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SECTION B - CONTINUATION OF SF 1449 BLOCKS

Contracting Officer is Joel Felberg at 612-344-2168.
Contracting Officer's Representative (COR) is Lynda Dent at (612) 467-2384.

CENTRAL CONTRACTOR REGISTRATION IS REQUIRED TO BE ACCOMPLISHED BY THE CONTRACTOR BEFORE CONTRACT AWARD. <https://www.sam.gov/portal/public/SAM>
(SEE FAR PART 12)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See provision 52.212-1 "Instructions to Offerors – Commercial Items). All offers are subject to all terms and conditions of this solicitation.

1. CONTRACT ADMINISTRATION DATA

a. **CONTRACT ADMINISTRATION:** List below responsible party that may be contacted during the term of this contract for matters pertaining to the contract:

Contractor Name: _____
Title: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail: _____
Federal Taxpayer Identification Number _____
Dun and Bradstreet Number _____

b. Government: Contracting Officer – Joel Felberg
Network Contracting Office 23
708 South Third Street, Suite 200E
Minneapolis, MN 55415
Phone (612) 344-2168
Fax (612) 333-3667

2. **CONTRACTOR REMITTANCE ADDRESS:** All payments by the Government to the contractor will be made in accordance with:

[X] 52.232-34, Payment by Electronic Funds Transfer -
Other than Central Contractor Registration, or
[] 52.232-36, Payment by Third Party

3. **BILLING FOR SERVICES:** See Performance Work Statement (PWS) section 6.2 for Billing Instructions.

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

AMENDMENT NUMBER

DATE

_____	_____
_____	_____
_____	_____

5. **SAFETY REQUIREMENTS:** In the performance of this contract, the Contractor shall take such safety precautions as the Contracting Officer, or his/her designee may determine to be reasonably necessary to protect the lives and health of the occupants of the buildings. The Contracting Officer or his/her designee will notify the Contractor of any noncompliance with the forgoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately correct the conditions to which attention has been directed. Such notice, when served on the Contractor or his/her representative at the site of the work, shall be deemed sufficient for the purposes aforesaid. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or any part of the work and hold the Contractor in default.

6. **CONFORMITY TO REGULATIONS:** The Contractor and his/her operators shall conform to all regulations, Federal, State, and local, governing the performance of contracted services.

7. **TYPE OF CONTRACT:** Resultant contract shall be a Firm Fixed Price (FFP) contract effective for the period stated in the Schedule of Services.

8. **TERM OF CONTRACT:** Resultant contract(s) shall be effective for a base period of six months from date of award with one (1) six-month option period. Renewal of options is at VA's discretion. (Note clause FAR 52.217-9, Option to Extend the Term of the Contract.)

9. **AVAILABILITY OF FUNDS:** The contract is subject to the availability of VA funds. The contractor shall perform no service after the end of the current exercised contract year until the Contracting Officer authorizes such services in writing.

10. **POINT OF CONTACT:** The Contractor shall provide a point of contact (POC) who shall be responsible for the performance of the work under this contract. The POC shall have full authority to act for the Contractor on all matters relating to the daily operation of this contract. The POC may be a contract health care provider performing under this contract. An alternate may be designated, but the Contractor shall identify, in writing, those times when the alternate shall act as the POC. The Contractor shall identify the POC and alternate in writing to the Contracting Officer's Representative (COR) and Contracting Officer (CO). The Contractor shall give written notification to the COR and CO of the time when the alternate will act as the POC. The POC shall be available by telephone Monday through Friday, 8:00 AM through 4:30 PM, excluding Federal holidays.

11. **SECURE FAX:** VA Handbook 6500 that requires the following statement on all fax cover sheets be included: "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, distribute on, 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."

12. **PROHIBITION AGAINST SELF-REFERRAL:** Contract physicians are prohibited from referring VA patients to their own practice(s).

13. **POST AWARD ORIENTATION:** The Contracting Officer may schedule a post-award orientation conference for contract orientation purposes as required by IL 003A3-12-04.

B.1 SCHEDULE OF SERVICES

BASE PERIOD 08/01/2015 – 01/31/2016						
CLIN	Sub-Clin	Description	Estimated Quantity	Unit	Unit Cost	Total Annual Cost
0001	None	Orthopedic Surgeon	520	Hours	DO NOT PRICE	DO NOT PRICE
KEY PERSONNEL						
None	0001a	Orthopedic Surgeon Name: _____ Title/Level of Experience: _____		Hours		
None	0001b	Orthopedic Surgeon Name: _____ Title/Level of Experience: _____		Hours		
ESTIMATED TOTAL OPTION PERIOD VALUE						

OPTION PERIOD ONE 02/01/2016 – 07/31/2016						
CLIN	Sub-Clin	Description	Estimated Quantity	Unit	Unit Cost	Total Annual Cost
0001	None	Orthopedic Surgeon	520	Hours	DO NOT PRICE	DO NOT PRICE
KEY PERSONNEL						
None	0001a	Orthopedic Surgeon Name: _____ Title/Level of Experience: _____		Hours		
None	0001b	Orthopedic Surgeon Name: _____ Title/Level of Experience: _____		Hours		
ESTIMATED TOTAL OPTION PERIOD VALUE						
ESTIMATED TOTAL CONTRACT VALUE						

Notes:

1. Contractor will be paid only for the actual hours of services provided.
2. Contractor shall establish a recordkeeping system of contractor hours worked. Contractor recordkeeping procedures shall be sufficient to ensure proper payment and allow audit verification that services were provided.
3. The payment for any leave, including sick leave, holiday, or vacation time, is the responsibility of the contractor. The contractor's leave policy, including but not limited to sick leave, holiday, vacation, and jury duty shall apply to contractor personnel.

B.2 PERFORMANCE WORK STATEMENT (PWS)

Performance Work Statement for: Associate Chief, Orthopedic Surgery

1. GENERAL:

1.1. Services Provided: The Contractor shall provide board-certified Orthopedic Surgeon to provide services as the Associate Chief, Orthopedic Surgery. Services are required part-time, 20 hours per week, in accordance with the specifications contained herein for beneficiaries of the Department of Veterans Affairs (VA) and the Minneapolis VA Health Care System.

1.1.1. Scope of Services: Orthopedic services provided by the MVAHCS include: hand; total joint; ankle and foot; spine; shoulder; musculoskeletal oncology and sports medicine. The scope of services required by the Associate Chief Orthopedic Surgery include: staff outpatient clinic; provide inpatient attending; provide surgical procedures; consultative services; train and supervise orthopedic surgery residents; and provide on-call coverage.

1.1.2. Place of Performance: Services will be provided for MVAHCS at the VA Medical Center, One Veterans Drive, Minneapolis, Minnesota 55417.

1.1.3. Period of Performance: The performance period will be 08/01/2015 – 01/31/2016 with the potential for one six month option period.

1.2. Authority: Title 38 USC 8153, Health Care Resources (HCR) sharing authority.

1.3. Policy/Handbooks: Contractor personnel providing services in a VA Health Care facility shall provide services in accordance with the following U.S. Government statutes, and VHA/VA Regulations, Directives, Handbooks, and Policies implementing these statutes. Electronic copies may be obtained at the websites listed below. This contract incorporates the below attachments by reference with the same force and effect as if they were given in full text.

1.3.1. - VA Directive 1663: Health Care Resources Contracting - Buying
http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=347

1.3.2. VHA Directive 2006-041 “Veterans’ Health Care Service Standards” (expired but still in effect pending revision)
https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1443

1.3.3. - VHA Handbook 1100.17: National Practitioner Data Bank Reports -
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2135

1.3.4. - VHA Handbook 1100.18 Reporting And Responding To State Licensing Boards -
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1364

1.3.5. - VHA Handbook 1100.19 Credentialing and Privileging -
http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2910

1.3.6. VHA Handbook 1400.01 Resident Supervision –
http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2847

1.3.7. VHA Handbook 1907.01 Health Information Management and Health Records –
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2791

1.3.8. Privacy Act of 1974 (5 U.S.C. 552a) as amended
http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm

1.3.9. Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Public Law 104-191)
www.cms.gov/Regulations-and-Guidance/HIPAA-Administrative-Simplification/HIPAAGenInfo/Downloads/HIPAAALaw.pdf

1.3.10. Minneapolis VA Medical Center Policy: The Minneapolis VA policies are only available on the Minneapolis VA Intranet site. This site is not available to the general public. Copies of these policies are attached.

- 1.3.10.1. EC-14D – PIV Card Policy (Personnel Identification Verification - ID Badge)
 - 1.3.10.2. HR-22D – Dress Code/Professional Appearance
 - 1.3.10.3. IC-01F – Infection Precautions
 - 1.3.10.4. IM-01K Medical Records (Management of Information)
 - 1.3.10.5. IM-06D – Information Security Policy/ Procedures
 - 1.3.10.6. MS-02H – Resident Supervision
 - 1.3.10.7. PE-01G – Assessment of Patients
 - 1.3.10.8. TX-04H – Medication Use
- 1.4. Definitions/Acronyms: Terms used in this contract shall be interpreted as follows unless the context expressly requires a different construction and/or interpretation. In case of a conflict in language between the definitions and other sections of this contract, the language in this section shall govern.
- 1.4.1. AAOS: American Academy of Orthopedic Surgery <http://www.aaos.org/>
 - 1.4.2. ABOS: American Board of Orthopedic Surgery <https://www.abos.org/>
 - 1.4.3. ACGME: Accreditation Council for Graduate Medical Education
 - 1.4.4. ACLS: Advanced Cardiac Life Support
 - 1.4.5. AOD: Admitting Officer of the Day
 - 1.4.6. BLS: Basic Life Support
 - 1.4.7. CDC: Centers for Disease Control and Prevention
 - 1.4.8. CDR: Contract Discrepancy Report
 - 1.4.9. CEU: Certified Education Unit
 - 1.4.10. CME: Continuing Medical Education
 - 1.4.11. CMS: Centers for Medicare and Medicaid Services
 - 1.4.12. Contracting Officer (CO) – The person executing this contract on behalf of the Government with the authority to enter into and administer contracts and make related determinations and findings.
 - 1.4.13. Contracting Officer's Representative (COR) – A person appointed by the CO to take necessary action to ensure the Contractor performs in accordance with and adheres to the specifications contained in the contract and to protect the interest of the Government. The COR shall report to the CO promptly any indication of non-compliance in order that appropriate action can be taken.
 - 1.4.14. COS: Chief of Staff
 - 1.4.15. CPARS: Contractor Performance Assessment Reporting System
 - 1.4.16. CPRS: Computerized Patient Recordkeeping System - the electronic health record system used by the VA
 - 1.4.17. Credentialing: Credentialing is the systematic process of screening and evaluating qualification and other credentials, including licensure, required education, relevant training and experience and current competence and health status.
 - 1.4.18. DEA: Drug Enforcement Agency
 - 1.4.19. Full Time Equivalent (FTE): VA's definition for full time- working the equivalent of 80 hours every two weeks, 2080 hours per year. In calculating FTE, any hours not worked on national holidays shall not be included.
 - 1.4.20. HHS: Department of Health and Human Services
 - 1.4.21. HIPAA: Health Insurance Portability and Accountability Act
 - 1.4.22. ISO: Information Security Officer
 - 1.4.23. MVAHCS: Minneapolis VA Health Care System
 - 1.4.24. NP: Nurse Practitioner
 - 1.4.25. National Provider Identifier (NPI): 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).
 - 1.4.26. PA: Physician Assistant
 - 1.4.27. POP: Period of Performance
 - 1.4.28. PWS: Performance Work Statement
 - 1.4.29. Privileging (Clinical Privileging): Privileging is the process by which a practitioner, licensed for independent practice; e.g., without supervision, direction, required sponsor, preceptor, mandatory collaboration, etc.; is permitted by law and the facility to practice independently, to provide specific medical or other patient care services within the scope of the individual's license, based upon the

individual's clinical competence as determined by peer references, professional experience, health status, education, training and licensure. Clinical privileges must be facility-specific and provider-specific.

- 1.4.30. QASP: Quality Assurance Surveillance Plan
- 1.4.31. SSC-PSL: Surgery and Specialty Care Patient Service Line – a department within the Minneapolis VA Health Care System.
- 1.4.32. Veterans Health Administration (VHA): The central office for administration of the VA medical centers throughout the United States. The VHA is located in Washington, D.C.
- 1.4.33. Veterans Integrated Services Network (VISN): The regional oversight for the VA medical centers in Michigan and Indiana.
- 1.4.34. VISTA (Veterans Integrated Systems Technology Architecture): A PC based system that will capture and store clinical imagery, scanned documents and other non-textual data files and integrates them into patient's medical record and with the hospital information system.
- 1.4.35. VetPro: a Federal web-based credentialing program for healthcare providers.
- 1.4.36. Veterans Affairs Medical Center (VAMC): Unless identified with the name of a different VA Medical Center, for purposes of this contract, this term shall mean the Minneapolis VA Medical Center, also referred to as the Minneapolis VA Health Care System (MVAHCS).

