

|  |  |   |  |   |          |   |            |
|--|--|---|--|---|----------|---|------------|
| <b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS<br/>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>  |  |   |  | 1. REQUISITION NO.  |          | PAGE 1 OF   |            |
| 2. CONTRACT NO.  |  | 3. AWARD/EFFECTIVE DATE   |  | 4. ORDER NO.  |          | 5. SOLICITATION NUMBER<br>VA258-13-R-1064   |            |
|  |  |   |  |   |          | 6. SOLICITATION ISSUE DATE<br>09-13-2013  |            |
| 7. FOR SOLICITATION INFORMATION CALL:  |  | a. NAME<br>Nicolas Nunez-Hidalgo  |  | b. TELEPHONE NO. (No Collect Calls)<br>505-256-2826   |          | 8. OFFER DUE DATE/LOCAL TIME<br>09-24-2013<br>10:00am MST   |            |
| 9. ISSUED BY<br>Department of Veterans Affairs<br>Contracting Office (501/90C)<br>New Mexico VA Health Care System<br>1501 San Pedro Drive SE<br>Albuquerque NM 87108  |  |   |  | 10. THIS ACQUISITION IS<br><input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR:<br><input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 621512<br><input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB<br><input checked="" type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) Y SIZE STANDARD: \$14 Million |          |   |            |
| 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED<br><input type="checkbox"/> SEE SCHEDULE   |  | 12. DISCOUNT TERMS  |  | 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)<br><input type="checkbox"/>   |          | 13b. RATING<br>N/A  |            |
|  |  |   |  |   |          | 14. METHOD OF SOLICITATION<br><input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP |            |
| 15. DELIVER TO<br>Department of Veterans Affairs<br>New Mexico VA Health Care System<br>1501 San Pedro Drive SE<br>Albuquerque NM 87108  |  |   |  | 16. ADMINISTERED BY<br>Department of Veterans Affairs<br>Contracting Office (501/90C)<br>New Mexico VA Health Care System<br>1501 San Pedro Drive SE<br>Albuquerque NM 87108  |          |   |            |
| 17a. CONTRACTOR/OFFEROR CODE   |  | FACILITY CODE   |  | 18a. PAYMENT WILL BE MADE BY CODE   |          |   |            |
|  |  |   |  | OB10 e-Invoice Setup Information:<br>1-877-489-6135<br>OB10 e-Invoice email:<br>VA.Registration@ob10.com<br>FSC e-invoice email: vafscshd@va.gov  |          |   |            |
| TELEPHONE NO.  |  | DUNS:   |  | DUNS+4:   |          | PHONE: FAX:   |            |
| <input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER   |  | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED<br><input type="checkbox"/> SEE ADDENDUM |  |   |          |   |            |
| 19. ITEM NO.   | 20. SCHEDULE OF SUPPLIES/SERVICES  |   |  | 21. QUANTITY  | 22. UNIT | 23. UNIT PRICE  | 24. AMOUNT |
|  | Teleradiology Services<br>See Schedule and Statement of Work<br>This Solicitation is issued under the authority of 38.U.S.C. 8153<br><br>This procurement is 100% set-a-side for Service Disabled Veteran Owned Small Business (SDVOSB). All SDVOSB offerors must be listed as verified by the CVE in Veterans Information page website in order to submit an offer in response to this solicitation in accordance with VAAR 819.7003.<br><br>(Use Reverse and/or Attach Additional Sheets as Necessary) |   |  |   |          |   |            |
| 25. ACCOUNTING AND APPROPRIATION DATA  |  |   |  |   |          | 26. TOTAL AWARD AMOUNT (For Govt. Use Only)<br>\$0.00   |            |
| <input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA<br><input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA               |  |   |  | <input type="checkbox"/> ARE <input checked="" type="checkbox"/> ARE NOT ATTACHED.<br><input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED  |          |   |            |
| <input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED |  |   |  | <input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:   |          |   |            |
| 30a. SIGNATURE OF OFFEROR/CONTRACTOR   |  |   |  | 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)  |          |   |            |
| 30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)  |  | 30c. DATE SIGNED  |  | 31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)<br>Charles Eric Navarro  |          | 31c. DATE SIGNED  |            |

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## SECTION B - CONTINUATION OF SF 1449 BLOCKS

### B.1 CONTRACT ADMINISTRATION DATA

(continuation from Standard Form 1449, block 18A.)

1. Contract Administration: All contract administration matters will be handled by the following individuals:

a. CONTRACTOR:

b. GOVERNMENT: Contracting Officer (90C) Charles Eric Navarro

Department of Veterans Affairs  
Contracting Office (501/90C)  
New Mexico VA Health Care System  
1501 San Pedro Drive SE  
Albuquerque NM 87108

2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor should be mailed to the following address:

3. INVOICES: Invoices shall be submitted in arrears:

a. Quarterly ☐

b. Semi-Annually ☐

c. Other ☐ [Monthly in arrears]

4. GOVERNMENT INVOICE ADDRESS: All invoices from the contractor shall be mailed to the following address:

OB10 e-Invoice Setup Information:

1-877-489-6135

OB10 e-Invoice email:

VA.Registration@ob10.com

FSC e-invoice email: vafscshd@va.gov

ACKNOWLEDGMENT OF AMENDMENTS: The offeror acknowledges receipt of amendments to the Solicitation numbered and dated as follows:

| AMENDMENT NO | DATE |
|--------------|------|
|              |      |
|              |      |

## B.2 SPECIAL CONTRACT REQUIREMENTS

Under the authority of Public Law 104-262 and 38 USC 8153, the contractor agrees to provide Health Care Resources in accordance with the terms and conditions stated herein, to furnish to and at the Department of Veterans Affairs Medical Center, , the services and prices specified in the Section entitled Schedule of Supplies/Services of this contract.

### 1. SERVICES:

a. The services specified in the Sections entitled Schedule of Supplies/Services and Special Contract Requirements may be changed by written modification to this contract.

b. Other necessary personnel for the operation of the services contracted for at the VA will be provided by the VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.

c. The services to be performed by the contractor will be performed in accordance with VA policies and procedures and the regulations of the medical staff by laws of the VA facility.

### 2. TERM OF CONTRACT:

This contract is effective one year from date of award plus 1 one-year options that may be exercised by the VA. The contract is subject to the availability of funds. The contractor shall perform no services after September 30 of any year until the Contracting Officer authorizes such services in writing.

### 3. QUALIFICATIONS:

Personnel assigned by the Contractor to perform the services covered by this contract shall be licensed in a State, Territory, or Commonwealth of the United States or the District of Columbia. All licenses held by the personnel working on this contract shall be full and unrestricted licenses. The qualifications of such personnel shall also be subject to review by the VA Chief of Staff and approval by the VA Facility Director. Each person assigned to work under this contract shall be licensed by .

### 4. WORK HOURS:

a. **The Services shall include professional final interpretations of diagnostic images. The services would be provided as needed on a daily basis night's weekends and holidays. Monday through Friday 4:00 pm to 6:30 am. 4:00 pm Friday though 6:30 am Monday and for a full 24hours on holidays. In addition the contractor shall be available for telephone consultations as needed.**

b. The following terms have the following meanings:

(1) Work hours: Monday through Friday, 6:30 a.m. - 4:00 p.m.

(2) National Holidays: The 10 holidays observed by the Federal Government are:

New Years Day  
Martin Luther Kings Birthday  
Presidents Day

Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving  
Christmas AND

any other day specifically declared by the President of the United States to be a national holiday.

(3) Off-Duty hours: Friday through Monday, 4:00 p.m. - 6:30 a.m.

5. PERSONNEL POLICY:

The contractor shall be responsible for protecting the personnel furnishing services under this contract. To carry out this responsibility, the contractor shall provide the following for these personnel:

- general liability
- workers compensation
- professional liability insurance
- health examinations
- income tax withholding, and
- social security payments.

The parties agree that the contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.

6. RECORD KEEPING:

7. CONTRACT PERFORMANCE MONITORING: See Section 2 Summary of Performance Measures

8. KEY PERSONNEL AND TEMPORARY EMERGENCY SUBSTITUTIONS:

The Contractor shall assign to this contract the following key personnel:

a. During the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period of the contract, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

b. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel.

c. For temporary substitutions where the key person will not be reporting to work for three (3) consecutive work days or more, the Contractor will provide a qualified replacement for the key person. This substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated above.

### **B.3 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes . Accordingly, any contract resulting from this solicitation will include this clause. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) retained by VA to assist in assessing the contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to contractor's offices where the contractor's business records or other proprietary data are retained and to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

(End of Clause)

Minimum monthly fees and start-up fees for Tele-radiology services will not be accepted.

### **PRICE SCHEDULE**

**CLIN 0001 A. Base Year: October 1, 2013 or date of award through September 30, 2014**

**In Accordance with PWS**

Base Year Estimated Total \$ \_\_\_\_\_

**CLIN 1001 B. Option Year One: October 1, 2014 through September 30, 2015**

**In accordance with PWS**

Option Year One Estimated Total \$ \_\_\_\_\_

**ESTIMATED GRAND TOTAL FOR BASE AND ALL OPTION YEARS \$ \_\_\_\_\_**

**GOVERNMENT’S MINIMUM & MAXIMUM QUANTITY:** The NMVHCS attempts to be as accurate as possible when providing estimated quantities; however, actual quantities may vary from quantities as listed in the price schedule. The Government’s minimum quantity to be ordered during the life of this contract is \$10,000 dollars. The Government’s maximum quantity to be ordered during the life of this contract is \$1,100,000.00 dollars.

