for the purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, for which a *SAFETY Act designation* has been issued. For purposes of defining a QATT, technology means any product, equipment, service (including support services), device, or technology (including *information technology*) or any combination of the foregoing. Design services, consulting services, engineering services, software development services, software integration services, threat assessments, vulnerability studies, and other analyses relevant to homeland security *may* be deemed a technology.

SAFETY Act certification means a determination by DHS pursuant to 6 U.S.C. 442(d), as further delineated in 6 CFR 25.9, that a QATT for which a *SAFETY Act designation* has been issued is an approved product for homeland security, *i.e.*, it will perform as intended, conforms to the seller's specifications, and is safe for use as intended.

SAFETY Act designation means a determination by DHS pursuant to 6 U.S.C. 441(b) and 6 U.S.C. 443(a), as further delineated in 6 CFR 25.4, that a particular Anti-Terrorism Technology constitutes a QATT under the SAFETY Act.

(b) The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act), 6 U.S.C. 441-444, creates certain liability limitations for *claims* arising out of, relating to, or resulting from an *act of terrorism* where QATTs have been deployed. It also confers other important benefits.

SAFETY Act designation and SAFETY Act certification are designed to support effective technologies aimed at preventing, detecting, identifying, or deterring acts of terrorism, or limiting the harm that such acts might otherwise cause, and which also meet other prescribed criteria. For some classes of technologies, DHS may issue a *block designation/certification* in order to lessen the burdens for filing for *SAFETY Act designation* or SAFETY Act certifications by not requiring applicants to provide certain information otherwise required and in order to offer expedited review of any application submitted pursuant to a *block designation/certification*. *Block designations/certifications* will be issued only for technologies that rely on established performance standards or defined technical characteristics.

(c)

(1) DHS has issued a *block designation* or *block certification* for the technology to be acquired under this *solicitation*.

(2) This *block designation* or *block certification* is attached to this *solicitation* and contains essential information, including-

(i) A detailed description of and specification for the technology covered by the *block designation* or *block certification*;

(ii) A listing of those portions of the SAFETY Act application kit that *must* be completed and submitted by applicants;

(iii) The date of its expiration; and

(iv) Any other terms and conditions.

(3) *Offerors should* read this *block designation* or *block certification* carefully to make sure they comply with its terms if they plan to take advantage of SAFETY Act coverage for their technology(ies).

(d) All determinations by DHS are based on factors set forth in the SAFETY Act and its implementing regulations. A determination by DHS to issue a *SAFETY Act designation*, or not to issue a *SAFETY Act designation* for a particular technology as a QATT is not a determination that the technology meets, or fails to meet, the requirements of any *solicitation* issued by any Federal, State, local or tribal governments. Determinations by DHS with respect to whether to issue a *SAFETY Act designation* for technologies submitted for DHS review are based on the factors identified in 6 CFR [25.4\(b\)](#).

(e) Neither *SAFETY Act designation* nor certification is in any way a requirement of this action. Whether to seek the benefits of the SAFETY Act for a proposed product or service is entirely up to the *offeror*. Additional information about the SAFETY Act and this *block designation/certification* may be found at the SAFETY Act website at <http://www.SAFETYAct.gov> or requests may be mailed to:

Directorate of Science and Technology SAFETY Act/Room 4320 Department of Homeland Security
Washington, DC 20528

(f) Proposals in which *pricing* or any other terms or conditions are offered contingent upon *SAFETY Act designation* or SAFETY Act certification of the proposed product(s) or service(s) will not be considered for award.

(End of provision)

Alternate I (Feb 2009). As prescribed in [50.206](#) (b)(2), substitute the following paragraph (f):

(f)(1) *Offerors* are authorized to submit proposals made contingent upon *SAFETY Act designation* (or *SAFETY Act certification*, if a *block certification* exists) before award. When an *offer* is made contingent upon *SAFETY Act designation* or certification, the *offeror* also may submit an *alternate offer* without the contingency.

(2) If an *offer* is submitted contingent upon receipt of *SAFETY Act designation* (or *SAFETY Act certification*, if a *block certification* exists) prior to contract award, then the Government may not award a contract based on such *offer* unless the *offeror* demonstrates prior to award that DHS has issued a *SAFETY Act designation* (or *SAFETY Act certification*, if a *block certification* exists) for the *offeror's* technology.

(3) The Government reserves the right to award the contract based on a noncontingent *offer*, prior to DHS resolution of the *offeror's* application for *SAFETY Act designation* (or *SAFETY Act certification*, if a *block certification* exists).

Alternate II (Feb 2009). As prescribed in [50.206](#) (b)(3), substitute the following paragraph (f):

(f)(1) *Offerors* are authorized to submit *offers* presuming that *SAFETY Act designation* (or *SAFETY Act certification*, if a *block certification* exists) will be obtained before or after award.

(2) An *offeror* is eligible for award only if the *offeror*-

(i) Files a *SAFETY Act designation* (or *SAFETY Act certification*) application, limited to the scope of the applicable *block designation* (or *block certification*), within 15 days after submission of the proposal;

(ii) Pursues its *SAFETY Act designation* (or *SAFETY Act certification*) application in good faith; and

(iii) Agrees to obtain the amount of *insurance* DHS requires for issuing the *offeror's SAFETY Act designation* (or *SAFETY Act certification*).

(3) If DHS has not issued a *SAFETY Act designation* (or *SAFETY Act certification*) to the successful *offeror* before contract award, the *contracting officer* will include the clause at [52.250-5](#) in the resulting contract.

Parent topic: [52.250](#) [Reserved]