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## SECTION B - CONTINUATION OF SF 1449 BLOCKS

### B.1 CONTRACT ADMINISTRATION DATA

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

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

a. CONTRACTOR:

b. GOVERNMENT: Contracting Officer 0010F

Department of Veterans Affairs  
Construction & Facilities Management  
425 I Street, NW  
Washington DC 20001

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

- ☐ 52.232-34, Payment by Electronic Funds Transfer—Other Than System For Award Management, or  
☐ 52.232-36, Payment by Third Party

3. INVOICES: Invoices shall be submitted in arrears:

- a. Quarterly ☐  
b. Semi-Annually ☐  
c. Other ☒ per deliverable

4. GOVERNMENT INVOICE ADDRESS: All Invoices from the contractor shall be submitted electronically in accordance with VAAR Clause 852.232-72 Electronic Submission of Payment Requests.

Department of Veterans Affairs

Financial Services Center

PO Box 149971

Austin TX 78714-8971

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

AMENDMENT NO	DATE

**PERFORMANCE WORK STATEMENT TECHNICAL, ANALYTIC & TRANSACTION  
SERVICES SUPPORT FOR THE DEPARTMENT OF VETERANS AFFAIRS (VA)  
ENHANCED-USE LEASE (EUL) PROJECT LEXINGTON, KENTUCKY**

June 1, 2015

**GENERAL INFORMATION**

Title of Project: Technical, Analytic, and Transaction Services Support for the Department of Veterans Affairs (VA) Enhanced-Use Lease project in Lexington, Kentucky.

Background: The purpose of this Performance Work Statement (PWS) is to obtain technical, analytic, and transaction services support to enable the Department of Veterans Affairs (VA) to accomplish Enhanced-Use Lease project in a manner that maximizes available benefits to VA. The Enhanced-Use Lease Authority, Title 38 United States Code Sections 8161-8169, allows the U.S. Department of Veterans Affairs (VA) to outlease facilities (available land, buildings, and other resources) to provide supportive housing that engages tenants in on-site and community-based support services for Veterans or their families who are at risk of homelessness or are homeless. Enhanced-Use Leases are long-term leases (up to 75 years) of facilities under VA's jurisdiction of control to the public or private sector. This program is administrated by VA's Office of Asset Enterprise Management (OAEM).

OAEM follows instructions and guidance issued by the Office of Management and Budget (OMB), and other agency instruction and guidance containing specific capital asset performance metrics. Multi-functional Contractor support services are needed to assist the OAEM in a variety of functions that supports the enhanced-use lease projects in accordance with the Title 38, U. S. Code 38 USC §§ 8161-8169 and other related laws and directives. Under the Enhanced-Use leasing authority, VA is not required to follow the Federal Acquisition Regulation (FAR) or the Veterans Affairs Acquisition Regulation (VAAR), when selecting the enhanced-use lease lessee, but use of the FAR/VAAR as guidelines ensures integrity of the selection process.

The Lexington Veterans Affairs Medical Center (VA Medical Center) is a fully accredited, two-division (Cooper and Leestown), tertiary care medical center with an operating bed complement of 199 hospital beds in the Veterans Integrated Service Network 9. Acute medical, neurological, surgical and psychiatric inpatient services are provided at the Cooper Division, located adjacent to the University of Kentucky Medical Center. Other available services include: emergency care, medical-surgical units, acute psychiatry, ICU, progressive care unit, (includes Cardiac Cath Lab) ambulatory surgery, OR/PACU, hemodialysis, medicine specialty clinics, surgery specialty clinics, and outpatient primary and specialty care. The Lexington VA Medical Center – Leestown Division , offers inpatient Post-Traumatic Stress Disorder (PTSD) treatment, nursing home care, hospice and respite services, home based primary care, prosthetics and orthotics, geriatrics, optometry, mental health, and substance abuse treatment as well as primary care and women health. Plans for an inpatient substance abuse treatment program, a teleretinal unit, and a polytrauma unit are underway.

This PWS focuses on approximately six (6) acres of vacant land and four (4) vacant buildings on the Lexington VA Medical Center – Leestown Division campus. .