2. QUALIFICATIONS:

2.1. Staff/Facility

- 2.1.1. License - Contract physician assigned by the Contractor to perform the services covered by this contract shall have a current license to practice medicine in any 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 provider must possess a valid state license for the same state in which he/she is registered with DEA (refer to 2.1.9. below). Contract physician who has current, full and unrestricted licenses in one or more states, but who has, or ever had, a license restricted, suspended, revoked, voluntarily revoked, voluntarily surrendered pending action or denied upon application will not be considered for the purposes of this contract.
- 2.1.2. Board Certification/Experience - Contract physician shall be board certified by the American Board of Orthopedic Surgery <http://www.abos.org/>. All continuing education courses required for maintaining certification must be kept up to date at all times. Documentation verifying current certification shall be provided by the Contractor to the VA Contracting Officer's Representative (COR) on an annual basis for each year of contract performance. The surgeon provided must have experience managing a busy orthopedic surgery department/section and have a significant interest and experience in resident education and clinical training.
- 2.1.3. Credentialing and Privileging -Credentialing and privileging is to be done in accordance with the provisions of VHA Handbook 1100.19 referenced above. The Contractor is responsible to ensure that proposed physician possesses the requisite credentials enabling the granting of privileges. No services shall be provided by any contract physician prior to obtaining approval by the Minneapolis VA Medical Center's Professional Standards Board, Medical Executive Board and Medical Center Director.
 - 2.1.3.1. If a contract physician is not credentialed and privileged or has credentials/privileges suspended or revoked, the Contractor shall furnish an acceptable substitute without any additional cost to the government.
- 2.1.4. Technical Proficiency - Contract physician shall be technically proficient in the skills necessary to fulfill the government's requirements, including the ability to speak, understand, read and write English fluently. Contractor shall provide documents upon request of the CO/COR to verify current and ongoing competency, skills, certification and/or licensure related to the provision of care, treatment and/or services performed. Contractor shall provide verifiable evidence of all educational and training experiences including any gaps in educational history for all contract physician and

contract physician shall be responsible for abiding by the Facility's Medical Staff By-Laws, rules, and regulations (referenced herein) that govern medical staff behavior.

- 2.1.5. Continuing Medical Education (CME)/ Certified Education Unit (CEU) Requirements: Contractor shall provide the COR copies of current CMEs as required or requested by the VAMC. Contract physician registered or certified by national/medical associations shall continue to meet the minimum standards for CME to remain current. Contractor shall report CME hours to the credentials office for tracking. These documents are required for both privileging and re-privileging. Failure to provide shall result in loss of privileges for contract physician.
- 2.1.6. Training (ACLS, BLS, CPRS and VA MANDATORY): Contract physician shall meet all VA educational requirements and mandatory course requirements defined herein; all training must be completed by the contract physician as required by the VA.
Training requirements include the following:
 - 2.1.6.1. ACLS/BLS: It is a policy of the MVAHCS that all contract and sub-contracted personnel to be employed under this contract must be Advanced Cardiac Life Support (ACLS) and Basic Life Support (BLS) certified unless a waiver has been granted by a Patient Service Line (PSL) Director. As part of the credentialing process, the contractor's ACLS/BLS certifications must be sent to the Medical Staff Office. Failure to provide proof of certification to the Medical Staff Office may impact the contract personnel qualifications under this requirement. No services will be provided by any contract personnel prior to obtaining approval by the VA Medical Center Professional Standards Board, Clinical Executive Board and Director.
 - 2.1.6.2. CPRS: Contractor employees (including any sub-contract employees) providing medical services will be required to attend Computerized Patient Record System (CPRS) training prior to providing any patient care services, including on-call/ emergency coverage at VA. The contractor employee will document patient care in CPRS to comply with all VHA and Joint Commission standards.
 - 2.1.6.3. Privacy Training: Contractor and their sub-contractor employees assigned to work under the contract are required to receive annual training on patient privacy as established by HIPAA statutes. Training must meet VHA's and the Department of Health and Human Services (HHS) Standards for Privacy of individually identifiable health information. Contractor shall provide documented proof of training to the contracting officer for all employees assigned work and/or having access to protected health information annually.
 - 2.1.6.4. Rules of Behavior for Automated Information Systems: Contractor and their sub-contractor employees having access to VA information systems are required to annually read and sign a Rules of Behavior statement which outlines rules of behavior for use of VA automated information systems. The Contracting Officer's Representative (COR) will provide the contractor, through the MVAHCS facility Information Security Officer (ISO), the Rules of Behavior.
 - 2.1.6.5. VA Cyber Security Awareness Training: Contractor and their sub-contractor employees assigned to work under the contract are required to annually receive and document completion of VA training on Cyber Security. Contractor shall provide annually documented proof of training to the contracting officer for all employees assigned work under this contract.
 - 2.1.6.6. Contractor personnel must complete all annual VA education training requirements in the VA's on-line training system, known as the Talent Management System (TMS). The COR will instruct contractor's personnel in the use of TMS. Contractor personnel assigned to provide services for the MVAHCS must have completed CPRS, privacy, security, ethics and fire prevention training before performing any patient care.
 - 2.1.6.7. As the VA routinely reviews and updates policies and procedures covering contractor computer access, security requirements may change during the term of this contract and new policies and procedures may be implemented unilaterally during the term of this agreement.
- 2.1.7. Standard Personnel Testing (PPD, etc.): Contractor shall provide proof of the following tests for physicians within five (5) calendar days after contract award and prior to the first duty shift to the COR and Contracting Officer. Tests shall be current within the past year.
 - 2.1.7.1. Tuberculosis Testing: Contractor shall provide proof of a negative reaction to PPD testing for all contract physicians. A negative chest radiographic report for active tuberculosis shall be provided in cases of positive PPD results. The PPD test shall be repeated annually.
 - 2.1.7.2. Rubella Testing: Contractor shall provide proof of immunization for all contract physicians for measles, mumps, rubella or a rubella titer of 1.8 or greater. If the titer is less than 1.8, a rubella immunization shall be administered with follow-up documentation to the COR.

- 2.1.7.3. OSHA Regulations Concerning Occupational Exposure to Bloodborne Pathogens: Contractor shall provide generic self-study training for all contract physicians; provide their own Hepatitis B vaccination series at no cost to the VA if they elect to receive it; maintain an exposure determination and control plan; maintain required records; and ensure that proper follow-up evaluation is provided following an exposure incident. The VAMC shall notify the Contractor of any significant communicable disease exposures as appropriate. Contractor shall adhere to current CDC/HICPAC Guideline for Infection Control in health care personnel (as published in American Journal for Infection Control- AJIC 1998; 26:289-354, <http://www.cdc.gov/hicpac/pdf/InfectControl98.pdf> for disease control. Contractor shall provide follow up documentation of clearance to return to the workplace prior to their return.
- 2.1.7.4. Drug Testing: All contractor provided physicians shall be subject to the VA's policy in regard to the Drug-Free Workplace Act of 1988. Personnel may receive a drug test and are subject to random drug testing thereafter. This includes any situation of "reasonable suspicion" and "accident or unsafe practice testing". Refusal to be tested or interfering with the process will result in immediate termination of the contract.
- 2.1.8. National Provider Identifier (NPI): 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 have or obtain appropriate NPI and if pertinent the Taxonomy Code confirmation notice issued by the Centers for Medicare and Medicaid Services (CMS) National Plan and Provider Enumeration System (NPPES) be provided to the Contracting Officer with the proposal.
- 2.1.9. DEA Certificate (as required) – Contract physicians shall provide a copy of their current Drug Enforcement Administration (DEA) certificate for prescribing controlled substances.
- 2.1.10. Conflict of Interest: The Contractor and all contract provided physicians are responsible for identifying and communicating to the CO and COR conflicts of interest at the time of proposal and during the entirety of contract performance. At the time of proposal, the Contractor shall provide a statement 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. The Contractor shall also provide statements containing the same information for any identified consultants or subcontractors who shall provide services. The Contractor must also provide relevant facts that show how it's organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest. These statements shall be in response to the VAAR provision 852.209-70 Organizational Conflicts of Interest (Jan 2008) and fully outlined in response to the subject attachment in Section D of the solicitation document.
- 2.1.11. Citizenship Related Requirements:
- 2.1.11.1. The Contractor certifies that the Contractor shall comply with any and all legal provisions contained in the Immigration and Nationality Act of 1952, as Amended; its related laws and regulations that are enforced by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor as these may relate to non-immigrant foreign nationals working under contract or subcontract for the Contractor while providing services to Department of Veterans Affairs patient referrals;
- 2.1.11.2. While performing services for the Department of Veterans Affairs, the Contractor shall not knowingly employ, contract or subcontract with an illegal alien; foreign national non-immigrant who is in violation their status, as a result of their failure to maintain or comply with the terms and conditions of their admission into the United States. Additionally, the Contractor is required to comply with all "E-Verify" requirements consistent with "Executive Order 12989" and any related pertinent Amendments, as well as applicable Federal Acquisition Regulations.
- 2.1.11.3. If the Contractor fails to comply with any requirements outlined in the preceding paragraphs or its Agency regulations, the Department of Veterans Affairs may, at its discretion, require that the foreign national who failed to maintain their legal status in the United States or otherwise failed to comply with the requirements of the laws administered by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor, shall be prohibited from working at the Contractor's place of business that services Department of Veterans Affairs patient referrals; or other place where the Contractor provides services to veterans who

- have been referred by the Department of Veterans Affairs; and shall form the basis for termination of this contract for breach.
- 2.1.11.4. This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.
 - 2.1.11.5. The Contractor agrees to obtain a similar certification from its subcontractors. The certification shall be made as part of the offeror's response to the RFP using the subject attachment in Section D of the solicitation document.
 - 2.1.12. Annual Office of Inspector General (OIG) Statement: In accordance with HIPAA and the Balanced Budget Act (BBA) of 1977, the Department of Health and Human Services (HHS) Office of Inspector General (OIG) has established a list of parties and entities excluded from Federal health care programs. Specifically, the listed parties and entities may not receive Federal Health Care program payments due to fraud and/or abuse of the Medicare and Medicaid programs.
 - 2.1.12.1. Therefore, Contractor shall review the HHS OIG List of Excluded Individuals/Entities on the HHS OIG web site at <http://oig.hhs.gov/exclusions/index.asp> to ensure that the proposed contract physician is not listed. Contractor should note that any excluded individual or entity that submits a claim for reimbursement to a Federal health care program, or causes such a claim to be submitted, may be subject to a Civil Monetary Penalty (CMP) for each item or service furnished during a period that the person was excluded and may also be subject to treble damages for the amount claimed for each item or service. CMP's may also be imposed against the Contractor that employ or enter into contracts with excluded individuals to provide items or services to Federal program beneficiaries.
 - 2.1.12.2. By submitting their proposal, the Contractor certifies that the HHS OIG List of Excluded Individuals/Entities has been reviewed and that the Contractors are and/or firm is not listed as of the date the offer/bid was signed.
 - 2.2. Clinical/Professional Direction: The qualifications of Contractor personnel are subject to review by VA Medical Center COS or his/her clinical designee and approval by the Medical Center Director as provided in VHA Handbook 1100.19 Credentialing and Privileging. Clinical and professional direction of all clinical personnel covered by this contract will be provided by the VAMC COS and/or the Chief of the Service or his designee. A clinical COR may be appointed, however, only the CO is authorized to consider any contract modification request and/or make changes to the contract during the administration of the resultant contract.
 - 2.3. Non Personal Healthcare Services: The parties agree that the Contractor and all contract physicians shall not be considered VA employees for any purpose.
 - 2.4. Inherent Government Functions: Contractor and Contract physician shall not perform inherently governmental functions. This includes, but is not limited to, determination of agency policy, determination of Federal program priorities for budget requests, direction and control of government employees (outside a clinical context), selection or non-selection of individuals for Federal Government employment including the interviewing of individuals for employment, approval of position descriptions and performance standards for Federal employees, approving any contractual documents, approval of Federal licensing actions and inspections, and/or determination of budget policy, guidance, and strategy.
 - 2.5. No Employee Status: The Contractor shall be responsible for protecting Contract physician furnishing services. To carry out this responsibility, the Contractor shall provide or certify that the following is provided for all their staff providing services under the resultant contract:
 - 2.5.1. Workers' compensation
 - 2.5.2. Professional liability insurance
 - 2.5.3. Health examinations
 - 2.5.4. Income tax withholding, and
 - 2.5.5. Social Security payments.
 - 2.6. Tort Liability: The Federal Tort Claims Act does not cover Contractor or contract physician. When a Contractor or contract physician has been identified as a provider in a tort claim, the Contractor shall be responsible for notifying their legal counsel and/or insurance carrier. Any settlement or judgment arising from a Contractor's (or contract physician) action or non-action shall be the responsibility of the Contractor and/or insurance carrier.
 - 2.6.1. Medical Liability Insurance: The Contractor shall furnish their own medical liability insurance and will hold certificate of insurance for general liability and malpractice insurance. Prior to award of

the contract, the contractor shall furnish to the VA a certificate of insurance evidencing that all required coverage has been obtained. The contractor shall be responsible for maintaining this certificate/coverage for the duration of the contract. Under no circumstances will contract physicians be considered a MVAHCS employee nor will contractor personnel be covered by VA liability insurance.