**BASIS FOR AWARD:** The successful offeror to this solicitation will, at a minimum, have experience in providing Tele-radiology services to Medical Centers/Hospitals. The Government anticipates award of a single, firm-fixed (unit) price, indefinite quantity contract, utilizing the “Best value/Trade-off process.” The Government may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror’s best terms from both a price and technical stand point. The Contracting Officer has the right to limit the number of offers in the competitive range, if necessary, for the purpose of conducting efficient discussions.

Any questions concerning this solicitation should be submitted to the Contract Specialist and Contracting Officer in writing via email by September 17, 2013 to [nicolas.nunez-hidalgo@va.gov](mailto:nicolas.nunez-hidalgo@va.gov) respectively. The mailing address is listed on the SF 1449, block 9. Alternative proposals must be a written document separate from this solicitation. Do not alter this solicitation with hand written notes, lining through sentences, paragraphs, etc. Electronic offers will be accepted.

[End of Schedule of Services and Price]

## **B.2 PERFORMANCE WORK STATEMENT – TELERADIOLOGY SERVICES (NON-PERSONAL SERVICE)**

### **SECTION 1**

#### **DESCRIPTION OF SERVICES**

The Department of Veterans Affairs (VA) has an ongoing program to furnish Teleradiology services (transmission of digitized medical images such as ultrasounds, MRIs, CTs over electronic networks and with the interpretation of the transmitted images for diagnostic purposes) and related services to those veterans that require them and are eligible for assistance. It is VA’s intention to solicit proposals and a single site contract on a competitive basis to a provider under the authority of Title 38 U.S.C. Section 8153.

#### **A. SERVICES:**

2. The contractor shall provide the management, supervision, personnel qualifications, skills and abilities, transportation, and other items and services necessary to perform non-personal, professional diagnostic radiological interpretations



and reports for the New Mexico Veterans Health Care System (NMVAHCS) located at 1501 San Pedro DR SE Albuquerque, NM 87108 as defined for in this Performance Work Statement (PWS). All services shall be performed at the contractor's facility, which shall be located in the United States. The Contractor shall not perform any work outside of the United States.

3. **AUTHORIZATIONS:** Under the authority of Public Law 104-262 and 38 USC 8153, the contractor agrees to provide Health Care Resources in accordance with the terms and conditions stated herein, to furnish to and at the Department of Veterans Affairs Medical Center, the services and prices specified in the Section entitled Schedule of Supplies/Services of this contract. Also, as condition of payment 42 CFR 415.170 and 42 CFR 415.180 (contract for diagnostic radiology and other diagnostic services) are referenced.

4. **DEFINITIONS:**

- a. **Contracting Officer (CO):** A Government employee authorized and warranted to issue contracts, and to make subsequent modification(s). The CO has full authority to make determinations on all changes and disputes regarding the contract.
- b. **Contracting Officer's Technical Representative (COTR):**
- c. **Contractor:** The individual awarded a legal binding contract to provide Teleradiology and interpretation services.
- d. **Credentialing:** The process of verifying provider licensure, certification, training and education through the Department of Veterans Affairs credentialing process.
- e. **Healthcare Insurance Portability and Accountability Act (HIPAA):** Establishes national standards for electronic health care transactions and national identifiers for providers, health plans and employers. It also addresses the security and privacy of health data.
- f. **Peer Review:** Quality assurance conducted by the Contractor to insure accurate interpretations are performed by radiologists.
- g. **Quality Assurance Surveillance Plan (QASP):** A written document prepared and used by the government for Quality Assurance surveillance of the contractor's performance.
- h. **Routine Interpretations:** Interpretations of standard radiographic and other medical images (i.e. Ultrasound, CT, MRI, mammography) of a non-emergent nature.
- i. **Stat Interpretations:** Interpretations of radiographic and other medical images done as stat or on emergency basis.
- j. **Teleradiology:** The technology used to transmit digital medical images on a network.
- k. **Turnaround Time:** The maximum allowable time to receive an interpretation from the Contractor once the Contractor's radiologist has received the medical images.
- l. **All times referred to in the contract are Central Standard Time (CST).**

5. Period Of performance: the base period is one year from the effective date with one year option period.
6. Scope of Work:
  - a. **Services shall include professional final interpretations of diagnostic images. The services would be provided as needed on a daily basis night's weekends and holidays. Monday through Friday 4:00 pm to 6:30 am. 4:00 pm Friday though 6:30 am Monday and for a full 24hours on holidays. In addition the contractor shall be available for telephone consultations as needed.**
  - b. Turnaround time (TAT): exams will be indentified as urgent (stat) or routine . Exams indentified Stat will required a final interpretation reading within 90 minutes of receipt of images, exams identified as routine will required a final reading within 24 hours of receipt of images. The NMVAHCS technologist will notify the contractor radiologist of an exam requiring interpretation. The notification will provide name and contact information of the requesting physician and nature of exam stat or routine. In the event of systems malfunction or failure reports will be provided verbally to the ordering provider with follow up on final read once function has been restored.
  - c. Comparison: when available comparison with previous exams is required. VA exams: Date of previous examination available will be provided to contractor and images must be retrieved for comparison with current examination. Retrieval process used to retrieve VA exams will be the same as the process used to retrieve current exams.
  - d. Interpretations shall include the following: patient's full name, SSN, date of birth, clinical history, exam case number (accession number), date of exam, date of interpretation, name of ordering provider, exam type, interpretation, impression, diagnostic code, and electronic signature of the radiologist providing the interpretation. Name and contact information for the ordering provider will be documented along with exam, case number and brief clinical history and forwarded to contracted radiologist either by fax or electronic format.
  - e. Correction of Readings: If a report requires an addendum, the contractor shall attach dictation within 48 hours of notification, at no further charge to the Government. Notification of addendums required will be provided to the contractor by a NMVAHCS employee via telephone or email. Addendums shall be made by the contractor at no additional cost.
  - f. Critical Imaging Results: National Patient Safety Goal 2.c. requires timely communication of critical imaging results as defined in NMVAHCS Policy 115-07-256, "Imaging Service – Critical Outcome Values and Stat Policy," dated 14 October 2007 (or subsequent revisions thereto). Once an interpreting radiologist identifies critical imaging results, the interpreting radiologist must telephonically communicate this result to the ordering provider and document the contact and the provider's "read back" of the results in the official exam report. This

communication shall occur within thirty minutes of identification of a critical result. Contractor shall document times of communication in the final interpretation.

- g. Consultation Services: Contractor's radiologist must be readily available to provide oral consultation to physicians and technologists within the times of performance. If not available immediately, contractor shall provide a response within fifteen (15) minutes. There will be zero tolerance for non-availability.
- h. Peer Review: A report of cases met/not met will be provided to NMVAHCS on a quarterly basis as required by facility for competency assessment. Each provider must have ten cases peer reviewed.
- i. The Contractor needs to provide a sufficient workforce to be able to provide final reports for the quantities listed in the scheduled within the stipulated times in this statement. The contractor shall provide a network of highly experienced, Board Certified (with preference for Fellowship- training) Radiologists with a spectrum of sub specialties experience and advanced HIPAA compliant technology experience. Physician shall dictate findings, review, electronically sign and upload reports Into the NMVAHCS's Computerized Patient Record System (CPRS) and VistA.
- j. The Contractor shall provide the NMVAHCS with a final report of findings within 90 minutes of complete receipt of exam images for emergent and urgent studies. For routine studies the contractor shall provide the NMVAHCS with a final report of findings within 24 hours.
- k. The Contractor must have current and demonstrated capability to upload final reports directly into CPRS for immediate viewing, as well as provide faxed reports as a contingency plan.
- l. The services contracted for shall be provided to the NMVAHCS by means of an individual written, fax or telephone request which has been authorized by a Contracting Officer's Technical Representative (COR).
- m. RECORD KEEPING: NMVAHCS shall establish and maintain a record keeping system that will record the studies interpreted by the Contractor's employee(s). Contractor shall send a report to the COR or designee as to what work has been performed by the Contractor's employee(s). The contractor shall be paid for all services performed in accordance with requests made by the NMVAHCS COR. Payment shall be made only for services actually performed at the request of the NMVAHCS.
- n. Physician services shall be performed in accordance with the policies and procedures of NMVAHCS and its medical staff by-laws and service under the direction of the Chief, Imaging Service or designee.