The proposed project will provide supportive housing to homeless and near homeless individuals, and their families with a preference for Veterans.

Scope: The scope of this Firm Fixed Price contract for services is to immediately implement the VA's Enhanced-Use Leasing program so as to enable the Department to formulate, evaluate, and execute enhanced-use lease project in Lexington VA Medical Center – Leestown Division. To enhance the program objectives and to allow flexibility in obtaining program evaluation and execution requirements, the use of consultants and experts for these services needs to be long term and open ended.

Objectives: The objective of this PWS is to provide the full range of Enhanced-Use Leasing developmental and transaction support. The Contractor shall have expertise and provide all resources necessary to perform the specific requirements as defined in the PWS and as directed in the individual task orders. The Contractor shall provide a full range of integrated strategic, analytic, and technical support services that VA may need in order to design and implement optimal enhanced-use lease initiatives and ensure progress toward meeting requirements and goals.

Period of Performance: Period of Performance for this contract is two years from date of award.

Type of Contract: This is a firm fixed contract.

Place of Performance: The primary place of performance will be at the Contractor's facilities; however, some task orders may require work to be performed at a Government facility. Any work at the Government site shall not take place on Federal holidays or weekends, unless directed by the Contracting Officer (CO).

## CONTRACT AWARD MEETING

The Contractor shall not commence performance on the tasks in this PWS until the CO has conducted a kick-off meeting or has advised the Contractor that a kick-off meeting is waived.

## GENERAL REQUIREMENTS

The following general requirements apply to this contract:

1. All written deliverables shall be phrased in layperson language. Statistical and other technical terminology shall not be used without providing a glossary of terms.
2. The following requirements apply: Where a written milestone deliverable is required in draft form, the VA will complete its review of the draft deliverable within 12 calendar days from date of receipt. The Contractor shall have 12 calendar days to deliver the final deliverable from date of receipt of the Government's comments.
3. The Contractor shall provide, via email, minutes of all Government-Contractor meetings. The Contractor shall provide these minutes within three calendar days after completion of the meeting.
4. Except for proprietary information in company quotes identified and marked in accordance with FAR 52.215-1(e), the Contractor shall not deliver to the Government any proprietary products or information of any type in completing the requirements of each task order PWS. The Contractor's internal development tools (that is, those development tools not developed for OAEM work and not required by OAEM to install, use, or revise the deliverables) are exempted from this requirement. If the Contractor believes an exception to this requirement is necessary for the effective or efficient execution of a task order, the Contractor shall request a specific exception, in writing, from the CO, and shall not use the proprietary tools or information in OAEM work until approval is received from the CO.
5. The Contractor shall ensure contract employees maintain an open and professional communication with the staff at the VA facilities. Complaints validated by the COR or VA staff will be reported in writing to

the CO for action. If the Contractor fails to correct validated complaints raised by the COR and CO, it will be considered a failure in performance.

6. The CO may require the Contractor to meet with the CO, contract administrator, and other Government personnel at least quarterly, and as often as deemed necessary. The Contractor may request a meeting with the CO when deemed necessary.

## **SPECIFIC MANDATORY TASKS AND ASSOCIATED DELIVERABLES**

### Description of Tasks and Associated Deliverables:

- 1) For each task order awarded under this contract, the Contractor shall provide the specific deliverables described in the task order PWS, within the performance period stated. Specific sub-tasks and associated deliverables will be identified in each task order placed under the contract.
- 2) The selected Contractor shall have subject matter expertise and provide all resources necessary to perform the specific requirements as defined in the task orders. Task orders may include, but are not limited to, the following projects: development of technical solutions for implementation of strategic planning, market analysis, capital markets research, credit scoring analysis, transaction assessment services, and legal review analysis for some or all of the items listed below. (The deliverables described below are typical requirements; however, each task order may have requirements in addition to or instead of those listed below.)

#### a) **Task One: Provide Project Management Plan**

The exact role will be defined by the task orders. Among other responsibilities related to this role.