- 2.7. Key Personnel: Contractor will be responsible to ensure that the contractor personnel providing work on this contract are fully trained and fully competent to perform the required services for the duration of the contract period. Contractor's personnel provided under this contract must meet the qualifications, training, and all requirements as stated above in Section 2.1.
- 2.7.1. The VA Full Time Equivalency (FTE) for the services required is 0.5 FTE. A 0.5 FTE is defined by VA as a person working a minimum of 40 hours every two weeks (or 20 hours per week) and does not include holidays.
- 2.7.2. The number of board certified Orthopedic Surgeons required to be on-site per week is 0.5 FTE. The tour of duty is defined below in paragraph 3.2. Work Schedule.
- 2.7.3. Contractor shall submit a listing of proposed key personnel performing technical delivery of services in the following format:

Provider Name: _____ Title/Rank: _____
Curriculum Vitae and qualification documents of each key personnel shall be submitted with the proposal.

- 2.8. Emergency Substitutions: During the first ninety (90) calendar 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 CO, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required below. After 90 days, the Contractor shall submit the information required below to the CO at least 15 calendar days prior to making any permanent substitutions.
- 2.8.1. 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 CO. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The CO 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.
- 2.8.2. For temporary substitutions where the key person shall not be reporting to work for three (3) consecutive work days or more, the Contractor shall provide a qualified replacement for the key person. The substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated above.
- 2.8.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. Should the VA COS or designee show documented clinical problems or continual unprofessional behavior/actions with any contract physician, s/he may request, without cause, immediate replacement of said contract physician.
- 2.8.4. The CO and COR shall deal with issues raised concerning Contract physician conduct. The final arbiter on questions of acceptability is the CO.
- 2.9. Contingency Plan: Because continuity of care is an essential part of VAMC's medical services, the Contractor shall have a contingency plan in place to be utilized if the contract physician leaves Contractor's employment or is unable to continue performance in accordance with the terms and conditions of the resulting contract.

3. VA HOURS OF OPERATION/SCHEDULING:

- 3.1. VA Business Hours: The Minneapolis VA Medical Center is open 24 hours per day 7 days a week 365 days per year. Administrative offices, clinics and the O.R. general hours of operation are Monday through Friday 7:00 a.m. – 4:30 p.m. The services covered by this contract shall be furnished by the contractor as defined in the work schedule below. The contractor shall also be required to furnish emergency on-call services on Federal Holidays and during off-duty hours.
- 3.2. Work Schedule: The contractor provided Associate Chief, Orthopedic Surgery shall be considered part-time and will be present and providing services to the Minneapolis VAHCS with a tour of duty defined at a minimum of 40 hours every two weeks, with the exception of Federal Holidays. The contract physician will also be required to furnish on-call/emergency service coverage on national holidays and during off-duty hours.
- Current work schedule is from 7:00 a.m. – 5:30 p.m. and consists of the following:
- Wednesday: Pre-op conferences and Clinic
 - Thursday: Operating Room
- 3.2.1. Patients must be seen by contract physician on-site at the Minneapolis VA Medical Center in a timely manner in accordance with VA Rules and Regulations on clinic wait times and consult completion. Contractor shall notify the COR at least monthly about any obstacles to meeting this performance measure.
- 3.2.2. Contract physician shall be available and physically present in the Minneapolis VA Medical Center during assigned tour of duty hours. Tour of duty is established, and may be revised, as deemed appropriate for patient care, by the Director of Surgery and Specialty Care Patient Service Line (SSC-PSL) or his designee. Currently, most daily tours will begin at 7:00 a.m. and go to 5:30 p.m. All daily tours will not end until all patient care has been completed. The contract surgeon may not work at another facility during normal VA tour of duty.
- 3.2.3. Off-hours/On-call Coverage: Contractor must make the contract physician available for on-call coverage during hours when the Minneapolis VA Medical Center's Orthopedic Clinic is closed, including evenings, weekends, and holidays. The contract Associate Chief, Orthopedic Surgery will rotate with other Orthopedic Surgeons providing on-call services. It is estimated that the Associate Chief Orthopedic Surgery will be required to provide a minimum of two (2) weekdays and one (1) weekend of on-call coverage per month.
- 3.2.3.1. On-call physicians must be available at all times for phone consultations with VA residents and physicians.
- 3.2.3.2. Physician will respond to call coverage within 15 minutes of receipt of call by phone, and in person within 60 minutes of the page when medically indicated.
- 3.2.3.3. Concurrent call is not acceptable. Contract surgeon will not be paid for carrying a pager. If call results in on-site services, surgeon will be paid at the contract hourly rate. Schedules will be provided by the Orthopedic Surgery Program Support Assistant a minimum of 7 calendar days from beginning of the next month.
- 3.2.3.4. Call coverage hours are as follows:
- Weekday call coverage starts at 4:30 p.m. and goes until 7:00 a.m. the following morning. (Note: On Wednesdays and Thursdays, call coverage provided by the Associate Chief Orthopedic Surgery will begin at 5:30 p.m.)
 - Weekend call coverage is from 4:30 p.m. Friday – 7:00 a.m. on Monday
 - Holiday call coverage is from 7:00 a.m. to 7:00 a.m. the next day
- 3.3. Federal Holidays: The following holidays are observed by the Department of Veterans Affairs:
- New Year's Day
 - Martin Luther King's Birthday
 - President's Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Columbus Day
 - Veterans Day
 - Thanksgiving Day
 - Christmas
 - Any day specifically declared by the President of the United States to be a national holiday.

- 3.4. Cancellations: Requests for clinic cancellations will be made in writing to the Clinic Director and the COR with no less than six weeks' notice accompanied by an appropriate justification, with provisions made to ensure effective implementation of patient notification and a rescheduling plan to ensure that patient access and continuity of care issues are addressed. Physicians that cancel clinics are responsible for reviewing records of the scheduled patients and ensuring that urgent problems are addressed and that patients are seen on a clinically appropriate basis as agreed upon and approved by the Clinic Director. This 6-week notice policy applies to continuing education, meetings or conferences, vacation days, or other non-emergency reasons.

- 3.4.1. Unless a state of emergency has been declared, the Contractor shall be responsible for providing services unless physician is excused per the procedure listed above.

4. CONTRACTOR RESPONSIBILITIES

- 4.1. Clinical Personnel Required: The Contractor shall provide physician who is competent, qualified per this performance work statement, and adequately trained to perform assigned duties.

- 4.1.1. Contract physician shall be responsible for providing services on-site and on time in accordance with the tour of duty above in 3.2. Work Schedule. Contract physician shall be responsible for signing in and out when in attendance. Time sheets will be used by the COR to confirm hours/day and services provided against the contractor's invoices.

- 4.2. Standards of Care: The contract physician's care shall cover the same range of Orthopedic services as would be provided in a state-of-the-art civilian medical treatment facility and the standard of care shall be of a quality, meeting or exceeding currently recognized TJC, VA and national standards as established by:

- 4.2.1. American Academy of Orthopedic Guidelines: <http://www.aaos.org/research/guidelines/guide.asp>

- 4.2.2. VA Standards: VHA Directive 2006-041 "Veterans' Health Care Service Standards" (expired but still in effect pending revision)
https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1443

- 4.2.3. The professional standards of the Joint Commission (TJC)
http://www.jointcommission.org/standards_information/standards.aspx

- 4.2.4. The standards of the American Hospital Association (AHA)
<http://www.hpoe.org/resources?show=100&type=8> and;

- 4.2.5. The requirements contained in this PWS

- 4.3. Resident Supervision and Teaching: 10% of the time.

- 4.3.1. Resident Supervision/Teaching: According to the guidelines dictated by the Residency Review Committee of ACGME, the contract physician performing the services shall be responsible for residents. Contract physician shall be responsible for:

- 4.3.2. Academic Environment: Provide for an academic environment conducive to the training and professional development for residents rotating through the Surgery and Specialty Care's Orthopedic Service.

- 4.3.3. Resident Patient Care Documentation: Contract physician shall be responsible for complying with the Residency review documentation and insuring that all notes and encounters are completed and shall appropriately document medical records in accordance with VA standards, equivalent to TJC compliance guidelines, standard commercial practice and guidelines established by VAMC Policy MS-02H Resident Supervision. The Contractor shall also perform any administrative duties relative to documentation of resident training, as required and directed by the VA COS or designated representative.

- 4.3.4. Clinical Direction and Oversight: Contract physician shall provide clinical direction to and oversight of residents/fellows consistent with current accreditation guidelines, clinical research, protocol development, data management of protocols, quality assurance conferences and meetings, and affiliate /VA staff meetings. Ensure on-site resident supervision in accordance with the national VHA Handbook 1400.01, Resident Supervision, dated December 19, 2012.
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2847

- 4.3.4.1. Attending Physician: Clinics/Orthopedic procedures shall not be conducted by residents in the absence of an attending physician. All procedures, inpatient admissions, and consults shall be the responsibility of an attending physician. Orthopedic residents or fellows may not start a clinic without staff present.

4.4. MEDICAL RECORDS

- 4.4.1. Authorities: Contract physician providing healthcare services to VA patients shall be considered as part of the Department Healthcare Activity and shall comply with Public Law 93-579 the "Privacy Act of 1974" as implemented by 5 USC § 552a (as amended); 38 U.S.C. 5701 (Confidential Nature of Claims), 5 U.S.C. § 552 Freedom of Information Act (FOIA) as amended by PL104-231; 38 U.S.C. § 5705 (Confidentiality of Medical Quality Assurance Records); 38 U.S.C. § 7332 (Confidentiality of Certain Medical Records); Title 5 U.S.C. § 522a (Records Maintained on Individuals); as well as Public Law 104-191 "Health Insurance Portability & Accountability Act of 1996" (HIPAA) as implemented by 45 C.F.R. Parts 160, 162, and 164.
- 4.4.2. HIPAA: This contract and its requirements meet exception in 45 CFR 164.502(e), and do not require a BAA in order for Covered Entity to disclose Protected Health Information to: a health care provider for treatment. Based on this exception, a BAA is not required for this contract. Treatment and administrative patient records generated by this contract or provided to the Contractors by the VA are covered by the VA system of records entitled 'Patient Medical Records-VA' (24VA19). Contractor generated VA Patient records are the property of the VA and shall not be accessed, released, transferred, or destroyed except in accordance with applicable laws and regulations. Contractor shall ensure that all records pertaining to medical care and services are available for immediate transmission when requested by the VA. Records identified for review, audit, or evaluation by VA representatives and authorized federal and state officials, shall be accessed on-site during normal business hours or mailed by the Contractor at his expense. Contractor shall deliver all final patient records, correspondence, and notes to the VA within twenty-one (21) calendar days after the contract expiration date.
- 4.4.3. Disclosure: Contract physician may have access to patient medical records: however, Contractor shall obtain permission from the VA before disclosing any patient information. Subject to applicable federal confidentiality or privacy laws, the Contractor, or their designated representatives, and designated representatives of federal regulatory agencies having jurisdiction over Contractor, may have access to VA 's records, at VA's place of business on request during normal business hours, to inspect and review and make copies of such records. The VA will provide the Contractor with a copy of VHA Handbook 1907.1, Health Information management and Health Records and VHA Handbook 1605.1, Privacy and Release of Information. The penalties and liabilities for the unauthorized disclosure of VA patient information mandated by the statutes and regulations mentioned above, apply to the Contractor.
- 4.4.4. Professional Standards for Documenting Care: Care shall be appropriately documented in medical records in accordance with standard commercial practice and guidelines established by VHA Handbook 1907.01 *Health Information Management and Health Records*:
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2791 and all guidelines provided by the VAMC.
- 4.4.5. Release of Information: The VA shall maintain control of releasing any patient medical information and will follow policies and standards as defined, but not limited to Privacy Act requirements. In the case of the VA authorizing the Contractor to release patient information, the Contractor in compliance with VA regulations, and at his/her own expense, shall use VA Form 3288, Request for and Consent to Release of Information from Individual's Records, to process "Release of Information Requests." In addition, the Contractor shall be responsible for locating and forwarding records not kept at their facility. The VA's Release of Information Section shall provide the Contractor with assistance in completing forms. Additionally, the Contractor shall use VA Form 10-

5345, Request for and Authorization to Release Medical Records or Health Information, when releasing records protected by 38 U.S.C. 7332 (i.e. records of the identity, diagnosis, prognosis, or treatment of any patient or subject relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia). Treatment and release records shall include the patient's consent form. Completed Release of Information requests will be forwarded to the VA Privacy Officer at the following address: Ken Parsley, Privacy Officer, One Veterans Drive, Minneapolis, MN 55417.