**Section 2**

**Service Summary-Performance Measures:**

| Performance Objective  | Performance Threshold   | Performance Measure   | PWS Paragraph | Incentive/<br>Disincentive   |
|--|---|---|---------------|--|
| Prompt delivery of final interpretations   | 95% of the prescribed TAT   | Clinical Performance/<br>Medical Record Documentation<br><br>Quarterly TAT for report verification will be monitored per radiologist. | Section 5.b   | Disincentive: Reports received outside of the TAT noted in the PWS will be invoiced at a 10% discount for each delay of 1 – 10 minutes*<br><br>Incentive: Past performance |
| Availability of radiologist.   | Available by telephone 98% of the time within 15 minutes  | Individual requesting consultation will contact COTR or Chief of Imaging Service  | Section 5.a   | Past performance   |
| Communication of critical imaging results  | All reports shall be communicated within 30 minutes; 95% of all reports shall include documentation required in final impression and appropriate diagnostic code assigned | Clinical Performance/<br>Medical Record Documentation<br><br>Compliance will be monitored per radiologist quarterly                   | Section 5.g   | Past performance   |
| All documentation will meet or exceed standards NMVHCAS protocols for accuracy, content and signature. | 100%  | Clinical Performance/<br>Medical Record Documentation<br><br>Compliance will be monitored per radiologist quarterly                   | Section 5.d   | Past performance   |
| Random Peer review by NMVAHCS  | Less than 1 minor error per 20 exams and less than 1 major error per 500 exams  | Administrative Performance<br><br>Reported quarterly per radiologist as ongoing professional practice evaluation                      | Section 5.h   | Past performance   |

- a. The Government will evaluate the Contractor's performance to ensure services are performed in accordance with the contract. The Government may inspect each task as completed or increase the number of quality assurance inspections if deemed appropriate because of repeated failures or because of repeated customer complaints. Likewise, the Government may decrease the number of quality assurance inspections if performance dictates. NMVAHCS will validate any complaints and report to the CO who will then take necessary action to enforce contract compliance.
- b. If any of the services do not conform to contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no additional cost to the Government. When the defective services cannot be corrected by re-performance, the Government may:
  - i. Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

Reduce the contract price to reflect the reduced value of the services performed.

### **Section 3**

#### **Government Furnish property and services**

1. Images performed on site by the NMVAHCS will be made available electronically to the contractor for diagnostic radiological interpretations along with any clinical information available to the radiologic technologist.
2. All digital images and accompanied data shall remain the property or, and subject to the exclusive control of the U.S. Government. All related reports, images and documents prepared by the contractor for diagnostic imaging interpretation in fulfillment of this contract will become the property of the U.S. Government.

### **Section 4**

#### **General Information requirements**

#### **1. PERSONNEL REQUIREMENTS**

- a. The personnel provided by the contractor to perform the services covered by this contract shall:
  - i. Be licensed in a State, Territory or Commonwealth of the United States or the District of Columbia.

- ii. Be Board Eligible/Certified in Diagnostic Radiology Medicine by the American College of Radiology (ACR).
- iii. Be able to obtain or possess VA credentials for the services identified above.
  - 1. Credentialing and privileging is to be done in accordance with VA Directive 1663 and in accordance with the provisions of VHA Handbook 1100.19, which is attached in Attachment 1 in Section D.
  - 2. The contractor shall submit copies of credentialing documents (Vet Pro) to the NMVAHCS Credentialing Coordinator within two (2) business days following contract award.
  - 3. Contractor personnel will be credentialed and granted privileges through the end of the base period. If an option is exercised, contractor personnel shall submit all paperwork required to perform re-credentialing. Contractor shall submit all required documentation within two (2) business days of request.
  - 4. If required, credentialing documentation shall be provided by the contractor via overnight delivery at no expense to the Government.
- iv. Personnel must possess professional liability insurance, as stated in Contract Clauses, see Section C.
- b. The qualification of such personnel shall also be subject to review by the NMVAHCS Center Chief, Imaging Services and approved by the Medical Center Director.
- c. HHS/OIG: To ensure that the individuals providing services under the contract have not engaged in fraud or abuse regarding Sections 1128 and 1128A of the Social Security Act regarding federal health care programs, the contractor is required to check the Health and Human Service – Office of Inspector General, List of excluded individuals/entities on the OIG website ([www.hhs.gov/oig](http://www.hhs.gov/oig)) for each person providing services under the contract. Further the Contractor is required to certify in its proposal that all persons listed in the contractor's proposal have been compared against the OIG list and are not listed.
- d. Contractor personnel shall read, understand, speak, and write English well enough to effectively communicate with patients and NMVAHCS staff.
- e. Contractor personnel shall maintain open and professional communication with members of the NMVAHCS staff.
- f. Shall be credentialed and privileged by NMVAHCS prior to performing services under this contract. Provider qualifications are subject to review by the NMVAHCS Chief of Staff and to approval by the NMVAHCS Facility Director
- g. Evidence of completion of required licensure, credentials, required training, current competencies and background investigations must be validated for all contractor personnel providing services under this contract.
  - 1. Contractor shall not have any schedule personnel until written notification is received from the CO advising that the candidate(s) presented has met all requirements for contract performance.

2. Shall be credentialed and privileged by NMVAHCS prior to performing services under this contract. Provider qualifications are subject to review by the NMVAHCS Chief of Staff and to approval by the NMVAHCS Facility Director.

## 2. CREDENTIAL REVIEWS/PRIVILEGING

1. GENERAL: The requirements of the VA as stated in this Performance work statement (PWS) are for the performance of professional medical services. The Medical Center Director grants privileges after a review of a completed credentialing packet that has been recommended for approval by the Professional Standards Board and the Medical Staff Council. As a prerequisite to performance under the contract, the contract health provider (HCP) performing the services must be privileged at the NMVAHCS where services are to be performed.

### 2. Initial

A. The Contractor is required to provide the following information to the NMVAHCS Medical Staff Office with signed verification by the provider that the information is correct.

- a. First, middle and last name
- b. Complete Social Security Number
- c. Date of Birth
- d. Complete address, including City State and Zip code
- e. Valid phone number where the provider can be reached, and an alternate number
- f. Valid email address
- g. Gender
- h. Copy of the provider's current driver's license (with a clear picture and signature)

B. For initial credentialing and privileging, clinical practitioners will:

1. Follow the directions on the initial letter sent to them by the Medical Staff Office and return any requested information and/or forms as indicated on the letter.
2. Required documents include the following:



- Current copy of all privileges held by the clinical practitioner (if available)
- Current copy of all medical licenses
- Current copy (if applicable) of state controlled substance registration
- Current copy of Federal Drug Enforcement Administration (DEA) certificate
- Current copy of provider's Advanced Cardiac Life Support (ACLS) certification, if applicable, (mandatory for providers requesting emergency medicine, anesthesiology, or Certified Registered Nurse Anesthetist privileges)
- Current copy of Basic Life Support (BLS) (Mandatory for All providers)
  - VR Radiologists are not required for BLS
- Copy of all training certificates: including degree, internship, residency, fellowships, any board certifications, Educational Commission of Foreign Medical Graduates (ECFMG).
- Copy of naturalization certificate (if applicable)
- If not U.S. citizen, copy of VISA
- Completed and signed VetPro Application 10-2850. When you complete, sign and submit VetPro online, a screen will come up asking if you want to generate a paper application (10-2850). Please print and sign this application.

### 3. Reprivileging

Reprivileging is the process of evaluating the professional credentials, clinical competence and health status (as it relates to the ability to perform the requested clinical privilege) of practitioners who hold clinical privileges within the facility. Reprivileging must be conducted for each practitioner at least every 2 years (prior to current expiration of current privileges).

#### For reprivileging the Contractor will:

Provide quantitative evidence that ongoing practitioner specific professional practice evaluation has occurred and the practitioner has met or exceeded thresholds that indicate practice is satisfactory and continuation of privileges is warranted.

#### For reprivileging the clinical practitioner will:

Follow the directions on the reprivileging letter sent to them by the NMVAHCS and return any requested information and/or forms as indicated on the letter.

## Section 5

### SPECIAL CONTRACT REQUIREMENTS

1. PERSONNEL POLICY: The Contractor provider(s) shall not be considered NMVAHCS employees for any purpose.
2. NATIONAL HOLIDAYS: The 10 holidays observed by the Federal Government are:

|                               |                  |
|-------------------------------|------------------|
| New Years Day                 | Labor Day        |
| Martin Luther King's Birthday | Columbus Day     |
| Presidents Day                | Veterans Day     |
| Memorial Day                  | Thanksgiving Day |
| Independence Day              | Christmas Day    |

And any other day specifically declared by the President of the United States to be a National Holiday.

3. Service connection with NMVAHCS shall be provided via point to point connection that can be expected to transmit 10 GB of patient images daily. This connection will be configured by VAO IT WAN Manager. No costs for configurations, modifications, or upgrade to this network connection shall be incurred by the Contractor. The contractor will only use VA or contractor owned computers.
4. The connectivity/functionality should be approved and verified by the NMVAHCS prior to acceptance of the contract. Contractor should be responsible for any costs associated with connectivity to the VA network.
5. The Contractor must maintain a system that is reliable and functional in order to prevent any disruption of delivery of service. Data transmission security must be maintained at all times. NMVAHCS personnel must be notified immediately of any equipment malfunctions that would detrimentally impact the transmission of images or reports. A continuity of operations plans must be provided with the contractor's proposal. If the contractors server fails or the network connection is lost a fall back plan must be supplied in the contractor's proposal. The contractor must provide a solution for fault tolerance systems and architectures.