1. Provide leadership and communicate with stakeholders per direction and coordination with COR.
2. Provide project planning and scheduling
3. Project manager shall coordinate contract project management activities to include:
  - a. Performance monitoring and measurement
  - b. Reporting and documentation associated with project/program objectives
  - c. Stakeholders briefing (coordinated with COR)
  - d. Project support, integration, and closeout service
4. Contract administration support to CORs.
5. The project manager shall monitor all Contractor work performed under this contract. He/she will be responsible for providing status reports and monthly project reports to the COR.

The Contractor shall provide a detailed Project Management Plan (PMP) and briefing for the OAEM project team. The PMP shall present the Contractor's plan for completing the task order. The Contractor's plan shall be responsive to the PWS and describe, in further detail, the approach to be used for each aspect of the task order as defined in the technical proposal. At a minimum, the PMP shall include the risk, quality, and technical management approach, work breakdown structure (WBS), detailed schedule, milestones, cost requirements, and proposed personnel. The Contractor shall keep the PMP up to date throughout the period of performance.

The Contractor shall provide written progress reports that include the order number and title of the project. The progress report shall cover all work completed during the preceding month, and work to be accomplished during the subsequent month. This report shall also identify any technical, quality, or cost problems that arose, identified risks and a statement explaining how the problem was resolved. This report shall also identify any problems that have arisen but have not been completely resolved, with an explanation. Outstanding problems/risks shall be reported until they are resolved. The COR may schedule progress briefings or conference calls within three working days after delivery of each progress report. The attendees may include VA managers and Contractor key and subject matter expert personnel.

b) **Task Two:** The Contractor will research and review the Enhanced-Use Leasing opportunity:

Research legal and regulatory issues including title search, zoning, permitting process and tax concerns.

c) **Task Three:** The Contractor will conduct the following Property studies upon COR Request **(Optional)**

1. Real property Survey
2. Phase I Environmental Site Assessment) in accordance with the current version of ASTM E1527 (see attachment )
3. Historic Preservation designation and/or eligibility status (Archaeological study, if required)
4. Property Appraisal/Valuation (see attachment)
5. Metes and Bounds Survey
6. NEPA Analysis (see attachment)

d) **Task Four:** The Contractor shall develop a comprehensive EUL report: **(Optional)**

The Comprehensive EUL Report shall be in overview executive summary form (20 page maximum) and include key information from or about the following:

1. Comprehensive overview Executive Summary of intent, goals including but not limited
2. Real property survey
3. Legal and regulatory issues including title search, zoning, development and permitting process, and tax concerns.
4. Phase I Environmental Site Assessment
5. Historic Preservation designation and/or eligibility status
6. Property Appraisal/Valuation analysis
7. Metes and Bounds Survey
8. NEPA Analysis
9. Marketing Plan
10. State and Local Political interests
11. Community Interests
12. Easements or other encumbrances (Utilities, etc.) on the property

e) **Task Five:** Marketing Plan (RFP): **(Optional)**

1. Provide a marketing plan that outlines the best strategies to maximize marketing the RFP and the response to the RFP. Elements of outreach, communications, etc. should be identified. Implementation of a VA-approved Market Plan shall be done by the Contractor.



- f) **Task Six:** The Contractor shall provide solicitation support, on an as needed basis, in carrying to the Department's Enhanced Use Lease opportunities: **(Optional)**
1. Provide independent written review of proposals (max. four proposals).
  2. Conduct past performance and financial reference check on selected developer.
- g) **Task Seven: Technical Transaction Support:**
1. Provide ongoing assistance to VA in reviewing and subsequent revisions to the development plan provided by selected developer. This includes documenting and tracking changes/issues during the development plan process.
  2. Review financial documents and develop recommendation for in-kind considerations.
  3. Review legal transaction and documents (track issues and changes during the lease revision process, review for legal sufficiency, etc. As directed by the COR – not to exceed 100 hours.
  4. Review facility design and/or construction documents. **(Optional)**
- h) **Task Eight:** The Contractor will conduct project communication activities:
1. Conduct Contracting Officer's/COR kick-off meeting with VA officials via conference call or in person at the VA Central Office if local, or travel at Contractor's own expense.
  2. Conduct on-site kick-off meeting.
  3. Participate in bi-weekly conference calls with VA officials (maximum -52). Prepare and distribute meeting minutes within 5 days of conference call.
  4. Prepare monthly status reports including current project status, outstanding activities and deliverables, milestone dates, and issues (maximum - 24).