4.5. Direct Patient Care: 80% of the time involved in direct patient care

4.5.1. Per the qualification section of this PWS, the Contractor shall provide the following staff:

4.5.1.1. A board-certified Orthopedic Surgeon to function as the Associate Chief of Orthopedic Surgery to assist in the management of the clinical and administrative responsibilities of the service. The surgeon provided must be an experienced, practicing Orthopedic Surgeon and must meet the requirements stated above in Section 2-Qualifications.

Clinical responsibilities and tasks include:

- 4.5.1.1.1. The surgeon will staff outpatient clinics, provide inpatient attending, provide consultative services, perform operating room orthopedic surgical procedures, and provide on-call/emergency coverage.
- 4.5.1.1.2. The Associate Chief Orthopedic Surgery is responsible for oversight of all clinical care and related surgical treatment of veterans seen in the Minneapolis VA's Orthopedic Service.
- 4.5.1.1.3. New patients must be seen within access guidelines. If access requirements are not met due to circumstances beyond contractor's scope, the requirement will be reviewed with the SSC-PSL Director. Clinic schedules may change based on access demands and VA Directives.
- 4.5.1.1.4. When physician is scheduled to be in clinic, s/he must be on time and physically present for all scheduled clinics and ensure that patients are seen within a reasonable length of time.
- 4.5.1.1.5. For resident clinics, staff must be physically present in the clinic from the start to the finish of each clinic. Residents or fellows may not start a clinic without staff present.
- 4.5.1.1.6. All required documentation, i.e. CPRS clinic notes and encounters must be completed on clinic day.
- 4.5.1.1.7. The operating room schedule for orthopedic surgery is Monday-Thursday for elective procedures. On surgery days when surgeon is scheduled with first case starts, surgeon must be on-site and must sign into the operating room by 7:00 a.m. with an operating start time of 7:30 a.m. All pre-operative documentation must be completed by 7:15 a.m.
- 4.5.1.1.8. The Orthopedic Surgeon who performs the surgery must see the patient prior to the operative procedure.
- 4.5.1.1.9. Productivity Standard: Based on the American Medical Group Association's (AMGA) Compensation and Financial Survey for Physicians, 2013 Report, the mean annual work RVU benchmark for general orthopedic surgery is 7,981 work RVUs per full-time employee (FTE) per year. Productivity for this position will be calculated and prorated by contractor's direct clinical FTE hours providing surgical services.
- 4.5.1.1.10. Contract surgeon is responsible for the clinical care and related surgical treatment of veterans admitted as an inpatient for orthopedic services. Surgeon monitors patients post-operatively and documents outcomes. A CPRS attending staff note is required for all inpatients within 24 hours of admission. Subsequent progress note documentation is required during the hospitalization to document any significant changes in the patient's condition and to demonstrate appropriate resident supervision.
- 4.5.1.1.11. Orthopedic Surgeon provided shall possess appropriate management skills, consultation skill, and clinical skills, that reflect community standards with the capability to perform a broad range of orthopedic clinical care and related orthopedic surgical procedures of varying complexity as required to maximize effective patient care for veterans admitted to the Minneapolis VA's orthopedic inpatient and outpatient programs.
- 4.5.1.1.12. Contract physician shall coordinate, provide professional guidance, and ensure that the appropriate treatment methodology is set forth for patients receiving care from the VA Orthopedic Service for orthopedic surgery, including pre-operative evaluations and post-operative outcomes.

- 4.5.1.1.13. Technically directs orthopedic surgical cases in a close team care framework. Secures and ensures similar technical direction by qualified orthopedic specialists for orthopedic surgery workload and in cases requiring specialized expertise.
- 4.5.1.1.14. Surgeon will provide consultative services, evaluation and initial treatment in an organized and properly directed manner, consistent with the defined capability of the Minneapolis VA Health Care System. Surgeon must review consults and provide a response in CPRS with either a treatment plan or consult determination within seven (7) days from the date of consult request.
- 4.5.1.1.15. Physicians must maintain professional conduct and the highest standard of integrity during interactions with patients, patients' families, nurses, physicians and other healthcare professionals. Physician will consistently communicate and treat others in a courteous, tactful and respectful manner.
- 4.5.1.1.16. Remote Access: Contractor is required to have remote computer access to the Minneapolis VA Network. Remote CPRS access is required for call coverage, and to maintain timely documentation and encounter completion requirements. Remote access requires the provider to access CPRS at least one time every 90 days. To acquire remote access, contractor must meet all VA security requirements for computer access. Request for remote access shall go through the COR.
- 4.5.2. Scope of Care: Contract physician, as appropriate and within scope of practice/ privileging, shall be responsible for providing orthopedic services, including, but not limited to:
 - 4.5.2.1. Clinic and Surgical Care: Contractor physician shall provide clinical orthopedic services. Contractor physician shall be present on time for any scheduled clinics/surgeries as documented by physical presence in the clinic or operating room at the scheduled start time.
 - 4.5.2.1.1. Approximate case load is as follows:
 - # of patients per clinic: 15 patients on average
 - # of procedures per surgical session: 2-3 cases per surgery day
 - 4.5.2.1.2. Operative Services: Contractor physician shall provide comprehensive orthopedic services.
 - 4.5.2.1.3. Intraoperative Follow-up: The Contractor physician shall be present in the operating suite as scheduled for orthopedic surgery procedures.
 - 4.5.2.1.4. Postoperative Follow-up: Contractor physician rounds shall be conducted on postoperative patients in the Surgical Intensive Care Unit (SICU) and on the wards. All cases will be discussed in morbidity and mortality conferences, and the contractor physician will provide appropriate information to the COR for inclusion in departmental reports.
 - 4.5.2.1.5. Contractor physician shall provide consultative services at the patient's bedside if the patient is not ambulatory, and in the clinic setting if the patient is able to report to the outpatient clinic. Procedures shall be scheduled for completion within 30 days of the date of the consult.
 - 4.5.2.2. Medications: Contractor physician shall follow all established medication policies and procedures. No sample medications shall be provided to patients.
 - 4.5.2.3. Discharge Education: Contractor physician shall provide discharge education and follow-up instructions that are coordinated with the next care setting for orthopedic clinical and surgical patients.
- 4.5.3. ADMINISTRATIVE: 20% of time not involved in direct patient care

The contract Orthopedic Surgeon will participate in appropriate conferences and meetings related to orthopedic patient care and orthopedic resident teaching programs as deemed appropriate by the Minneapolis VA Chief of Staff or designee. Contract physician will participate in the Focus Peer Review Program and will assist in establishing and maintaining QA procedures for orthopedic services and will ensure compliance with service performance monitors. Administrative requirements include:

- 4.5.3.1. Quality Improvement Meetings: The contract physician shall participate in continuous quality improvement activities and meetings with committee participation as required by the Minneapolis VA Chief of Service, Chief of Staff, or designee. Contract physician will participate in the Focus Peer Review Program meetings to include the initial and on-going peer reviews. Peer reviews are scheduled as requested by the PSL Director and the frequency will vary.
- 4.5.3.2. Staff Meetings: The contract physician shall attend staff meetings as required by the Minneapolis VA Chief of Surgery/Specialty Care, Chief of Staff, or designee. Contractor to communicate with COR on this requirement and report any conflicts that may interfere with compliance with this requirement. Every Monday and Wednesday contract surgeon will attend Orthopedic Pre-op Conference as scheduled.
- 4.5.3.3. QA/QI documentation: The contract physician shall complete the appropriate QM/PI documentation pertaining to all procedures, complications and outcome of examinations.
 - 4.5.3.3.1. Service performance of provider must be satisfactory as defined by the VA National Surgery Quality Improvement Program (VASQIP) range for mortality and morbidity in this specialty. The Orthopedic Surgery Service Chief will review cases to ensure practice reflects required standards and will provide a monthly quality report addressing morbidity, mortality, and complications to the Surgery Specialty Care PSL Director.
- 4.5.3.4. Patient Safety Compliance and Reporting: Contract physician shall follow all established patient safety and infection control standards of care. Contract physician shall make every effort to prevent medication errors, falls, and patient injury caused by acts of commission or omission in the delivery of care. All events related to patient injury, medication errors, and other breaches of patient safety shall be reported to the COR VA Safety Policy. As soon as practicable (but within 24 hours) Contractors shall notify COR of incident and submit to the COR the Patient Safety Report, following up with COR as required or requested.

4.6. PERFORMANCE STANDARDS, QUALITY ASSURANCE (QA) AND QUALITY IMPROVEMENT(QI)

- 4.6.1. Quality Management/Quality Assurance Surveillance: Contractor physician shall be subject to Quality Management measures, such as patient satisfaction surveys, timely completion of medical records, and Peer Reviews. Methods of Surveillance: Focused Provider Practice Evaluation (FPPE) and Ongoing Provider Practice Evaluation (OPPE). Contractor performance will be monitored by the government using the standards as outlined in this Performance Work Statement (PWS) and methods of surveillance detailed in the Quality Assurance Surveillance Plan (QASP). The QASP shall be attached to the resultant contract and shall define the methods and frequency of surveillance conducted.
 - 4.6.1.1. The contractor's physician is expected to actively participate in the facility's performance improvement activities as part of the contracted service time. Performance Improvement Activities may include the following:

Surgical Case Review
 Surgical Risk Assessment Program
 External Peer/case Review Program Reporting
 Infection Control
 Blood Usage Review

Hospital Safety
 Outpatient Qualitative and Quantitative Review
 Medical Record Review
 Drug Usage
 Internal Peer Review
 Patient Incident
 Utilization

4.6.1.2. The Contractor shall furnish the Chief of Staff, on an annual basis, provider-specific information on all contractor physician providing services at the facility. Information required includes: current license; board certifications; CME; CEU; training; and any documentation pertinent to the physician knowledge, skills and abilities. This confidential provider-specific information shall be used to identify opportunities for improvement and provide the appropriate data to support the decision of re-appointment/re-privileging.

4.6.2. Patient Complaints: The CO will resolve complaints concerning Contractor relations with the Government employees or patients. The CO is final authority on validating complaints. In the event that The Contractor is involved and named in a validated patient complaint, the Government reserves the right to refuse acceptance of the services of such personnel. This does not preclude refusal in the event of incidents involving physical or verbal abuse.

4.6.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. The CO and COR shall deal with issues raised concerning Contractor's conduct. The final arbiter on questions of acceptability is the CO.

4.6.4. Performance Standards: The contract provider shall comply with the required standards as outlined in the Performance Work Statement (PWS) and the Quality Assurance Surveillance Plan (QASP). The QASP outlines required standards, defines the methods and frequency of surveillance, and will be a part of the resultant contract.

4.6.4.1. Measure: Provider Quality Performance

Performance Requirement: Contract physicians shall perform in accordance with clinical standards of care. (See Sections 4.2 Standards of Care; and 4.5 Direct Patient Care)

Standard: OPPE documentation for all (100%) staff providing services under the contract. All staff (100%) meets standards.

Acceptable Quality Level: 100% meet Standards

Surveillance Method: Ongoing Provider Performance Evaluation (OPPE) data pertinent to care performed for each provider working under this contract. OPPE data will review the following elements:

- A. Patient Care Performance
- B. Medical/Clinical Knowledge
- C. Practiced Based Learning and Improvement
- D. Interpersonal and Communication Skills
- E. Professionalism
- F. System Based Practice

Frequency: OPPE monitoring reports are every 6 months

Incentive: Positive Past Performance

Disincentive: Negative Past Performance and possible removal from contract until such time the contract physician meets qualification standard.

4.6.4.2. Measure: Qualifications of Key Personnel

Performance Requirement: All contract physicians shall be board certified in accordance with American Board of Orthopedic Surgery standards (See Section 2.1.1. License; 2.1.2 Board Certification; and 2.1.4 technical Proficiency)

Standard: All (100%) contract physicians are board-certified

Acceptable Quality Level: 100% No deviations accepted.

Surveillance Method: Random Inspection of qualification documents

Frequency: Reviewed every 6 months

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation. Removal from contract until such time the contract physician meet qualification standard.

4.6.4.3. Measure: Scope of Practice/Privileging

Performance Requirement: Contract physician performs within their individual scope of practice/privileging. (Reference PWS Section 2.1.3 Credentialing/Privileging)

Standard: All (100%) contract physician perform within their scope of practice/privileges 100% of the time.

Acceptable Quality Level: All (100%) contract physician perform within their scope of practice/privileges 100% of the time. No deviations accepted.

Surveillance Method: Random Inspection of records.

Frequency: Reviewed quarterly

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation. Removal from contract until such time the contract physician meet qualification standard.

4.6.4.4. Measure: Patient Access

Performance Requirement: The Contractor shall provide contract physician in accordance with the operating hours and VA clinical schedule outlined in this PWS. (See Section 3.2 Work Schedule through 3.2.3.4 Call coverage)

Standard: All (100%) contract physician are on time and available to perform services.