6. Contractor shall comply with VA Handbook 6500.6, "*Contract Security*," dated 12 March 2010 (or subsequent revisions thereto) and shall ensure compliance with the electronic data security requirements as required under the Health Insurance Portability Act. A copy of VA Handbook 6500.6 is attached is Attachment 1 in Section D.
7. Contractor shall comply with related policies associated with the transmission, transportation, use of, and access to, VA data from outside a VA facility.
8. CONTINUITY OF SERVICES: The contractor shall ensure sufficient staffing and resources to provide all required services and support through the term of the contract.
9. POST AWARD CONFERENCE: The contractor shall not commence contract performance until the Contracting Officer (CO) has conducted a post award conference, or has advised the contractor that a kick off meeting is waived.
10. CONTRACT ADMINISTRATION:
  - a. Government
    - i. Contracting Officer: The Contracting Officer has the overall responsibility for the Administration of this contract. He/she alone, without delegation, is authorized to take actions on behalf of the Government to: amend, modify or deviate from the contract terms, conditions requirements, specifications, detains and/or delivery schedule; make final decisions on disputed deductions from contract payment for non-performance; terminate the contract for convenience or default; issue final decisions regarding contract questions or matters under dispute. However, he/she may delegate certain other responsibilities to his/her authorized technical representative(s).
    - ii. Contracting Officer's Technical Representative (COR): A COR will be designated to handle the day-to-day operation of the contract. The responsibilities of the COR include but are not limited to: determining the adequacy of performance by the Contractor or accordance with the terms and conditions of this contract; acting as the Government's ensuring compliance with contract requirement insofar as the work is concerned; advising the Contractor of non-performance or unsatisfactory performance; and advising and documenting to the Contracting Officer of any issues regarding non-performance, non-compliance or elements of any issues that affect deductions. A designation letter naming the COR and his/her duties will be provided after award.
  - b. Contractor: After receipt of contract award, the contractor shall provide the name and telephone number of an individual to act as his/her representative. The designated representative shall be responsible for the

administration and coordination of this contract and shall be available to respond to questions/requests Monday through Friday from 8:00 a.m. to 4:30 p.m.

11. KEY PERSONNEL AND TEMPORARY SUBSTITUTIONS:

- a. Key personnel will include those proposed by the contractor, to be confirmed in the award letter furnished by the CO.
- b. Except as provided in par. d. below, during the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period of the contract, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least fifteen (15) days prior to making any permanent substitutions
- c. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitution and complete Curriculum Vitae for the proposed substitute. Proposed substitute shall have comparable qualifications to those of the person being replaced. The Contracting Officer shall notify the Contractor within fifteen (15) calendar days after receipt of all required information of the decision on the proposed substitution.
- d. For temporary substitutions where the key person will not be reporting to work for three (3) consecutive workdays or more, the Contractor will provide a qualified replacement for the key person. This substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated in paragraph c. above. All temporary substitutions must have prior credentialing and privileging (as required) at VA.

12. CONTRACTOR PERSONNEL SECURITY REQUIREMENTS:

- a. All Contractor employees who require access to the Department of Veterans Affairs' computer systems shall be the subject of a background investigation. This requirement is applicable to all subcontractor personnel requiring the same access. The Department of Veterans Affairs Memorandum dated February 8th, 2007 (10N) provides additional guidance and clarification specific to Contractors' investigations. In all cases, access (physical and computer) cannot be granted until officially notified by Security Investigations Center (SIC), Little Rock, Arkansas. Access can be granted prior to receiving final adjudication results.
  - i. Position Sensitivity – The position sensitivity for each Contractor position is determined by the VA utilizing the Position Designation System and Automated Tool (PDAT). Each position will be designated at the high, moderate, or low risk level, depending on the position's potential for adverse impact to the integrity and efficiency of the services (CFR 731.106). Risk levels determine what level of investigation is required.  
Note: The Department of Veterans Affairs (VA) Personal Identity Verification (PIV) Program Office began implementing the rollout of the PIV Program across the enterprise to more than 200 VA sites in 2009. This new policy will most likely require all contractors to be fingerprinted at a minimum, regardless of their position at VA.

- ii. Background Investigation - The level of background investigation commensurate with the required level of access may be either a Special Agreement Check (SAC), National Agency Check with Written Inquiries (NACI) (low risk), Moderate Background Investigation (MBI) (moderate risk), or Background Investigation (high risk). Non-citizen contract personnel appointed to low risk positions will be subject to a National Agency Check with Law Enforcement and Credit Check (NACLC).
- iii. Contractor Responsibilities:
  1. The Contractor shall bear the expense of the background investigation(s), regardless of the final adjudication determination. A Bill of Collections shall be generated by the VA after final adjudication determination has been received. Final adjudication results may take up to six months but are normally received within 90 days after submission. We have determined this contract requires the following level of investigations and associated costs (per person):
 

|  |            |
|--|------------|
| <input type="checkbox"/> SAC             | \$ 29.00   |
| <input checked="" type="checkbox"/> NACI | \$ 254.00  |
| <input type="checkbox"/> NACLC           | \$ 278.00  |
| <input type="checkbox"/> MBI             | \$ 908.00  |
| <input type="checkbox"/> BI              | \$3,812.00 |
  2. The amounts stated above are current for fiscal year 2011, but are subject to annual price changes as established by the Office of Personnel Management (OPM) in the Federal Investigations Notices. Contractors shall be billed per OPM/SIC guidelines and should anticipate annual increases. All fee schedule questions should be directed to the SIC at 501-257-4490 or [vhalitsiccontracting@va.gov](mailto:vhalitsiccontracting@va.gov).
  3. The Contractor shall prescreen all personnel requiring access to the computer systems to ensure they are able to read, write, speak, and understand the English language.
  4. The Contractor employees shall download, complete, and mail the documents required for any risk positions within forty (40) calendar days of receipt of e-mail or the investigation will be cancelled. E-mail notifications will be received by the Contractor from the VA Security Investigations Center (SIC) explaining specific instructions once an investigation has been ordered. Access to the VA cannot be granted until the SIC has received all the required documents from the Contractor. Documents and further instruction will be provided after award.
    - a. The employee must be fingerprinted as part of an investigation. Electronic fingerprinting can be performed at the nearest VA Medical Center. Please contact the Contracting Officer so he/she can make arrangements. The VA uses electronic fingerprint machines which require the employee to fill out the Electronic Fingerprint Verification Letter on the VA's Security Investigations Website. If electronic fingerprinting is not feasible, please contact the local police department or sheriff's office. If you choose to utilize the local police department or sheriff's office, you must use the FD 258 fingerprint cards which must be requested from the SIC. (Fingerprint cards are not mailed unless requested.) The hard fingerprint card or verification letter must be included in the same package with all the other

forms when sent to the Security Center for processing. Do not send packages without the hard card prints or verification letter, or the package will be returned.

5. The Contractor, when notified of an unfavorable determination by the Government, will withdraw the employee from consideration from working under the contract.
6. Failure to comply with the Contractor personnel security requirements shall result in termination of the contract for default.
7. Upon contract award, the Contractor shall furnish the Information Security Office and the Contracting Officer a list of personnel performing work on the contract. The list will include a brief description of the work to be performed and degree of access to information management systems required. The description of the required degree of access will address if remote access is required. The Contractor will update and submit the list of personnel performing work on the contract to the Information Security Office every year, throughout the contract period. Furthermore, it is the Contractor's responsibility to notify the Information Security Office immediately when personnel performing work under this contract no longer require access to information management systems.

iv. Government Responsibilities:

1. Upon receipt, the VA Office of Security and Law Enforcement will review the completed forms for accuracy and forward the forms to OPM to conduct the background investigation.
  2. The VA facility will pay for investigations conducted by the Office of Personnel Management (OPM) in advance. In these instances, the Contractor will reimburse the VA facility within 30 days of receiving the Bill of Collections.
  3. The VA Office of Security and Law Enforcement will notify the contracting officer and Contractor after adjudicating the results of the background investigations received from OPM.
  4. The contracting officer will ensure that the Contractor provides evidence that investigations have been completed or are in the process of being requested.
- b. Contractor personnel performing work under this contract shall satisfy all requirements for appropriate security eligibility in dealing with access to sensitive information and information systems belonging to or being used on behalf of the Department of Veterans Affairs. The Contractor will be responsible for the actions of those individuals they provide to perform work for the VA under this contract. In the event that damages arise from work performed by Contractor provided personnel, under the auspices of this contract, the Contractor will be responsible for all resources necessary to remedy the incident. Printed output containing sensitive VHA data will be stored in a secured area, and disposed of properly by shredding using a NIST-compliant shredder or other VA approved method. Under the provisions of the Privacy Act of 1974 as amended, personnel performing work under this contract have an obligation to protect VA information indefinitely. Furthermore, it is the Contractor's responsibility to notify the Information Management staff when access to Information Management systems is no longer needed by personnel performing work under this contract.
- c. Contractor employees are required to complete the online training classes entitled "VA Information Security Awareness" and "VHA Privacy Policy." The necessary link and instructions to gain access are found at <https://www.ees-learning.net/librix/loginhtml.asp?v=librix>. A certificate of successful completion will be generated for each course. Copies of the certificates shall be faxed to the Information Security Officer, contact information to be provided after award, and to the COTR. Completion of these training courses is required on an annual basis based on the VA's fiscal year.