**NOTE:** In reference to all legal work, including, but not limited to, Tasks 2, 4, and 7, above, in accordance with federal statute, VA's Office of General Counsel (OGC) is responsible for providing legal advice and services to the Secretary of VA, and the managers of all VA organizational components. OGC interprets all laws pertaining to VA and has final legal responsibility for the promulgation of all VA regulations implementing those laws. Thus, OGC shall have sole authority and responsibility for all final decisions on all legal matters that arise or relate to any issues under this contract.

This PWS reflects current VA policies and practices, allowing Offerors to propose and price a solution to known requirements. Specific Enhanced-Use Leasing requirements and resulting objectives may change over the life of this order. This will result in VA modifying the contract to incorporate in-scope changes. Throughout the life of this agreement, the Contractor is encouraged to continuously seek ways to incorporate innovative and emerging approaches that economically and efficiently improve services and/or generate revenue.

#### EVALUATED OPTIONAL TASKS AND ASSOCIATED DELIVERABLES.

Evaluated optional tasks and associated deliverables, if required, will be specified in each task order.

#### PERFORMANCE MEASURES

In accordance with Performance Based Service Contracts, Contractor(s) shall provide a Quality Assurance Plan ensuring that continued quality improvement to the program they are supporting is being made; a Metrics Plan shall also be provided demonstrating how Contractors will measure their performance identifying key factors that will be monitored by the Contractor and the Government. The Contractor is responsible for quality assurance of all services provided under the contract. Inspection by the Government

does not relieve the Contractor of this responsibility. Contractors must also demonstrate how they will implement these plans and incorporate them into the local task orders they will receive from VA.

The Quality Assurance Plan should also include, as an option for VA consideration, the incentives and disincentives measures that can be taken by VA to reward exceptional performance and to also discipline vendors for less than satisfactory execution. Incentives and disincentives should be both monetary and non-monetary in nature. VA reserves the right to add and/or completely revise the submitted Quality Assurance, Metric, and incentive/disincentive plans that are to be included in the Contractors' submissions to this solicitation. The performance standards should at least include the following areas:

1. Management of price,
2. Schedule,
3. Technical quality,
4. Quality of project management, and
5. Relationship management.

## PROGRAM MANAGEMENT

Upon completion of a task order, the ordering CO is required to document a performance review of the contracted services. The Project Manager will also conduct a post-performance assessment upon completion of each task order. The Project Manager will document the performance discussion in writing and provide a copy to the CO and the Contractor. The Government will address, at a minimum, the following areas in each task order assessment:

1. Quality of work performed,
2. Timeliness of work delivered,
3. Qualifications of staff providing services,
4. Management professionalism, and
5. Monitor actual costs versus contract cap based on required quarterly contract expenditure report from vendor(s).

The Contractor(s) shall provide a program management report on a quarterly basis to the VACO contracting officer's representative (COR) (who will be determined after award).

## CONFLICT OF INTEREST PROVISION

- (a) In responding to this solicitation, the Contractors' attention is directed to FAR Subpart 9.5, Organizational and Consultant Conflict of Interest.
- (b) The contracting officer views a potential conflict of interest could exist if the Contractor were to provide assistance under this contract for a particular site and then subsequently participated in any capacity with the proposed developer for the site.
- (c) The Contractor is therefore precluded from working with a developer on any site in which it provided services to VA, as described below.
- (d) The terms of the clause and the application of this subpart to the contract are not negotiable.

## CONFLICT OF INTEREST CLAUSE

- (a) As a condition of award, the Contractor's eligibility for future prime contract or subcontract awards will be restricted as follows:

The Contractor (to include principles, agents, and employees) is prohibited from performing services in any capacity on future commercial development or redevelopment of VA real property, subject to a task order (or task orders) issued under this contract. This restriction is for a period of five years and shall expire at the end of the 5<sup>th</sup> year following expiration or termination of this contract.