Acceptable Quality Level: Contract physician is on-time and available to perform services 100% of the time

Surveillance Method: Periodic Sampling of Time and Attendance Sheets

Frequency: Reviewed monthly by the COR

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation

4.6.4.5. Measure: Patient Safety

Performance Requirement: Patient safety incidents shall be reported using Patient Safety Report. All incidents reported immediately within 24 hours. (Refer to Section 4.5.3.4. Patient Safety)

Standard: All (100%) of patient safety incidents are reported using Patient Safety Report within 24 hours of incident.

Acceptable Quality Level: All (100%) of patient safety incidents are reported using Patient Safety Report within 24 hours of incident. No acceptable deviation.

Surveillance Method: Direct Observation

Frequency: Reports will be reviewed by COR as soon as reported

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation

4.6.4.6. Measure: Maintains Licensing, Registration, and Certification

Performance Requirement: Updated Licensing, registration and certification shall be provided as they are renewed. Licensing and registration information kept current (See 2.1.1 Licensing through 2.1.5 CME and CEU)

Standard: All (100%) licensing, registration(s) and certification(s) for contract physician shall be provided as they are renewed. Licensing and registration information kept current.

Acceptable Quality Level: All (100%) licensing, registration(s) and certification(s) for contract physician shall be provided as they are renewed. Licensing and registration information kept current. No acceptable deviation.

Surveillance Method: Periodic Sampling and Random Sampling

Frequency: Reviewed annually

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation. Removal from contract until such time the contract physician meets qualification standard.

4.6.4.7. Measure: Mandatory Training

Performance Requirement: Contractor shall complete all required training on time per VAMC policy as stated in Section 2.1.6. Training

Standard: All (100%) of required training is complete on time by contract physician.

Acceptable Quality Level: 100% completions, no deviations.

Surveillance Method: Periodic Sampling

Frequency: Reviewed annually

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation, suspension or termination of all physical and/or electronic access privileges and removal from contract until such time as the training is complete.

4.6.4.8. Measure: Privacy, Confidentiality and HIPAA

Performance Requirement: Contract physician shall comply with all privacy, confidentiality and HIPAA laws, regulations, policies and procedures. (See Sections: 4.4.1 Authorities; 4.4.2 HIPAA; 4.4.3 Disclosure; 4.4.5. Release of Information)

Standard: All (100%) contractor's physician shall comply with all laws, regulations, policies and procedures relating to Privacy, Confidentiality, & HIPPA.

Acceptable Quality Level: 100% compliance; no deviations.

Surveillance Method: Periodic Sampling; Contractor shall provide evidence of annual training required by VAMC, reports violations per VA Directive 6500.6.

Frequency: Reviewed annually or sooner if violation is reported

Incentive: Favorable contractor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation. Immediate removal from contract

4.6.4.9. Measure: Clinical Information Documentation

Performance Requirement: Contract physician shall comply with all clinical documentation regulations, policies and procedures for complete and timely clinical documentation. (See Sections: 4.4.4 Professional Standards for Documenting Care; and 4.3.3 Resident Patient Care Documentation)

Standard: All contractors' physician(s) shall comply with all laws, regulations, policies and procedures relating to patient clinical information documentation.

Acceptable Quality Level: 95% compliance;

Surveillance Method: Random Sampling of patient records

Frequency: Reviewed semi-annually

Incentive: favorable contractor performance evaluation

Disincentive: Unfavorable contractor performance evaluation

4.6.4.10. Measure: Resident Supervision

Performance Requirement: Contract surgeon shall provide resident training and supervision and all supervision shall be documented (See Section 4.3. Resident Supervision and Teaching)

Standard: Complies with Resident Supervision VHA Handbook 1400.01 and MVAHCS policies regarding training Residents.

Acceptable Quality Level: 95% compliance

Surveillance Method: Clinical Observation and random audit of CPRS

Frequency: Reviewed semi-annually

Incentive: Favorable contactor performance evaluation.

Disincentive: Unfavorable contractor performance evaluation

4.6.5. Registration with Contractor Performance Assessment Reporting System

- 4.6.5.1. 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 \$150,000, 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, New Hampshire. 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.
- 4.6.5.2. Each Contractor whose contract award is estimated to exceed \$150,000 requires a CPARS evaluation. A government Focal Point will register your contract within thirty days after contract award and, at that time, you will receive an email message with a User ID (to be used when reviewing evaluations). Additional information regarding the evaluation process can be found at www.cpars.gov or if you have any questions, you may contact the Customer Support Desk @ DSN: 684-1690 or COMM: 207-438-1690.
- 4.6.5.3. For contracts with a period of one year or less, the contracting officer will perform a single evaluation when the contract is complete. For contracts exceeding one year, the contracting officer will evaluate the Contractor's performance annually. Interim reports will be filed each year until the last year of the contract, when the final report will be completed. The report shall be assigned in CPARS to the Contractor's designated representative for comment. The Contractor representative will have sixty (60) days to submit any comments and re-assign the report to the CO.
- 4.6.5.4. Failure for the Contractor's representative to respond to the evaluation within those sixty (60) days, will result in the Government's evaluation being placed on file in the database with a statement that the Contractor failed to respond; the Contractor's representative will be "locked out" of the evaluation and may no longer send comments.

5. GOVERNMENT RESPONSIBILITIES

- 5.1. VA Support Personnel, Services or Equipment: The MVAHCS will provide support personnel necessary for the operation of the services contracted for at the Minneapolis VA Medical Center. The support personnel will be provided by the medical center at levels mutually agreed upon which are compatible with the safety of patients and the personnel required for the provision of quality medical care programming.
- 5.2. Contract Administration/Performance Monitoring: After award of contract, all inquiries and correspondence relative to the administration of the contract shall be addressed to the Contracting Officer (CO).
 - 5.2.1. CO Responsibilities:
CO – Joel Felberg, Contracting Officer

Department of Veterans Affairs
Network-23 Contracting Office (NCO-23)
708 S. 3rd Street, Suite 200E
Minneapolis MN 55415
Phone: 612-344-2186
Email: joel.felberg@va.gov
 - 5.2.1.1. The Contracting Officer is the only person authorized to approve changes or modify any of the requirements of this contract. The Contractor shall communicate with the Contracting Officer

on all matters pertaining to contract administration. Only the Contracting Officer is authorized to make commitments or issue any modification to include (but not limited to) terms affecting price, quantity or quality of performance of this contract.

- 5.2.1.2. The Contracting Officer shall resolve complaints concerning Contractor relations with the Government employees or patients. The Contracting Officer is final authority on validating complaints. In the event the Contractor effects any such change at the direction of any person other than the Contracting Officer without authority, no adjustment shall be made in the contract price to cover an increase in costs incurred as a result thereof.
- 5.2.1.3. In the event that contracted services do not meet quality and/or safety expectations, the best remedy will be implemented, to include but not limited to a targeted and time limited performance improvement plan; increased monitoring of the contracted services; consultation or training for Contractor personnel to be provided by the VA; replacement of the contract personnel and/or renegotiation of the contract terms or termination of the contract.
- 5.2.2. COR Responsibilities:
The Contracting Officer's Representative (COR) for this contract is:

Lynda Dent, Administrative Officer, SSC-PSL
V.A. Medical Center
One Veterans Drive
Minneapolis MN 55417
Phone: 612-467-2384
Email: lynda.dent@va.gov
- 5.2.2.1. The COR shall be the VA official responsible for verifying contract compliance. After contract award, any incidents of Contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.
- 5.2.2.2. The COR will be responsible for monitoring the Contractor's performance to ensure all specifications and requirements are fulfilled. Quality Improvement data that will be collected for ongoing monitoring includes but is not limited to: enter data that may be collected.
- 5.2.2.3. The COR will maintain a record-keeping system of services by time and attendance logs. The COR will review this data monthly when invoices are received and certify all invoices for payment by comparing the hours documented on the VA record-keeping system and those on the invoices. Any evidence of the Contractor's non-compliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.
- 5.2.2.4. The COR will review and certify monthly invoices for payment. If in the event the Contractor fails to provide the services in this contract, payments will be adjusted to compensate the Government for the difference.
- 5.2.2.5. All contract administration functions will be retained by the VA.

6. SPECIAL CONTRACT REQUIREMENTS

- 6.1. Reports/Deliverables: The Contractor shall be responsible for complying with all reporting requirements established by the Contract. Contractor shall be responsible for assuring the accuracy and completeness of all reports and other documents as well as the timely submission of each. Contractor shall comply with contract requirements regarding the appropriate reporting formats, instructions, submission timetables, and technical assistance as required.
- 6.1.1. The following are brief descriptions of required documents that must be submitted by Contractor: upon award; weekly; monthly; quarterly; annually, etc. identified throughout the PWS and is provided here as a guide for Contractor convenience. If an item is within the PWS and not listed here, the Contractor remains responsible for the delivery of the item.

What	Submit as noted	Submit To
Quality Control Plan: Description and reporting reflecting the contractor's plan for meeting of contract requirements and performance standards	Upon proposal and as frequently as indicated in the performance standards.	Contracting Officer
Copies of any and all licenses, board certifications, NPI, to include primary source verification of all licensed and certified staff	Upon proposal and upon renewal of licenses and upon renewal of option periods or change of key personnel.	Contracting Officer

Certification that staff list have been compared to OIG list	Upon proposal and upon new hires.	Contracting Officer
Proof of Indemnification and Medical Liability Insurance	Upon proposal and upon renewals.	Contracting Officer
Certificates of Completion for Cyber Security and Patient Privacy Training Courses	Before receiving an account on VA Network and annual training and new hires.	Contracting Officer
ACLS/BLS Certification	Upon award and every two years after award.	COR
Contingency plan	Upon proposal and as updated	COR

6.2. Billing:

6.2.1. Invoice Requirements and Supporting Documentation: Supporting documentation and invoice must be submitted no later than the 20th workday of the month. Subsequent changes or corrections shall be submitted by separate invoice. In addition to information required for submission of a “proper” invoice in accordance with VAAR Clause 852.232-72 Electronic Submission of Payment Requests, all invoices must include:

- 6.2.1.1. Name and Address of Contractor
- 6.2.1.2. Invoice Date and Invoice Number
- 6.2.1.3. Contract Number and Purchase/Task Order Number
- 6.2.1.4. Date of Service
- 6.2.1.5. Contract Physician (*Name of Contractor’s employee*)
- 6.2.1.6. Hourly Rate
- 6.2.1.7. Quantity of Hours Worked
- 6.2.1.8. Total Price

6.3. Vendor Electronic Invoice Submission Methods

Facsimile, e-mail, and scanned documents are not acceptable forms of submission for payment requests. Electronic form means an automated system transmitting information electronically according to the accepted electronic data transmission methods below:

- 6.3.1. VA’s Electronic Invoice Presentment and Payment System – The FSC uses a third-party contractor, OB10, to transition vendors from paper to electronic invoice submission. Please go to this website: <http://ob10.com/us/en/veterans-affairs-us/> to begin submitting electronic invoices, free of charge.
- 6.3.2. A system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>).
- 6.3.3. The Contract may contact FSC at the phone number or email address listed below with any questions about the e-invoicing program or OB10:

- 6.3.3.1. OB10 e-Invoice Setup Information: 1-877-489-6135
- 6.3.3.2. OB10 e-Invoice email: VA.Registration@ob10.com
- 6.3.3.3. FSC e-Invoice Contact Information: 1-877-353-9791
- 6.3.3.4. FSC e-invoice email: yafscshd@va.gov

6.4. Payment Adjustments/Performance Related Payment Deductions:

6.4.1. Invoices will be prorated for partial days/hours worked. The contractor shall be paid only for actual work performed on-site. In the event that the Contract provider works a portion of an hour, the government may adjust payments by 15 minute increments. Contract providers shall be responsible for reporting time worked accurately. The Contractor shall be paid only for actual hours and portion of hours of work performed.

- 6.4.1.1. The contract shall be adjusted at the end of each period of performance (base or option year) in accordance with actual performance.

6.5. Payments in Full/No Billing VA Beneficiaries: The Contractor shall accept payment for services rendered under this contract as payment in full. 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.

6.5.1. To the extent that the Veteran desires services which are not a VA benefit or covered under the terms of this contract, the Contractor must notify the Veteran that there will be a charge for such service and that the VA will not be responsible for payment.

6.5.2. The Contractor shall not bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against, any person or entity other than VA for services provided pursuant to this contract. It shall be considered fraudulent for the Contractor to bill other third party insurance sources (including Medicare) for services rendered to Veteran enrollees under this contract.

6.6. Contractor Security Requirements (Handbook 6500.6)

6.7.1. Background Investigations:

1. All contractor employees who will require access to the U.S. Department of Veterans Affairs computer/information systems in order to perform services under an awarded contract or who will have access to VA patients or VA sensitive information will be the subject of background investigations. Each contractor employee must receive a favorable adjudication from the VA Security and Investigations Center (SIC) prior to performing any part of the contract.