- d. If deemed required under this agreement, the Contractor shall be considered part of the Department of Veterans Affairs (VA) for purposes of 38 U.S.C. §§ 5701 and 7332 only but remain independent contractors. Its employees may have access to patient medical records to the extent necessary to perform this contract. Notwithstanding any other provision of this agreement, the Contractor and its employees may disclose patient records and individually-identified patient information, including information and records generated by the Contractor in performance of this agreement, only pursuant to explicit disclosure authority from VA.
- e. The VA may provide Contractor and subcontractor employees with access to VA automated patient records maintained on VA computer systems only to the extent and under the same conditions and requirements as VA provides access to these records to its own employees.
- f. All Contractor personnel and any subcontracted employees, if applicable, accessing the VISTA system will be required to sign and abide by all VA security policies, and applicable VA confidentiality statutes, 38 U.S.C. §5701, 38 U.S.C. §7332, and the Privacy Act, 5 U.S.C. §552a, as well as 45 C.F.R. Parts 160, 162 and 164 (Health Insurance Portability and Accountability Act). The VA will provide access applications and security agreements. Contractor shall ensure the confidentiality of all patient information and shall be held liable in the event of the breach of confidentiality. Due to the confidential nature of medical reports, all transcription must be completed in areas that provide reasonable security. All documents are confidential and are protected under the Privacy Act of 1974, as amended. All vendor personnel shall be required to observe the requirements imposed on sensitive data by law, federal regulations, VA statutes and policy, DM&S policy and the associated requirements to insure appropriate screening of personnel.
- g. If deemed required under this agreement, the database utilized by the Contractor, the adverse drug event reports provided to the Contractor by VA, and documents created from analyzing this database, the adverse drug event reports, and patient medical records are medical quality assurance records protected by 38 U.S.C. § 5705, its implementing regulations at 38 U.S.C. §§ 17.500-.511 and VHA Directive 2002-043, Quality Management (QM) And Patient Safety Activities That Can Generate Confidential Documents. These records may be disclosed only as authorized by § 5705 and the VA regulations. Disclosure of these records in violation of § 5705 is a criminal offense under 38 U.S.C. § 5705(e).
- h. If deemed required under this agreement, the treatment and administrative patient records created by, or provided to, the Contractor under this agreement are covered by the VA system of records entitled "Patient Medical Records - VA (24VA136).
- i. All quality data maintained by the Contractor and/or its employees shall be shared with designated Service Line Staff.
- j. No VA data is permitted to be stored on portable media, including but not limited to flash drives, CDs/DVDs, external hard drives, etc., without obtaining a waiver. Waiver request forms can be obtained from the VAPHS Information Security Officer. Any portable media which is granted approval to be utilized by the Contractor under this contract must be encrypted in accordance with the security requirements identified in FIPS 140-2. Only flash drives and encryption software explicitly approved by the VA may be used if granted a waiver.
- k. No VA data is permitted to be stored on a desktop or laptop computer hard drive. Use of any portable computer under this contract must be approved by the ISO, and the computer's hard drive must be encrypted in accordance with FIPS 140-2.
- l. Non-VA equipment is not permitted to be connected to the VA network without prior approval. If a laptop or desktop computer must be connected, a security check must be completed by the VAPHS IT Staff. If unapproved equipment is detected, it will be immediately disconnected from the network.

- m. If remote access is required in order to perform the work in this contract, a VPN request form must be completed and approved by the COTR, the VAPHS CIO, and submitted to the ISO. The account will be given access only to the IP addresses required by this contract. The contractor will make every attempt to use the VA's RESCUE software in order to remotely connect to the VA network. If RESCUE cannot be used to perform the required tasks, then a waiver request must be submitted in order to use the One-VA VPN software in lieu of RESCUE. The only approved method of remotely connecting to any device on the VA network is through the One-VA VPN gateway using RESCUE or, if a waiver is obtained, the One-VA VPN software.
  - n. VA Handbook 6500 requires the following statement be included on all fax cover sheets: "This fax is intended only for the use of the person or office to which it is addressed and may contain information that is privileged, confidential, or protected by law. All others are hereby notified that the receipt of this fax does not waive any applicable privilege or exemption for disclosure and that any dissemination, distribution, or copying of this communication is prohibited. If you have received this fax in error, please notify this office immediately at the telephone number listed above."
13. INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE: The Contractor shall provide and maintain adequate liability insurance coverage consistent with the risks associated with the performance of all services required by this PWS. Refer to Veterans Affairs Acquisition Regulation (VAAR) Clause 852.237-7, Indemnification And Medical Liability Insurance in Section C.
14. CONFLICT OF INTEREST: The Contractor and/or sub-contractor shall not employ any person who is an employee of the United States Government if the employment of that person would create a conflict of interest. The Contractor and/or sub-contractor shall not employ any person who is an employee of the Department of Veterans Affairs, unless such person seeks and receives approval in accordance with applicable policy
15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT of 1996 (HIPAA): Contractor must adhere to the provisions of Public Law 104-191, Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the National Standards to Protect the Privacy and Security of Protected Health Information (PHI). As required by HIPAA, the Department of Health and Human Services (HHS) has promulgated rules governing the security and use and disclosure of protected health information by covered entities, including the Department of Veterans Affairs (VA). In accordance with HIPAA, the Contractor is not required to enter into a Business Associate Agreement (BAA) with VA under this contract.
16. NATIONAL PROVIDER IDENTIFIER: The National Provider Identifier (NPI) is a standard, unique 10-digit numeric identifier required by HIPAA. The Veterans Health Administration must use NPIs in all HIPAA-standard electronic transactions for individual (health care practitioners) and organizational entities (medical centers). The contractor shall ensure that the radiologists providing service under the contract obtains a NPI and provides it to the contracting officer.



17. THE JOINT COMMISSION AND OTHER SPECIAL REQUIREMENTS:

- a. The Contractor will be responsible to ensure that contractor employees providing work on this contract are fully trained and completely competent to perform the required work.
- b. Although this contract does not require Joint Commission accreditation or other regulatory requirements regarding worker competency, the contractor shall perform the required work in a manner that meets or exceeds requirements of Joint Commission. If proposing a non-Joint commission accreditation, the contractor shall provide justification that this accrediting body meets or exceeds the standards set by Joint Commission. The contractor is required to provide a current performance evaluation (proficiency or competency) on each radiologist providing services under the contract. The contractor will provide current copies of the performance evaluations at the time of contract award and annually on the anniversary date of contract award to the VA Contracting Officer, or upon request.
- c. The contractor will provide and document a general orientation for all contractor radiologists who provide work on this contract before commencement of work. Documentation of the orientation will be provided to the Contracting Officer. This orientation will include the following topics:
  - i. Privacy and HIPPA
  - ii. VA Privacy and Security awareness
- d. The VA will monitor the contractor employees' work to ensure contract compliance.
- e. Notwithstanding other contract requirements, upon request of the Contracting Officer, the Contractor will remove from performing work for the contract any Contractor employee who does not comply with orientation requirements or meet competency requirements for the work being performed.
- f. Where the contract does not require Joint Commission accreditation or other regulatory body requirements, the contractor shall perform the required work in a manner that meets or exceeds requirements of Joint Commission. A copy of these standards may be obtained from the Joint Commission, One Renaissance Blvd., Oakbrook Terrace, IL, 60181.

18. REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT SYSTEM (CPARS)

- a. As prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates contractor past performance on all contracts that exceed \$100,000, and shares those evaluations with other Federal Government contract specialists and procurement officials. The FAR requires that the contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement VA uses an online database, CPARS, which is maintained by the Naval Seal Logistics Center in Portsmouth, Virginia. CPARS has connectivity with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. PPIRS is the system used to collect and retrieve performance assessment reports used in source selection determinations and completed CPARS report cards transferred to PPIRS.

CPARS also includes access to the federal awardee performance and integrity information system (FAPIS). FAPIS is a web-enabled application accessed via CPARS for contractor responsibility determination information.

- b. Each contractor whose contract award is estimated to exceed \$100,000 is required to register with CPARS database at the following web address: [www.cpars.csd.disa.mil](http://www.cpars.csd.disa.mil). Help in registering can be obtained by contacting Customer Support Desk @ DSN: 684-1690 or COMM: 207-438-1690. Registration should occur no later than thirty days after contract award, and must be kept current should there be any change to the contractor's registered representative.
19. VA BENEFICIARIES: **VA beneficiaries shall not under any circumstances be charged nor their insurance companies charged for services rendered by the contractor even if VA does not pay for those services. This provision shall survive the termination or ending of the contract.**

## SECTION 6

### VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY REQUIREMENTS

1. GENERAL: Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same Federal laws, regulations, standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security. The C&A requirements do not apply, and a Security Accreditation Package is not required.
2. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS
  - a. A contractor/subcontractor shall request logical (technical) or physical access to VA information and VA information systems for their employees, subcontractors, and affiliates only to the extent necessary to perform the services specified in the contract, agreement, or task order.
  - b. All contractors, subcontractors, and third-party servicers and associates working with VA information are subject to the same investigative requirements as those of VA appointees or employees who have access to the same types of information. The level and process of background security investigations for contractors must be in accordance with VA Directive and Handbook 0710, *Personnel Suitability and Security Program*. The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.
  - c. Contract personnel who require access to national security programs must have a valid security clearance. National Industrial Security Program (NISP) was established by Executive Order 12829 to ensure that cleared U.S. defense industry contract personnel safeguard the classified information in their possession while performing work on contracts, programs, bids, or research and development efforts. The Department of Veterans Affairs does not have a Memorandum of Agreement with Defense Security Service (DSS). Verification of a Security Clearance must be processed through the Special Security Officer located in the Planning and National Security Service within the Office of Operations, Security, and Preparedness.
  - d. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor's employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.
3. VA INFORMATION CUSTODIAL LANGUAGE
  - a. Information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor/subcontractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the VA. This clause expressly limits the contractor/subcontractor's rights to use data as described in Rights in Data -General, FAR 52.227-14(d)

(1).