## SCHEDULE FOR DELIVERABLES

See Attachment A Schedule of Deliverables.

1. Unless otherwise specified in the task order, the number of draft copies and the number of final copies shall be the same.
2. If for any reason the scheduled time for a deliverable cannot be met, the Contractor is required to explain why (include the original deliverable due date) in writing to the CO, including a firm commitment of when the work shall be completed. This notice to the CO shall cite the reasons for the delay, and the impact on the overall project. The CO will then review the facts and issue a response in accordance with applicable regulations.

## CHANGES TO PERFORMANCE WORK STATEMENT

Any changes to this PWS shall be authorized and approved only through written correspondence from the CO. Costs incurred by the Contractor through the actions of parties other than the CO shall be borne by the Contractor.

## TRAVEL

As required by each task order, the Contractor may be required to travel to Washington, D.C., or to other VA locations. Travel and per diem shall be reimbursed, if applicable, in accordance with the Federal Travel Regulations. Each Contractor invoice must include copies of all receipts that support the travel costs claimed in the invoice. No General and Administrative (G&A) fees or costs, and no other fees or costs shall be added to travel expenses. Local travel within a 50-mile radius from the Contractor's facility is considered the cost of doing business and will not be reimbursed. This includes travel, subsistence, and associated labor charges for travel time. Travel performed for personal convenience and daily travel to and from work at the Contractor's facility will not be reimbursed. Travel, subsistence, and associated labor charges for travel time for travel beyond a 50-mile radius of the Contractor's facility are authorized on a case-by-case basis and must be pre-approved by the CO at least 30 calendar days in advance for the requested travel.

## GOVERNMENT FURNISHED PROPERTY AND INFORMATION

Government Furnished Property and Information, if required, will be specified in each task order. Except for those items or services specifically stated to be Government furnished, the Contractor shall furnish everything required to perform task orders.

## CONTRACTOR EXPERIENCE REQUIREMENTS—KEY PERSONNEL

These skilled experienced professional and/or technical personnel are essential for successful Contractor accomplishment of the work to be performed under this contract and subsequent task orders and options. The Contractor shall include in the technical proposal for each task order the résumés on all proposed professional and/or technical personnel who will perform the tasks in the task order. Résumés are not required for clerical personnel. The personnel whose résumés are submitted are defined as key

personnel. The Contractor agrees that the key personnel listed below shall not be removed, diverted, or replaced from work without approval of the CO and COR.

Any personnel the Contractor offers as substitutes shall have the ability and qualifications equal to or better than the key personnel that are being replaced. Requests to substitute personnel shall be approved by the COR and the CO. All requests for approval of substitutions in personnel shall be submitted to the COR and the CO at least 30 calendar days prior to making any change in key personnel. The request shall be written and provide a detailed explanation of the circumstances necessitating the proposed substitution. The Contractor shall submit a complete résumé for the proposed substitute, any changes to the rate specified in the order (as applicable) and any other information requested by the CO needed to approve or disapprove the proposed substitution. The CO will evaluate such requests and promptly notify the Contractor of approval or disapproval thereof in writing.

Note:

1. Personnel assigned by the Contractor to perform work on this contract shall be acceptable to VA in terms of personal and professional conduct and technical knowledge. The CO may notify the Contractor and request that a person be immediately removed from assignment on this contract should any Contractor personnel be determined to be unacceptable in terms of technical competency or personal conduct during duty hours. The Contractor shall immediately remove and replace the unacceptable on-site personnel at no additional costs to the Government. Replacement personnel qualifications shall be equal to or greater than those of the personnel being replaced. Employment and staffing difficulties shall not be justification for failure to meet established schedules.
2. Contractor personnel shall be fluent and communicate in the English language, both written and oral communication.
3. The Contractor shall not employ any person who is an employee of the United States Government, if the employment of that person would create a conflict of interest.

#### CAPABILITY MATURITY MODEL FOR SOFTWARE INTEGRATION

Not applicable.

#### ARCHITECTURAL GUIDELINES

Not applicable.