- Position Sensitivity: The position sensitivity has been designated as Low Risk.
- Background Investigation: The level of background investigation commensurate with the required level of access is: National Agency Check with written Inquiries (NACI).

2. Contractor Responsibilities for Background Investigations: The contractor shall bear the expense of obtaining background investigations. If the Office of Personnel Management (OPM) conducts the investigation, the contractor shall reimburse the VA within 30 days. If timely payment is not made within 30 days from date of bill for collection, then the VA will deduct the cost incurred from the contractor's invoice for services rendered. The current fee associated with background investigation is \$230 each for low risk level.

a. It is imperative for the contractor to provide the VA Contracting Officer a listing of contractor personnel who will be performing services under the contract in order for the background investigation process to commence. This list is completed on VHA Security Form #1 "Background Investigation Request Worksheet" and must include: name (first, middle, last); social security number; home address; date of birth; place of birth (city, state, and country).

b. The contractor or their employee shall submit a complete background investigation packet. Additional guidance and information in completing the required forms and examples of the forms can be found at: www.osp.va.gov/Security_and_Investigations_Center_FF.asp or at: www.vendorportal.ecms.va.gov.

c. The following required forms must be submitted to the VA Security and Investigations Center for a NACI background investigation before contract performance begins:

- Standard Form 85, Questionnaire for Non-Sensitive Positions
- Standard Form 86A (EG), Continuation Sheet for Questionnaire (if necessary)
- Optional Form 306, Declaration for Federal Employment
- Electronic Fingerprint Verification Form

d. Fingerprinting is required for all background investigations and when completed is known as a Special Agreement Check (SAC) clearance. Fingerprinting can be done at the local VA facility. The Electronic Fingerprint Verification Form with the date fingerprinted by the VA facility must be submitted with the above required forms.

e. Prior to starting at the MVAHCS, the contract employee must have:

- Security background screening with fingerprinting SAC clearance completed

- Completion and submission of course certificates for VA Privacy and Security courses
- Completion and submission of all forms required for a low risk (NACI) background investigation.

f. The contractor shall inform the contract employee that when filling out Standard Form 85, that there should be no gaps in employment history. Any gaps in employment history on SF-85 may result in OPM rejecting the documentation for investigation and delay contract performance.

g. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract and, at the request of the VA, submit another employee for consideration.

h. The contractor may utilize a private investigating agency if such agency possesses an OPM and Defense Security Service Certification. A Cage Code number must be provided to the VA Security and Investigations Center and they will verify the information and advise the contracting officer whether contract physician's access to the computer system can be authorized.

i. All contractor employees and subcontractors providing services under this contract are required to complete VA's Privacy, Rules of Behavior, and Cyber Security training courses before starting work and annually as required. Documented proof must be provided to the VA's CO and COR.

j. The contractor will notify the COR immediately when their employee no longer requires access to VA computer systems.

3. Government Responsibilities for Background Investigations:

a. The contracting officer will request the contractor employee's background Investigation from the VA Security and Investigations Center.

b. The VA Security and Investigations Center will notify the contractor with instructions for Contractor's employee, coordinate the background investigations, and notify the contracting officer and the contractor of the results of the investigation.

c. The VA facility will pay for requested investigations in advance. A bill for collection will be sent to the contractor to reimburse the VA facility. The contractor will reimburse the VA facility within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractor's invoice for services rendered.

6.7.2. VA Information and Information System Security/Privacy Language:

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.

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. Custom software development and outsourced operations must be located in the U.S. to the maximum extent practical. If such services are proposed to be performed abroad and are not disallowed by other VA policy or mandates, the contractor/subcontractor must state where all non-U.S. services are provided and detail a security plan, deemed to be acceptable by VA, specifically to address mitigation of the resulting problems of communication, control, data protection, and so forth. Location within the U.S. may be an evaluation factor.

e. 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.

6.7.3. 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. The contractor/subcontractor's firewall and Web services security controls, if applicable, shall meet or exceed VA's minimum requirements. VA Configuration Guidelines are available upon request.

j. 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.

k. 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.

l. For service that involves the storage, generating, transmitting, or exchanging of VA sensitive information but does not require C&A or an MOU-ISA for system interconnection, the contractor/subcontractor must complete a Contractor Security Control Assessment (CSCA) on a yearly basis and provide it to the COTR.

6.7.4. Information System Design and Development:

a. Information systems that are designed or developed for or on behalf of VA at non-VA facilities shall comply with all VA directives developed in accordance with FISMA, HIPAA, NIST, and related VA security and privacy control requirements for Federal information systems. This includes standards for the protection of electronic PHI, outlined in 45 C.F.R. Part 164, Subpart C, information and system security categorization level designations in accordance with FIPS 199 and FIPS 200 with implementation of all baseline security controls commensurate with the FIPS 199 system security categorization (reference Appendix D of VA Handbook 6500, *VA Information Security Program*). During the development cycle a Privacy Impact Assessment (PIA) must be completed, provided to the COR, and approved by the VA Privacy Service in accordance with Directive 6507, *VA Privacy Impact Assessment*.

b. The contractor/subcontractor shall certify to the COR that applications are fully functional and operate correctly as intended on systems using the VA Federal Desktop Core Configuration (FDCC), and the common security configuration guidelines provided by NIST or the VA. This includes Internet Explorer 7 configured to operate on Windows XP and Vista (in Protected Mode on Vista) and future versions, as required.

c. The standard installation, operation, maintenance, updating, and patching of software shall not alter the configuration settings from the VA approved and FDCC configuration. Information technology staff must also use the Windows Installer Service for installation to the default “program files” directory and silently install and uninstall.

d. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

e. The security controls must be designed, developed, approved by VA, and implemented in accordance with the provisions of VA security system development life cycle as outlined in NIST Special Publication 800-37, *Guide for Applying the Risk Management Framework to Federal Information Systems*, VA Handbook 6500, *Information Security Program* and VA Handbook 6500.5, *Incorporating Security and Privacy in System Development Lifecycle*.

f. The contractor/subcontractor is required to design, develop, or operate a System of Records Notice (SOR) on individuals to accomplish an agency function subject to the Privacy Act of 1974, (as amended), Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Privacy Act may involve the imposition of criminal and civil penalties.

g. The contractor/subcontractor agrees to:

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies:

(a) The Systems of Records (SOR); and

(b) The design, development, or operation work that the contractor/subcontractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a SOR on individuals that is subject to the Privacy Act; and

(3) Include this Privacy Act clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a SOR.

h. In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a SOR on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a SOR on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a SOR on individuals to accomplish an agency function, the contractor/subcontractor is considered to be an employee of the agency.

(1) “Operation of a System of Records” means performance of any of the activities associated with maintaining the SOR, including the collection, use, maintenance, and dissemination of records.

(2) “Record” means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and contains the person’s name, or identifying number, symbol, or any other identifying particular assigned to the individual, such as a fingerprint or voiceprint, or a photograph.

(3) “System of Records” means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

i. The vendor shall ensure the security of all procured or developed systems and technologies, including their subcomponents (hereinafter referred to as “Systems”), throughout the life of this contract and any extension, warranty, or maintenance periods. This includes, but is not limited to workarounds, patches, hotfixes, upgrades, and any physical components (hereafter referred to as Security Fixes) which may be necessary to fix all security vulnerabilities published or known to

the vendor anywhere in the Systems, including Operating Systems and firmware. The vendor shall ensure that Security Fixes shall not negatively impact the Systems.

j. The vendor shall notify VA within 24 hours of the discovery or disclosure of successful exploits of the vulnerability which can compromise the security of the systems (including the confidentiality or integrity of its data and operations, or the availability of the system). Such issues shall be remediated as quickly as is practical, but in no event longer than 5 days.

k. When the Security Fixes involve installing third party patches (such as Microsoft OS patches or Adobe Acrobat), the vendor will provide written notice to the VA that the patch has been validated as not affecting the Systems within 10 working days. When the vendor is responsible for operations or maintenance of the Systems, they shall apply the Security Fixes within 10 days.

l. All other vulnerabilities shall be remediated as specified in this paragraph in a timely manner based on risk, but within 60 days of discovery or disclosure. Exceptions to this paragraph (e.g. for the convenience of VA) shall only be granted with approval of the contracting officer and the VA Assistant Secretary for Office of Information and Technology.

6.7.5. Information System Hosting, Operation, Maintenance, or Use:

a. For information systems that are hosted, operated, maintained, or used on behalf of VA at non-VA facilities, contractors/subcontractors are fully responsible and accountable for ensuring compliance with all HIPAA, Privacy Act, FISMA, NIST, FIPS, and VA security and privacy directives and handbooks. This includes conducting compliant risk assessments, routine vulnerability scanning, system patching and change management procedures, and the completion of an acceptable contingency plan for each system. The contractor's security control procedures must be equivalent, to those procedures used to secure VA systems. A Privacy Impact Assessment (PIA) must also be provided to the COR and approved by VA Privacy Service prior to operational approval. All external Internet connections to VA's network involving VA information must be reviewed and approved by VA prior to implementation.

b. Adequate security controls for collecting, processing, transmitting, and storing of Personally Identifiable Information (PII), as determined by the VA Privacy Service, must be in place, tested, and approved by VA prior to hosting, operation, maintenance, or use of the information system, or systems by or on behalf of VA. These security controls are to be assessed and stated within the PIA and if these controls are determined not to be in place, or inadequate, a Plan of Action and Milestones (POA&M) must be submitted and approved prior to the collection of PII.

c. Outsourcing (contractor facility, contractor equipment or contractor staff) of systems or network operations, telecommunications services, or other managed services requires certification and accreditation (authorization) (C&A) of the contractor's systems in accordance with VA Handbook 6500.3, *Certification and Accreditation* and/or the VA OCS Certification Program Office. Government-owned (government facility or government equipment) contractor-operated systems, third party or business partner networks require memorandums of understanding and interconnection agreements (MOU-ISA) which detail what data types are shared, who has access, and the appropriate level of security controls for all systems connected to VA networks.

d. The contractor/subcontractor's system must adhere to all FISMA, FIPS, and NIST standards related to the annual FISMA security controls assessment and review and update the PIA. Any deficiencies noted during this assessment must be provided to the VA contracting officer and the ISO for entry into VA's POA&M management process. The contractor/subcontractor must use VA's POA&M process to document planned remedial actions to address any deficiencies in information security policies, procedures, and practices, and the completion of those activities. Security deficiencies must be corrected within the timeframes approved by the government. Contractor/subcontractor procedures are subject to periodic, unannounced assessments by VA officials, including the VA Office of Inspector General. The physical security aspects associated with contractor/subcontractor activities must also be subject to such assessments. If major changes to the system occur that may affect the privacy or security of the data or the system, the C&A of the system may need to be reviewed, retested and re-authorized per VA Handbook 6500.3. This may require reviewing and updating all of the documentation (PIA, System Security Plan, and

Contingency Plan). The Certification Program Office can provide guidance on whether a new C&A would be necessary.

e. The contractor/subcontractor must conduct an annual self-assessment on all systems and outsourced services as required. Both hard copy and electronic copies of the assessment must be provided to the COR. The government reserves the right to conduct such an assessment using government personnel or another contractor/subcontractor. The contractor/subcontractor must take appropriate and timely action (this can be specified in the contract) to correct or mitigate any weaknesses discovered during such testing, generally at no additional cost.

f. 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, SOW 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.

g. All electronic storage media used on non-VA leased or non-VA owned IT equipment that is used to store, process, or access VA information must be handled in adherence with VA Handbook 6500.1, *Electronic Media Sanitization* upon: (i) Completion or termination of the contract or (ii) Disposal or return of the IT equipment by the contractor/subcontractor or any person acting on behalf of the contractor/subcontractor whichever is earlier. Media (hard drives, optical disks, CDs, back-up tapes, etc.) used by the contractors/subcontractors that contain VA information must be returned to the VA for sanitization or destruction or the contractor/subcontractor must self-certify that the media has been disposed of per 6500.1 requirements. This must be completed within 30 days of termination of the contract.

h. Bio-Medical devices and other equipment or systems containing media (hard drives, optical disks, etc.) with VA sensitive information must not be returned to the vendor at the end of lease, for trade-in, or other purposes. The options are:

- (1) Vendor must accept the system without the drive;
- (2) VA's initial medical device purchase includes a spare drive which must be installed in place of the original drive at time of turn-in; or
- (3) VA must reimburse the company for media at a reasonable open market replacement cost at time of purchase.
- (4) Due to the highly specialized and sometimes proprietary hardware and software associated with medical equipment/systems, if it is not possible for the VA to retain the hard drive, then;
 - (a) The equipment vendor must have an existing BAA if the device being traded in has sensitive information stored on it and hard drive(s) from the system are being returned physically intact; and
 - (b) Any fixed hard drive on the device must be non-destructively sanitized to the greatest extent possible without negatively impacting system operation. Selective clearing down to patient data folder level is recommended using VA approved and validated overwriting technologies/methods/tools. Applicable media sanitization specifications need to be preapproved and described in the purchase order or contract.
 - (c) A statement needs to be signed by the Director (System Owner) that states that the drive could not be removed and that (a) and (b) controls above are in place and completed. The ISO needs to maintain the documentation.