- b. VA information should not be co-mingled, if possible, with any other data on the contractors/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on site inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.
- c. Prior to termination or completion of this contract, contractor/subcontractor must not destroy information received from VA, or gathered/created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, *Records and Information Management* and its Handbook 6300.1 *Records Management Procedures*, applicable VA Records Control Schedules, and VA Handbook 6500.1, *Electronic Media Sanitization*. Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.
- d. The contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies in this contract.
- e. The contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement or to preserve electronic information stored on contractor/subcontractor electronic storage media for restoration in case any electronic equipment or data used by the contractor/subcontractor needs to be restored to an operating state. If copies are made for restoration purposes, after the restoration is complete, the copies must be appropriately destroyed.
- f. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.
- g. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.01, *Business Associate Agreements*. Absent an agreement to use or disclose protected health information, there is no business associate relationship.
- h. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.
- i. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.
- j. Notwithstanding the provision above, the contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the contractor/subcontractor is in receipt of a court order or other requests for the above mentioned information, that contractor/subcontractor shall immediately refer such court orders or other requests to the VA contracting officer for response.

#### 4. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE

- a. VA prohibits the installation and use of personally-owned or contractor/subcontractor-owned equipment or software on VA's network. If non-VA owned equipment must be used to fulfill the requirements of a

contract, it must be stated in the service agreement, PWS or contract. All of the security controls required for government furnished equipment (GFE) must be utilized in approved other equipment (OE) and must be funded by the owner of the equipment. All remote systems must be equipped with, and use, a VA-approved antivirus (AV) software and a personal (host-based or enclave based) firewall that is configured with a VA-approved configuration. Software must be kept current, including all critical updates and patches. Owners of approved OE are responsible for providing and maintaining the anti-viral software and the firewall on the non-VA owned OE.

#### 5. SECURITY INCIDENT INVESTIGATION

- a. The term “security incident” means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor/subcontractor shall immediately notify the COTR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/subcontractor has access.
- b. To the extent known by the contractor/subcontractor, the contractor/subcontractor’s notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the contractor/subcontractor considers relevant.
- c. With respect to unsecured protected health information, the business associate is deemed to have discovered a data breach when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.
- d. In instances of theft or break-in or other criminal activity, the contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and Security and Law Enforcement. The contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.

#### 6. LIQUIDATED DAMAGES FOR DATA BREACH

- a. Consistent with the requirements of 38 U.S.C. §5725, a contract may require access to sensitive personal information. If so, the contractor is liable to VA for liquidated damages in the event of a data breach or privacy incident involving any SPI the contractor/subcontractor processes or maintains under this contract.
- b. The contractor/subcontractor shall provide notice to VA of a “security incident” as set forth in the Security Incident Investigation section above. Upon such notification, VA must secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for contract termination.
- c. Each risk analysis shall address all relevant information concerning the data breach, including the following:
  - i. Nature of the event (loss, theft, unauthorized access);
  - ii. Description of the event, including:
    1. date of occurrence;
    2. data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
  - iii. Number of individuals affected or potentially affected;
  - iv. Names of individuals or groups affected or potentially affected;

- v. Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text;
  - vi. Amount of time the data has been out of VA control;
  - vii. The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
  - viii. Known misuses of data containing sensitive personal information, if any;
  - ix. Assessment of the potential harm to the affected individuals;
  - x. Data breach analysis as outlined in 6500.2 Handbook, *Management of Security and Privacy Incidents*, as appropriate; and
  - xi. Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.
- d. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount of \$ Actual Cost per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:
- i. Notification;
  - ii. One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
  - iii. Data breach analysis;
  - iv. Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
  - v. One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
  - vi. Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

## 7. TRAINING

- a. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:
  - i. Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior*, see Attachment 1 in Section D, relating to access to VA information and information systems;
  - ii. Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;
  - iii. Successfully complete the appropriate VA privacy training and annually complete required privacy training; and
- b. The contractor shall provide to the contracting officer and/or the COR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within 1 week of the initiation of the contract and annually thereafter, as required.
- c. Failure to complete the mandatory annual training and sign the Rules of Behavior annually, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.

## SECTION C - CONTRACT CLAUSES

### C.1 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2013)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104 (g)).

(2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78)

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[X] (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

[] (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010)(Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

[] (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

[X] (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).

[] (5) 52.204-11, American Recovery and Reinvestment Act-Reporting Requirements (JUL 2010) (Pub. L. 111-5).

[X] (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

[X] (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).

[] (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

[] (9) 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award (NOV 2011) (15 U.S.C. 657a).

- ☐ (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- ☐ (11) [Reserved]
- ☐ (12)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).
- ☐ (ii) Alternate I (NOV 2011).
- ☐ (iii) Alternate II (NOV 2011).
- ☐ (13)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- ☐ (ii) Alternate I (Oct 1995) of 52.219-7.
- ☐ (iii) Alternate II (Mar 2004) of 52.219-7.
- ☒ (14) 52.219-8, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637(d)(2) and (3)).
- ☐ (15)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637(d)(4)).
- ☐ (ii) Alternate I (Oct 2001) of 52.219-9.
- ☐ (iii) Alternate II (Oct 2001) of 52.219-9.
- ☐ (iv) Alternate III (JUL 2010) of 52.219-9.
- ☐ (16) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- ☐ (17) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- ☐ (18) 52.219-16, Liquidated Damages--Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (19)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer.)
- ☐ (ii) Alternate I (June 2003) of 52.219-23.
- ☐ (20) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (21) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- ☒ (23) 52.219-28, Post Award Small Business Program Rerepresentation (APR 2012) (15 U.S.C. 632(a)(2)).
- ☐ (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012) (15 U.S.C. 637(m)).
- ☐ (25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012) (15 U.S.C. 637(m)).

- [X] (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- [] (27) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).
- [X] (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- [X] (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- [X] (30) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- [X] (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- [X] (32) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- [X] (33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- [X] (34) 52.222-54, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- [] (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C.6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- [] (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- [] (36) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).
- [] (37)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).
- [] (ii) Alternate I (DEC 2007) of 52.223-16.
- [X] (38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)
- [] (39) 52.225-1, Buy American Act--Supplies (FEB 2009) (41 U.S.C. 10a-10d).
- [] (40)(i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- [] (ii) Alternate I (MAR 2012) of 52.225-3.
- [] (iii) Alternate II (MAR 2012) of 52.225-3.
- [] (iv) Alternate III (NOV 2012) of 52.225-3.
- [] (41) 52.225-5, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- [X] (42) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- [] (43) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).



- ☐ (44) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
- ☐ (45) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ☐ (46) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ☐ (47) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).
- ☒ (48) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).
- ☐ (49) 52.232-36, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).
- ☐ (50) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- ☐ (51)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).
- ☐ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- ☒ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).
  - ☒ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- | Employee Class  | Monetary Wage-Fringe Benefits |
|---|-------------------------------|
| <input checked="" type="checkbox"/> (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).          |                               |
| <input type="checkbox"/> (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).  |                               |
| <input type="checkbox"/> (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.). |                               |
| <input type="checkbox"/> (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).   |                               |
| <input checked="" type="checkbox"/> (7) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O.13495).   |                               |
| <input type="checkbox"/> (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247)   |                               |
| <input type="checkbox"/> (9) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).   |                               |

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements "(Nov 2007)" (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (FEB 2009)(41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employee Eligibility Verification (JUL 2012)

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

## C.2 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.acquisition.gov/far/index.html>  
<http://www.va.gov/oal/library/vaar/>

(End of Clause)

| <u>FAR<br/>Number</u> | <u>Title</u>  | <u>Date</u> |
|-----------------------|---|-------------|
| 52.212-4              | CONTRACT TERMS AND CONDITIONS-- COMMERCIAL ITEMS                                      | FEB 2012    |
| 52.203-16             | PREVENTING PERSONAL CONFLICTS OF INTEREST   | DEC 2011    |
| 52.204-4              | PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER                                      | MAY 2011    |
| 52.204-9              | PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL                                | JAN 2011    |
| 52.216-22             | INDEFINITE QUANTITY   | OCT 1995    |
| 52.217-8              | OPTION TO EXTEND SERVICES   | NOV 1999    |
| 52.217-9              | OPTION TO EXTEND THE TERM OF THE CONTRACT   | MAR 2000    |
| 52.224-1              | PRIVACY ACT NOTIFICATION  | APR 1984    |
| 52.224-2              | PRIVACY ACT   | APR 1984    |
| 52.227-14             | RIGHTS IN DATA--GENERAL   | DEC 2007    |
| 52.227-17             | RIGHTS IN DATA--SPECIAL WORKS   | DEC 2007    |
| 52.232-19             | AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR  | APR 1984    |
| 52.232-35             | DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION | MAY 1999    |
| 52.232-37             | MULTIPLE PAYMENT ARRANGEMENTS   | MAY 1999    |
| 52.237-3              | CONTINUITY OF SERVICES  | JAN 1991    |

### **C.3 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)**

The bidder or offeror agrees that if a contract is awarded to him/her, as a result of this solicitation, he/she will not advertise the award of the contract in his/her commercial advertising in such a manner as to state or imply that the Department of Veterans Affairs endorses a product, project or commercial line of endeavor.