6.7.6. 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 COR 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.

6.7.7. 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:

- (1) Nature of the event (loss, theft, unauthorized access);
- (2) Description of the event, including:
 - (a) Date of occurrence
 - (b) Data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
- (3) Number of individuals affected or potentially affected;
- (4) Names of individuals or groups affected or potentially affected;
- (5) 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;
- (6) Amount of time the data has been out of VA control;
- (7) The likelihood that the sensitive personal information will or has been compromised, i.e.: made accessible to and usable by unauthorized persons;
- (8) Known misuses of data containing sensitive personal information, if any;
- (9) Assessment of the potential harm to the affected individuals;

(10) Data breach analysis as outlined in 6500.2 Handbook, *Management of Security and Privacy Incidents*, as appropriate; and

(11) 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 \$37.50 per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:

- (1) Notification;
- (2) One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
- (3) Data breach analysis;
- (4) Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
- (5) One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
- (6) Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

6.7.8. Security Controls Compliance Testing:

On a periodic basis, VA, including the Office of Inspector General, reserves the right to evaluate any or all of the security controls and privacy practices implemented by the contractor under the clauses contained within the contract. With 10 working-days' notice, at the request of the government, the contractor must fully cooperate and assist in a government-sponsored security controls assessment at each location wherein VA information is processed or stored, or information systems are developed, operated, maintained, or used on behalf of VA, including those initiated by the Office of Inspector General. The government may conduct a security control assessment on shorter notice (to include unannounced assessments) as determined by VA in the event of a security incident or at any other time.

6.7.9. 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:

- (1) Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior* relating to access to VA information and information systems;
- (2) Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;
- (3) Successfully complete the appropriate VA privacy training and annually complete required privacy training; and
- (4) Successfully complete any additional cyber security or privacy training, as required for VA personnel with equivalent information system access [to be defined by the VA program official and provided to the contracting officer for inclusion in the solicitation document – e.g., any role-based information security training required in accordance with NIST Special Publication 800-16, *Information Technology Security Training Requirements*.]

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. Privacy Training: Contractor and all employees assigned to work under the contract are required to receive annual training on patient privacy as established by HIPAA statutes. Training must meet VHA's and Department of Health and Human Services (HHS) Standards for privacy of individually identifiable health information. Contractor shall provide documented proof of training

to the Contracting Officer's Representative (COR) for all employees assigned work and/or having access to protected health information annually.

d. Failure to complete the mandatory 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 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (DEC 2014)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;

- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.—*

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety

Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments
- (9) The specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an

ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

C.2 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

(1) When no longer needed for contract performance.

(2) Upon completion of the Contractor employee's employment.

(3) Upon contract completion or termination.

(c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

(End of Clause)

C.3 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)

C.4 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days of contract expiration.

(End of Clause)

C.5 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days of contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed one year.

(End of Clause)

C.6 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of Clause)

C.7 52.224-2 PRIVACY ACT (APR 1984)

(a) The Contractor agrees to—

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the design, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

(c) (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of Clause)

C.8 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of Clause)

C.9 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of Clause)

C.10 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.11 VAAR 852.215-70 SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESS EVALUATION FACTORS (DEC 2009)

(a) In an effort to achieve socioeconomic small business goals, depending on the evaluation factors included in the solicitation, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

(b) Eligible service-disabled veteran-owned offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in Vendor Information Pages (VIP) database. (<http://www.VetBiz.gov>).

(c) Non-veteran offerors proposing to use service-disabled veteran-owned small businesses or veteran-owned small businesses as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VetBiz.gov VIP database (<http://www.vetbiz.gov>).

(End of Provision)

C.12 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes FAR 52.219-14 Limitations on Subcontracting. 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)

C.13 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes VAAR 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, and VAAR 852.215-71, Evaluation Factor Commitments. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing contractor compliance with the subcontracting commitments incorporated into the contract. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding contract 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 compliance with the subcontracting commitments.

(End of Clause)

C.14 VAAR 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)

C.15 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)

(a) It is expressly agreed and understood that this is a non- personal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: * _____. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

* Amounts are listed below:

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health- care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health- care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

* Amounts from paragraph (a) above:

\$1,000,000.00

(End of Clause)

C.16 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)

The contractor shall obtain all necessary licenses and/or permits required to perform this work. He/she shall take all reasonable precautions necessary to protect persons and property from injury or damage during the performance of this contract. He/she shall be responsible for any injury to himself/herself, his/her employees, as well as for any damage to personal or public property that occurs during the performance of this contract that is caused by his/her employees fault or negligence, and shall maintain personal liability and property damage insurance having coverage for a limit as required by the laws of the State of Minnesota. Further, it is agreed that any negligence of the Government, its officers, agents, servants and employees, shall not be the responsibility of the contractor hereunder with the regard to any claims, loss, damage, injury, and liability resulting there from.

(End of Clause)

C.17 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (APR 2015)

(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) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Dec 2014)
- (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) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(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:

☒ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

☐ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010)(41 U.S.C. 3509).

☐ (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.)

☒ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

☐ (5) [Reserved]

☐ (6) 52.204-14, Service Contract Reporting Requirements (JAN 2014) (Pub. L. 111-117, section 743 of Div. C).

☐ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (JAN 2014) (Pub. L. 111-117, section 743 of Div. C).

☒ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Aug 2013) (31 U.S.C. 6101 note).

- ☐ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).
- ☐ (10) [Reserved]
- ☐ (11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).
- ☐ (ii) Alternate I (NOV 2011) of 52.219-3.
- ☐ (12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- ☐ (ii) Alternate I (JAN 2011) of 52.219-4.
- ☐ (13) [Reserved]
- ☒ (14)(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).
- ☐ (15)(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.
- ☒ (16) 52.219-8, Utilization of Small Business Concerns (OCT 2014) (15 U.S.C. 637(d)(2) and (3)).
- ☐ (17)(i) 52.219-9, Small Business Subcontracting Plan (OCT 2014) (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 (OCT 2014) of 52.219-9.
- ☐ (18) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- ☒ (19) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- ☐ (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- ☒ (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).
- ☐ (23) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).
- ☐ (24) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).
- ☒ (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

☐ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JAN 2014) (E.O. 13126).

☒ (27) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

☒ (28) 52.222-26, Equal Opportunity (APR 2015) (E.O. 11246).

☒ (29) 52.222-35, Equal Opportunity for Veterans (JUL 2014) (38 U.S.C. 4212).

☒ (30) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).

☒ (31) 52.222-37, Employment Reports on Veterans (JUL 2014) (38 U.S.C. 4212).

☒ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

☒ (33)(i) 52.222-50, Combating Trafficking in Persons (MAR 2015) (22 U.S.C. chapter 78 and E.O. 13627).

☐ (ii) Alternate I (MAR 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

☒ (34) 52.222-54, Employment Eligibility Verification (AUG 2013). (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)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

☐ (ii) Alternate I (JUN 2014) of 52.223-13.

☐ (37)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

☐ (ii) Alternate I (JUN 2014) of 52.223-14.

☐ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).

☐ (39)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (JUN 2014) (E.O.s 13423 and 13514).

☐ (ii) Alternate I (JUN 2014) of 52.223-16.

☒ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

☐ (41) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

☐ (42)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014) (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 (MAY 2014) of 52.225-3.
 - ☐ (iii) Alternate II (MAY 2014) of 52.225-3.
 - ☐ (iv) Alternate III (MAY 2014) of 52.225-3.
 - ☐ (43) 52.225-5, Trade Agreements (NOV 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
 - ☒ (44) 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).
 - ☐ (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
 - ☐ (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
 - ☐ (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
 - ☐ (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).
 - ☐ (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).
 - ☐ (50) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).
 - ☒ (51) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).
 - ☐ (52) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).
 - ☐ (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
 - ☐ (54)(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) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495).
 - ☐ (2) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67).
 - ☐ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
 - ☐ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
 - ☐ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

[] (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

[] (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

[] (8) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2014) (Executive Order 13658).

[] (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792).

[] (10) 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) (41 U.S.C. 3509).

(ii) 52.219-8, Utilization of Small Business Concerns (OCT 2014) (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 (MAY 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

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

(vi) 52.222-35, Equal Opportunity for Veterans (JUL 2014) (38 U.S.C. 4212).

- (vii) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).
 - (viii) 52.222-37, Employment Reports on Veterans (JUL 2014) (38 U.S.C. 4212).
 - (ix) 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.
 - (x) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67).
 - (xi)(A) 52.222-50, Combating Trafficking in Persons (MAR 2015) (22 U.S.C. chapter 78 and E.O. 13627).

(B) Alternate I (MAR 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
 - (xii) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).
 - (xiii) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).
 - (xiv) 52.222-54, Employment Eligibility Verification (AUG 2013).
 - (xv) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2014) (E.O. 13658).
 - (xvi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
 - (xvii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
 - (xviii) 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)

SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

See attached document: Attachment 1 - QASP.

See attached document: Attachment 2 - Immigration and Nationality Act Certification.

See attached document: Attachment 3 - Organizational Conflict of Interest.

See attached document: Attachment 4 - Contractor Rules of Behavior.

See attached document: Attachment 5 - Past Performance Questionnaire.

SECTION E - SOLICITATION PROVISIONS

E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (JUL 2013)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) "Remit to" address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 90 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) Late submissions, modifications, revisions, and withdrawals of offers.

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for Bids).* The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards.* The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) Availability of requirements documents cited in the solicitation.

(1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—

GSA Federal Supply Service Specifications Section

Suite 8100 470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925

Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (<http://assist.daps.dla.mil>).

(ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by?

(i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) database. The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address. The DUNS +4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.fedgov.dnb.com/webform>. An offeror located outside the United States must

contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(k) *System for Award Management*. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the SAM database accessed through <https://www.acquisition.gov>.

(l) *Debriefing*. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

- (1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
- (2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of Provision)

ADDENDA TO 52.212-1 PROPOSAL PREPARATION INSTRUCTIONS

This section provides general guidance for preparing proposals as well as specific instructions on format and content of the proposal. The Offeror's proposal must include all data and information requested herein, and must be submitted in accordance with these instructions. Nonconformance with the instructions provided herein may result in an unfavorable proposal evaluation. Proposals shall be clear, concise, and shall include sufficient detail for effective evaluation and for substantiating the validity of the stated claims. The proposal should not simply rephrase or restate the Governments' requirements, but shall address how the Offeror intends to meet these requirements. Offerors shall assume that the Government has no prior knowledge of their abilities and experience, and will base its evaluation on the information presented in the Offeror's proposal. Elaborate brochures or documentation, binding, detailed art work, or other embellishments are unnecessary and are not desired. Offerors are required to meet all solicitation requirements, including terms and conditions, representations and certifications, and technical requirements.

SOLICITATION QUESTIONS: Questions concerning the solicitation will be accepted from the solicitation posting date until 10:00am CST June 01, 2015. Questions will only be accepted by email at joel.felberg@va.gov.

INFORMATION REGARDING SUBMISSION OF PROPOSAL: Faxed proposals will NOT be accepted. Proposals will be accepted by mail or hand carried delivery to:

Department of Veterans Affairs

C/O Joel Felberg

Network Contracting Office 23 (NCO 23)

708 S. Third Street, Suite 200E

Minneapolis, MN 55415

Offerors proposals are to be submitted in three parts: (1) a price proposal (the "Price Proposal"), (2) a technical proposal (the "Technical Proposal"), and (3) a Past Performance. The offeror shall include only one copy of each part. *The offeror is required to submit a copy of the RFP response on CD-ROM along with the printed copy. Printed copies should not include marketing or promotional material. The electronic version (CD-ROM) of this RFP technical response shall be named **NCO 23 Minneapolis Associate Chief, Orthopedic Surgery [Vendor Name] RFP.doc**. Pricing information shall be entered into the Schedule of Services section of the RFP (Paragraph B.5 Schedule of Services); no other version of a pricing schedule will be accepted.* All envelopes shall be clearly marked with the RFP number at the lower left-hand corner. Each envelope shall be identified as "PRICE PROPOSAL", "TECHNICAL PROPOSAL", and "PAST PERFORMANCE".

The sealed envelope or package used to submit your proposal must show the time and date specified for receipt, solicitation number and name address of the offeror.

Specific Instructions:

1. PART I – PRICE PROPOSAL – Submit one copy.

- (a) Complete blocks 12, 17a and b, and 30a through c of the RFP, page 1, Standard Form (SF) 1449, and all fill-ins in the Contract Administration Data section of the solicitation. In doing so, the offeror accedes to the contract terms and conditions as written in the solicitation in its entirety.
- (b) Insert proposed unit prices for each Contract Line Item Number (CLIN) including all option periods. All price proposals must be submitted using the Schedule of Services section of the RFP. The proposal must be submitted for a base period of six months plus one (1) six-month option period.