(End of Clause)

### **C.4 VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)**

(a) Except as provided in paragraph (c) below, the Contractor shall display prominently, in common work areas within business segments performing work under VA contracts, Department of Veterans Affairs Hotline posters prepared by the VA Office of Inspector General.

(b) Department of Veterans Affairs Hotline posters may be obtained from the VA Office of Inspector General (53E), P.O. Box 34647, Washington, DC 20043-4647.

(c) The Contractor need not comply with paragraph (a) above if the Contractor has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(End of Clause)

### **C.5 VAAR 852.219-10 VA NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (DEC 2009)**

(a) Definition. For the Department of Veterans Affairs, "Service-disabled veteran-owned small business concern":

(1) Means a small business concern:

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans (or eligible surviving spouses);

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans (or eligible surviving spouses) or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran;

(iii) The business meets Federal small business size standards for the applicable North American Industry Classification System (NAICS) code identified in the solicitation document; and

(iv) The business has been verified for ownership and control and is so listed in the Vendor Information Pages database, (<http://www.VetBiz.gov>).

(2) "Service-disabled veteran" means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

(b) *General.* (1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation shall be made to a service-disabled veteran-owned small business concern.

(c) Agreement. A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for:

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other eligible service-disabled veteran-owned small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other eligible service-disabled veteran-owned small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other eligible service-disabled veteran-owned small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other eligible service-disabled veteran-owned small business concerns.

(d) A joint venture may be considered a service-disabled veteran owned small business concern if--

(1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and

(3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation.

(4) The joint venture meets the requirements of 13 CFR 125.15(b).

(e) Any service-disabled veteran-owned small business concern (non-manufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

(End of Clause)

## **C.6 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

(a) *Definitions*. As used in this clause—

(1) *Contract financing payment* has the meaning given in FAR 32.001.

(2) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(3) *Electronic form* means an automated system transmitting information electronically according to the

Accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

(4) *Invoice payment* has the meaning given in FAR 32.001.

(5) *Payment request* means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

(b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(c) *Data transmission.* A contractor must ensure that the data transmission method and format are through one of the following:

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at <http://www.fsc.va.gov/einvoice.asp>.)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>) includes additional information on EDI 810 and 811 formats.

(d) *Invoice requirements.* Invoices shall comply with FAR 32.905.

(e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

## **SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS**

See attached document: Attachemnt A.

See attached document: ATTACHMENT B.

See attached document: ATTACHMENT C Schedule of services.

## SECTION E - SOLICITATION PROVISIONS

### ADDENDUM to FAR 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS

The following provisions are incorporated into 52.212-1 as an addendum to this solicitation:

**OFFERORS MUST COMPLETE AND RETURN ALL INFORMATION DESIGNATED IN 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS, PARAGRAPH b, PRIOR TO THE TIME SPECIFIED IN BLOCK 8 OF SF 1449 IN ORDER TO BE CONSIDERED FOR AWARD.**

**ACKNOWLEDGMENT OF AMENDMENTS:** The offeror acknowledges receipt of amendments to the Solicitation numbered and dated as follows:

| AMENDMENT NO | DATE  |
|--------------|-------|
| _____        | _____ |
| _____        | _____ |
| _____        | _____ |

Sealed offers for furnishing the supplies or services in the Schedule will be received at the address specified in Block 9 of SF 1449, or if hand carried, to the address shown in block 15, until the date and time specified in Block 8. **CAUTION - LATE Submissions, Modifications, and Withdrawals:** See provision 52.212-1. All offers are subject to all terms and conditions of this solicitation.

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### PROPOSAL SUBMISSION REQUIREMENTS:

1. The Contractor must submit a separate technical and pricing proposal for evaluation. Each proposal shall be in both an electronic and hard copy format. All envelopes shall be clearly marked with the solicitation number. The technical proposal must be typed and presented in the order described below. The technical proposal shall not exceed 50 single pages (not double-sided) in length, excluding the curriculum vitae, attachments, or other exhibits. Use of standard business fonts such as Times New Roman or Arial with a minimum size of 10 point is required. Technical proposal should not have any reference to cost. The price proposal shall include a signed SF-1449 and the entire solicitation document, a signed contractor's certification memo (Attachment A), a signed Organizational Conflict of Interest (Attachment B), and a completed Schedule of Items (Attachment C).



2. Technical Proposal

(a) In order to evaluate each proposal, it is necessary that each offeror respond to all items in the same order as listed herein. Proposals shall be organized with sections appropriately identified. Offerors are to propose how they intend to fulfill the requirements of this solicitation and how their total offer will meet the specifications in the Performance Work Statement. The proposal should be concise and provide sufficient information to demonstrate the offeror's ability to satisfactorily perform the tasks outlined.

(b) Proposal will be organized as follows:

(1) Section 1 - Cover Letter. Shall be a maximum two-page Cover Letter and introduction, and shall include the name and address of the organization submitting the proposal, together with the name, address and telephone number of the contact person who has the actual power to bid and make representations relative to the proposal and any resultant contract, for the organization.

(2) Section 2 - Table of Contents. Shall be a detailed Table of Contents and shall include an outline of the proposal, identified by a sequential page number and by section reference and section title.

(3) Section 3 - Narrative response to Evaluation Factors. Shall be a detailed narrative response to each of the evaluation factors and sub-factors. Offerors must provide sufficient information to demonstrate the corporate capabilities, resources, and approach to satisfactorily perform the work detailed in the Performance Work Statement (PWS).

(c) Contractor is required to address the following in their technical proposal:

**(1) Technical Capability – Evaluation Factor**

**(a) Company Experience and Implementation/Performance Plan**

- Company background and number of years providing Teleradiology Services
- Proof of malpractice insurance for all service providers covering service
- Detailed narrative plan of how this service will be implemented and performed to meet contract requirements.
- Narrative explaining the company's ability to increase capacity in a short timeframe
- Description of continuity of operations/back-up plan for contract performance in cases which the contractor's server fails or the network connection is lost.

**(b) Key Personnel – Evaluation Sub-factor**

- The Offeror shall provide a narrative on the ability to provide quality professional personnel (medical, administrative, and managerial) during the contract period.
- Offeror shall provide a copy of Curriculum Vitae (resume), certifications and/or licenses or training of each Radiologist performing under this contract. Indicate any advanced provider qualifications such as fellowships. Also indicate if Radiologists have had any malpractice claims or other actions taken against them.

**(c) Quality Control Program – Evaluation Sub-factor**

- Offeror shall describe their quality control program and internal review systems, including management involvement and remedial action policies.
- Describe how performance metrics in the Performance Matrix will be tracked and achieved. Provide sample documentation or examples reflecting quality control efforts.
- Provide an explanation of the process on how the initial image quality control will be conducted.

**(d) Information Technology & Security – Evaluation Sub-factor**

- Offeror shall provide a detailed narrative on how they will meet contract security requirements including the method that will be utilized to establish a connection between the contractor's computer system and the FHCC VistA System. Contractor shall provide a pictorial or Visio Diagram of the proposed connection of the two systems.

**(2) Past Performance – Evaluation Factor**

- (a) Company shall provide a minimum of three references with contact information for past contracts which are similar in scope and size to this requirement. Documentation may include, but is not limited to letters of reference from past clients that indicate the company's ability to meet the requirements of this solicitation.

Offerors with no relevant performance will be reviewed and shall provide information on problems encountered on other contracts and the offeror's corrective actions.

3. Price Proposal

**(3) Price – Evaluation Factor**

(a) Company shall complete price schedule in the solicitation on pages 5-6 and the Attachment C Schedule of Items Columns C, D, and F. Columns D will be fixed upon contract award and will be applied to the then current Medicare Base Rate for the option. The base and option year in Attachment C must be completed in order to be considered for award.

For price evaluation purposes only, percentage rates will be applied to the current 2013 Medicare rates for the base and all option periods.

The following ratings will be used in the RFP. They are four (4) tier rating system as follows:

|             |      |          |              |
|-------------|------|----------|--------------|
| Exceptional | Good | Marginal | Unacceptable |
|-------------|------|----------|--------------|

Exceptional – The proposal is very comprehensive, in-depth, clear and uniformly outstanding in quality. Consistently high quality performance can be expected. The proposal, as written, exceeds requirements and demonstrates an exceptional understanding of goals and objectives of the acquisition. One or more major strengths exist. No weaknesses exist.