- (c) Complete the necessary fill-ins and certifications in the Contract Clauses section. Representations and Instructions section shall be returned in its entirety. For Description/Specifications through Contract Clauses sections, the offeror shall submit only the pages that require a fill-in.
- (d) The Contractor must return a signed Immigration and Nationality Act Certification and Organizational Conflict of Interest, (See attachments 2&3)
- (e) Return any solicitation amendments to the original solicitation documents, signed by the same official authorized to sign the SF 1449.

2. PART II – TECHNICAL PROPOSAL – Submit one copy

- (a) **Section 1 – Cover letter.** Shall be a maximum two-page Cover Letter and shall include the name and address of the organization submitting the proposal, together with the name, address, e-mail address and telephone number of the contact person who has the actual power to legally bind the offeror and make representations relative to the offeror's proposal and any resultant contract, for the offeror.
- (b) **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 be section reference and section title.
- (c) **Section 3 – Narrative Response to Evaluation Factors.** In order to evaluate each proposal, it is necessary that each offeror respond to all items in the same order as presented herein. Offers 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 minimum needs of the specifications. The response should be concise and provide sufficient information to demonstrate the offeror's capability to satisfactorily perform the objectives. The narrative response shall be typed not less than 12 pitch and be presented in the order of the technical evaluation factors. The offeror will use 8 ½" x 11" paper except for fold-outs used for charts, tables, or diagrams, which may not exceed 11" x 17."
- (d) Contractor shall submit a listing of key personnel in the following format:
PROVIDER NAME:_____ TITLE/RANK:_____.
- (e) Curriculum Vitae of each key personnel shall be submitted with the proposal.

3. PART III – PAST PERFORMANCE – *Limited to no more than two (2) pages per contract listed. Only references for same or similar type contract. Submit one (1) copy.* As part of the evaluation process, the Government will assess each offeror's past performance deemed relevant to the requirements of this solicitation. The offeror shall present factual material dealing with contracts held with other Government agencies or with private sector businesses on which the same or similar services were provided. Information requested includes successful execution of contracts, and in problem areas, the steps taken to resolve or correct. Offerors are cautioned that the Government will use information provided by the offerors and information obtained from other sources in the development of the performance confidence assessments.

- (a) Quality and Satisfaction Rating for Contracts Completed in the Past Three (3) Years: Provide any information currently available (letters, metrics, customer surveys, independent surveys, etc.) which demonstrates customer satisfaction with overall job performance and quality of completed product for same or similar type contract
- (b) Performance Surveys: The government will evaluate the quality and extent of offeror's performance deemed relevant to the requirements of this RFP. The government will use information submitted by the offeror and other sources such as other Federal Government offices and commercial sources, to assess performance. Provide a list of no more than five (5) of same or similar type contracts performed for Federal agencies and commercial customers within the last three (3) years.
- (c) The evaluation of past performance information will take into account past performance information regarding predecessor companies, key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the instant acquisition. Furnish the following information for each contract listed:
 - (i) Company/Division name
 - (ii) Product/Service
 - (iii) Contracting Agency/Customer
 - (iv) Contract Number
 - (v) Contract Dollar Value
 - (vi) Period of Performance
 - (vii) Verified, up-to-date name, address, FAX, email address, and telephone number of the contracting officer
 - (viii) Comments regarding compliance with contract terms and conditions
 - (ix) Comments regarding any known performance deemed unacceptable to the customer, or not in accordance with the contract terms and conditions..

PAST PERFORMANCE QUESTIONNAIRES: Each offeror shall send out Past Performance Questionnaires (Attachment #5) to each of the offeror's past performance references identified in those contracts listed in the contractor's Past Performance Information. The responsibility to send out Past Performance Questionnaires rests solely with each offeror – IT SHALL NOT BE DELEGATED TO ANY OTHER ENTITY.

1. Complete Section A, General Information, of the Past Performance Questionnaire (Attachment #5) and fax or email Past Performance Questionnaire to all past performance references listed in the contractor's Past Performance Information. Evaluators are only

allowed to use the Attachment #5, Past Performance Questionnaire. Altered or substituted questionnaires will not be evaluated. Offerors are responsible to ensure questionnaires are transmitted to their references, and to indicate which references the questionnaire was sent to (see paragraph c above).

2. Once the Past Performance Questionnaires are completed by the evaluator's POCs, the information contained in the Questionnaires shall be considered source selection sensitive and not released to you, the offeror. Questionnaires shall be sent directly to the Government.
3. Past Performance Questionnaires are to be completed and sent directly to the Government by the evaluator completing the Questionnaire. It is the sole responsibility of the offeror to track the submission of Past and Present Performance Questionnaires and ensure that the Government receives them AS SOON AS POSSIBLE BUT NO LATER THAN THE CLOSING TIME AND DATE OF THE SOLICITATION. It is also the sole responsibility of the offeror to inform the evaluators of any extensions the Government approves to the date and time proposal are due to be submitted.
4. The evaluator shall e-mail questionnaires to Joel Felberg at joel.felberg@va.gov. If the questionnaires cannot be e-mailed, fax to (612) 333 – 3667.
5. If the offeror claims there is no past performance, then that status must be identified to the Contracting Officer not later than the date/time proposals are due from all offerors.

E.2 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)

(a) In accordance with Division H, sections 8124 and 8125 of P.L. 112-74 and sections 738 and 739 of P.L. 112-55 none of the funds made available by either Act may be used to enter into a contract with any corporation that—

(1) Has an unpaid federal tax liability, unless the agency has considered suspension or debarment of the corporation and the Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

(2) Has a felony criminal violation under any Federal or State law within the preceding 24 months, unless the agency has considered suspension or debarment of the corporation and Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) The offeror does [] does not [] have any unpaid Federal tax liability that has been assessed and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(2) The offeror, its officers or agents acting on its behalf have [] have not [] been convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

(End of Provision)

E.3 52.216-1 TYPE OF CONTRACT (APR 1984)

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

(End of Provision)

E.4 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

NCO 23 - Minneapolis
Attention: Joel Felberg
708 S. Third St., Suite 200E
Minneapolis MN 55415
Mailing Address:

Department of Veterans Affairs

NCO 23 - Minneapolis
Attention: Joel Felberg
708 S. Third St., Suite 200E
Minneapolis MN 55415

(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.5 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.6 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.7 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.8 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008)

The contractor agrees to provide all services specified in this contract for any person determined eligible by the Department of Veterans Affairs, regardless of the race, color, religion, sex, or national origin of the person for whom such services are ordered. The contractor further warrants that he/she will not resort to subcontracting as a means of circumventing this provision.

(End of Provision)

E.9 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.14 52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

(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 factors shall be used to evaluate offers:

EVALUATION FACTORS:

The evaluation factors are listed in descending order of importance:

- (1) Technical Excellence
- (2) Past Performance
- (3) Price/Cost

The sub-factors under each factor are of equal importance within the evaluation factor. The "Best Value" approach shall be used in the evaluation of proposals. The relative importance of technical excellence and past performance, when combined, are significantly more important than price.

FACTOR 1 - TECHNICAL EXCELLENCE

Offerors will be evaluated on the following sub-factors:

1.1. Personnel Qualifications: The offeror must provide information demonstrating the qualifications of personnel to meet the requirements to include: A listing of all professional staff who will be assigned to perform the required services; CVs of professional staff; copies of degrees; licenses; board certifications; accreditations; professional accomplishments and awards. Provide a copy of current and active Basic Life Support (BLS) and Advanced Cardiac Life Support (ACLS) certifications.

1.2. Experience: The offeror must demonstrate his/her ability to meet the requirement by providing information on surgeon's surgical experience.

(a) Surgical/Clinical Experience: The offeror must provide information demonstrating candidate's ability to meet the requirements by providing information on recent (within last two years) related experience providing orthopedic surgery services. Contractor shall provide a case list of types of surgical procedures candidate has experience performing.

(b) Teaching Experience: Provide information regarding candidate's recent experience with medical education. Describe experience teaching orthopedic residents and medical students.

1.3. Clinical Skills: Provide information that demonstrates surgeon's specialized training and clinical expertise:

(a) Describe any special training, expertise, certifications, or awards in areas relating to orthopedic surgery; i.e. fellowship training, a long-standing appointment in a busy Orthopedic Surgery Service, or significant private practice orthopedic clinical experience that will demonstrate surgeon's clinical skills.

(b) Provide information the demonstrates surgeons ability to function as an effective leader, and that will exemplify contract surgeon's knowledge, judgment, adaptability, technical facility, and personal characteristics needed to carry out the entire scope of orthopedic services required.

1.4. Collaborative Skills: Provide information that demonstrates the surgeon's ability to serve as an expert in matters related to orthopedic surgery, deliberate with others, provide advice and defend opinion in all aspects

in this specialty of orthopedic surgery. This includes the ability to work effectively with physicians and staff from referral specialties as well as interact appropriately with patients, nursing, mid-level providers and residents.

1.5. Contractor's Business Management Capabilities and Responsibility:

a) Provide information that depicts evidence regarding qualifications and experience of the contractor in management positions within the healthcare community. Include information on company's financial stability. Does management possess the necessary organization and efficiency of operation to provide the personnel and to perform the services in support of an awarded contract?

b) Provide information regarding quality assurance, i.e., QA monitors, QA plans and QA performance improvement plans.

c) Provide information that corroborates your company has adequate personnel to provide required services and capability to maintain continuity of patient care in a timely manner. Information provided should include recruitment, staffing, and back-up and retention plans.

FACTOR 2 - PAST PERFORMANCE

2.1. References: The offeror will provide as part of the proposal a description of three separate and recent references. Identify other Federal, State, or local government contracts, along with private sector contracts, that are of a similar scope, size, and complexity that are ongoing, or that your company has had within the past three years. For each reference, provide the following information:

- a) Contact name, address, phone and fax number
- b) Description of the requirement, contract number, value of contract, award and completion date
- c) Any problems associated with the contract and how you worked to resolve them.

In evaluating the offeror's past performance, the Government will consider offeror's record for:

- a) Quality of Service
- b) Customer Satisfaction
- c) Timeliness of Performance
- d) Medical Liability and Malpractice Judgments (past or pending)
 - (1) Provide proof of current medical liability coverage
 - (2) Provide documentation of any past or pending malpractice/tort claims (if any)

2.2. Other Sources of Information: Past performance evaluations will be conducted using information obtained from references and from Government online data bases, i.e. Contractor Performance Assessment Report System (CPARS), Past Performance Information Retrieval System (PPIRS) data bases which are available to all Federal agencies; and any other sources deemed appropriate. While the Government may elect to consider data obtained from other sources, the burden for providing current and complete past performance information rests with the offeror.

2.3. Offerors with no relevant past performance history will not be evaluated favorably or unfavorably on past performance. The past performance information obtained will be used for both this evaluation factor and offeror's responsibility determination.

NOTE: Offeror must submit pricing proposal separate from the technical proposal.

FACTOR 3 – PRICE/COST

The offer should contain the offeror's best terms from a price and cost related standpoint. In determining the competitive range, price and cost related factors will be considered. Rating of price and cost related factors will be allocated proportionately, with the lowest price and cost related factors offered receiving the most favorable rating.

(b) Options. 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 significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) 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.10 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (MAR 2015)

The offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <http://www.acquisition.gov>. If an offeror has not completed the annual representations and certifications electronically at the System for Award Management (SAM) website, the offeror shall complete only paragraphs (c) through (p) 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.

“Highest-level owner” means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

“Immediate owner” means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

“Inverted domestic corporation” means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

“Manufactured end product” means any end product in product and service codes (PSCs) 1000-9999, except—

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 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.

“Small disadvantaged business concern”, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“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 SAM website.

(2) The offeror has completed the annual representations and certifications electronically via the SAM website access through <http://www.acquisition.gov>. After reviewing the SAM 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 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) *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)(10)(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 Certificate*. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American—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—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—Free Trade Agreements—Israeli Trade Act Certificate*. (Applies only if the clause at FAR 52.225-3, Buy American—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—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—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—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—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—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

Line Item No.

[List as necessary]

(3) *Buy American—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—Free Trade Agreements—Israeli Trade Act”:

Canadian or Israeli End Products:

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

[List as necessary]

(4) *Buy American—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—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 or 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 statute. 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
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(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 Labor Standards.* (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 Labor Standards 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 the SAM 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) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(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.

(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.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation.)

(1) The Offeror represents that it ☐ has or ☐ does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates “has” in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code:

Immediate owner legal name:

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity: ☐ Yes or ☐ No.

(3) If the Offeror indicates “yes” in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code:

Highest-level owner legal name:

(Do not use a “doing business as” name)

(End of Provision)