Good – The proposal meets all minimum requirements and generally is of high quality. Proposal demonstrates an acceptable understanding of goals and objectives of the acquisition. There may be both strengths and weaknesses, but the strengths outweigh the weaknesses. Deficiencies are minor and easily corrected. Proposal is acceptable as written. Satisfactory performance can be expected.

Marginal – Fails to meet one or more of the minimum requirements of the criteria; no major weaknesses and/or significant number of deficiencies exist and minor weaknesses are correctable. There may be both strengths and weaknesses, but the weaknesses outweigh the strengths.

Unacceptable – The proposal fails to meet minimum requirements and fails to demonstrate an understanding of the goals and objectives of the acquisition. The proposal has one or more significant weaknesses that will be very difficult or impossible to correct.

**E.1 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)**

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

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means--

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

- (i) In a criminal proceeding, a conviction.
- (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
- (iii) In an administrative proceeding, a finding of fault and liability that results in--
  - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
  - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
- (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the Central Contractor Registration database via <https://www.acquisition.gov> (see 52.204-7).

(End of Provision)

**E.2 52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a Firm-Fixed-Price, Indefinite Quantity contract resulting from this solicitation.

(End of Provision)

**E.3 52.217-4 EVALUATION OF OPTIONS EXERCISED AT TIME OF CONTRACT AWARD (JUN 1988)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award.

(End of Provision)

**E.4 52.217-5 EVALUATION OF OPTIONS (JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

**E.5 52.233-2 SERVICE OF PROTEST (SEP 2006)**

Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Hand-Carried Address:

Department of Veterans Affairs  
Contracting Office (501/90C)  
New Mexico VA Health Care System  
1501 San Pedro Drive SE  
Albuquerque NM 87108

Mailing Address:

Department of Veterans Affairs  
Contracting Office (501/90C)  
New Mexico VA Health Care System  
1501 San Pedro Drive SE  
Albuquerque NM 87108

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

## **E.6 VAAR 852.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 2008)**

(a) It is in the best interest of the Government to avoid situations which might create an organizational conflict of interest or where the offeror's performance of work under the contract may provide the contractor with an unfair competitive advantage. The term "organizational conflict of interest" means that because of other activities or relationships with other persons, a person is unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or the person has an unfair competitive advantage.

(b) The offeror shall provide a statement with its offer which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided under this solicitation. The offeror shall also provide statements with its offer containing the same information for any consultants and subcontractors identified in its proposal and which will provide services under the solicitation. The offeror may also provide relevant facts that show how its organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest.

(c) Based on this information and any other information solicited or obtained by the contracting officer, the contracting officer may determine that an organizational conflict of interest exists which would warrant disqualifying the contractor for award of the contract unless the organizational conflict of interest can be mitigated to the contracting officer's satisfaction by negotiating terms and conditions of the contract to that effect. If the conflict of interest cannot be mitigated and if the contracting officer finds that it is in the best interest of the United States to award the contract, the contracting officer shall request a waiver in accordance with FAR 9.503 and 48 CFR 809.503.

(d) Nondisclosure or misrepresentation of actual or potential organizational conflicts of interest at the time of the offer, or arising as a result of a modification to the contract, may result in the termination of the contract at no expense to the Government.

(End of Provision)

## **E.7 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)**

(a) Any protest filed by an interested party shall:

- (1) Include the name, address, fax number, and telephone number of the protester;
- (2) Identify the solicitation and/or contract number;
- (3) Include an original signed by the protester or the protester's representative and at least one copy;
- (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;
- (5) Specifically request a ruling of the individual upon whom the protest is served;
- (6) State the form of relief requested; and
- (7) Provide all information establishing the timeliness of the protest.

(b) Failure to comply with the above may result in dismissal of the protest without further consideration.

(c) Bidders/offerors and contracting officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(End of Provision)

#### **E.8 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)**

As an alternative to filing a protest with the contracting officer, an interested party may file a protest with the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or for solicitations issued by the Office of Construction and Facilities Management, the Director, Office of Construction and Facilities Management, 810 Vermont Avenue, NW., Washington, DC 20420. The protest will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

(End of Provision)

#### **E.9 VAAR 852.252-70 SOLICITATION PROVISIONS OR CLAUSES INCORPORATED BY REFERENCE (JAN 2008)**

The following provisions or clauses incorporated by reference in this solicitation must be completed by the offeror or prospective contractor and submitted with the quotation or offer. Copies of these provisions or clauses are available on the Internet at the Web sites provided in the provision at FAR 52.252-1, Solicitation Provisions Incorporated by Reference, or the clause at FAR 52.252-2, Clauses Incorporated by Reference. Copies may also be obtained from the contracting officer.

[Contracting officer shall list all FAR and 48 CFR Chapter 8 (VAAR) provisions and clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer.]

(End of Provision)

#### **E.10 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)**

The contracting officer reserves the right to designate representatives to act for him/her in furnishing technical guidance and advice or generally monitor the work to be performed under this contract. Such designation will be in writing and will define the scope and limitation of the designee's authority. A copy of the designation shall be furnished to the contractor.

(End of Provision)

#### **E.11 VAAR 852.273-74 AWARD WITHOUT EXCHANGES (JAN 2003)**

The Government intends to evaluate proposals and award a contract without exchanges with offerors. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct exchanges if later determined by the contracting officer to be necessary.

(End of Provision)

#### **E.12 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (DEC 2012)**

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <https://www.acquisition.gov>. If an offeror has not completed the annual representations

and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (o) of this provision.

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

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

"Forced or indentured child labor" means all work or service--

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Inverted domestic corporation", as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), i.e., a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 26 U.S.C. 7874.

"Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999, except--

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

"Place of manufacture" means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.



"Restricted business operations" means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate-

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

"Sensitive technology"--

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically--
  - (i) To restrict the free flow of unbiased information in Iran; or
  - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

"Service-disabled veteran-owned small business concern"--

- (1) Means a small business concern--
  - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
  - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Subsidiary" means an entity in which more than 50 percent of the entity is owned--

- (1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

"Women-owned small business concern" means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website access through <https://www.acquisition.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications--Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs .

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it [ ] is, [ ] is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ ] is, [ ] is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It [ ] is, [ ] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It [ ] is, [ ] is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ ] is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

---

(10) [Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]

(i) *General.* The offeror represents that either--

(A) It [ ] is, [ ] is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It [ ] has, [ ] has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) [ ] *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]

(11) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It [ ] is, [ ] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246--

(1) *Previous contracts and compliance.* The offeror represents that--

(i) It [ ] has, [ ] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It [ ] has, [ ] has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that--

(i) It [ ] has developed and has on file, [ ] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It [ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Act Certificate*. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act--Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act--Supplies."

(2) Foreign End Products:

| Line Item No | Country of Origin |
|--------------|-------------------|
| _____        | _____             |
| _____        | _____             |
| _____        | _____             |

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate*. (Applies only if the clause at FAR 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act-Free Trade Agreements-Israeli Trade Act."

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--Free Trade Agreements--Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| _____         | _____             |
| _____         | _____             |
| _____         | _____             |

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American Act--Free Trade Agreements--Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

Other Foreign End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| _____         | _____             |
| _____         | _____             |
| _____         | _____             |

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate, Alternate I.* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act--Free Trade Agreements--Israeli Trade Act":

Canadian End Products:

| Line Item No. |
|---------------|
| _____         |
| _____         |
| _____         |

[List as necessary]

(3) *Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--Free Trade Agreements--Israeli Trade Act":

Canadian or Israeli End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| _____         | _____             |
| _____         | _____             |
| _____         | _____             |

[List as necessary]

(4) *Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act--Free Trade Agreements--Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| _____         | _____             |
| _____         | _____             |
| _____         | _____             |

[List as necessary]

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made, designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country, end products.

Other End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
|---------------|-------------------|

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters* (Executive Order 12689). (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals--

(1) [ ] Are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) [ ] Are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) [ ] Have, [ ] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.*

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.



(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).*

(1) *Listed end products.*

Listed End Product

Listed Countries of Origin

(2) *Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]*

☐ (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

☐ (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly--

(1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) ☐ Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Act.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.)

[ ] (1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror [ ] does [ ] does not certify that--

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003- 4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

[ ] (2) Certain services as described in FAR 22.1003- 4(d)(1). The offeror [ ] does [ ] does not certify that--

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies--

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting

requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other \_\_\_\_\_.

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations*

(1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.

(2) *Representation.* By submission of its offer, the offeror represents that--

- (i) It is not an inverted domestic corporation; and
- (ii) It is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (*e.g.*, 52.212–3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(End of Provision)

### **E.13 VAAR 852.273-73 EVALUATION - HEALTH-CARE RESOURCES (JAN 2003)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer, conforming to the solicitation, will be most advantageous to the Government, price and other factors considered. The following information or factors shall be used to evaluate offers:

(b) Except when it is determined not to be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are materially unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) If this solicitation is a request for proposals (RFP), a written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding

contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

#### **E.14 52.225-25 PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN-- REPRESENTATION AND CERTIFICATIONS (DEC 2012)**

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

"Person"--

(1) Means--

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

"Sensitive technology"--

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically--

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(b) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with 25.703-4, by submission of its offer, the offeror--

(1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of

refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(3) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(d) Exception for trade agreements. The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if--

(1) This solicitation includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225-24, or comparable agency provision); and

(2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

(End of Provision)