#### SECURITY REQUIREMENTS

1. The Contractor shall follow the following Contractor personnel security guidance:
2. The Contractor and their personnel shall be subject to the same Federal laws, regulations, standards and VA policies as VA personnel, regarding information and information system security. These include, but are not limited to Federal Information Security Management Act (FISMA), Appendix III of OMB Circular A-130, and guidance and standards, available from the Department of Commerce's National Institute of Standards and Technology (NIST). This also includes the use of common security configurations available from NIST's Web site at: <http://checklists.nist.gov>
3. To ensure that appropriate security controls are in place, Contractors must follow the procedures set forth in "VA Information and Information System Security/Privacy Requirements for IT Contracts" located at the following Web site: <http://www.iprm.oit.va.gov>.
4. These provisions shall apply to all contracts in which VA sensitive information is stored, generated, transmitted, or exchanged by VA, a Contractor, subcontractor or a third-party, or on behalf of any of

these entities regardless of format or whether it resides on a VA system or Contractor/subcontractor's electronic information system(s) operating for or on the VA's behalf.

5. Clauses (a) and (b) shall apply to current and future contracts and acquisition vehicles including, but not limited to, job orders, task orders, letter contracts, purchase orders, and modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. §§ 6301 et seq.
6. The required Contractor employee Position Sensitivity level is Limited Risk and the level of Background Investigation is NACI for Contractor employees who require access.
7. The COR will provide the Contractor a Background Investigation Request Worksheet within 2 days of task order award listing the place of performance, type of investigation requested, the VA sponsor and requesting the applicant's name, date of birth, social security number, company name and point of contact and other required data.
8. The Contractor shall complete the Background Investigation Request worksheet and return it to the COR within five days of receipt. The COR will review the documents and forward them to the Security Investigations Center (SIC).
9. The CIS will send an email notification to the Contractor identifying the website link that includes detailed instructions regarding completion of the background clearance application process and what level of background was requested. Upon receipt of required investigative documents, SIC will review the investigative documents for completion and initiate the background investigation by forwarding the investigative documents to OPM to conduct the background investigation.
10. The COR will notify the Contractor when the investigation has been favorably or unfavorably completed and adjudicated by the Government. The Contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract.
11. The Contractor shall not commence performance prior to the initiation of the process that requests the appropriate investigative action be taken. During the time required to conduct the appropriate investigation, the Contractor shall be responsible for the actions of its respective employees until official notification of a favorable determination is received from the Office of Security and Law Enforcement.
12. Failure to comply with the Contractor personnel security requirements may result in termination of the contract for default.

## CONFIDENTIALITY AND NONDISCLOSURE

It is agreed that:

1. The preliminary and final deliverables and all associated working papers, application source code, and other material deemed relevant by the VA which have been generated by the Contractor in the performance of this task order are the exclusive property of the U.S. Government and shall be submitted to the COR at the conclusion of the task order.
2. The CO will be the sole authorized official to release verbally or in writing, any data, the draft deliverables, the final deliverables, or any other written or printed materials pertaining to this task order. No information shall be released by the Contractor. Any request for information relating to this task order presented to the Contractor shall be submitted to the CO for response.
3. Press releases, marketing material or any other printed or electronic documentation related to this project, shall not be publicized without the written approval of the CO.

## Attachment A

<b><u>Deliverable No.</u></b>	<b><u>Item</u></b>	<b><u>Quantity</u></b>	<b><u>Delivery Date</u></b>
One	A detailed PMP and briefing	3 hard and 3 electronic copies	Within 7 calendar days after award
Two	Research and review the Enhanced-Use Leasing opportunity	3 hard and 3 electronic copies	Within 90 days after award
Three	Specific Site Reports	3 hard and 3 electronic copies	Varies depending on the specific report requested by COR.
Four	Comprehensive EUL report (Optional)	3 hard and 3 electronic copies	Within 90 days from execution of the lease/amendments
Five	Marketing plan (Optional)	3 hard and 3 electronic copies	Within 90 days after award
Six	Solicitation support (Optional)	3 hard and 3 electronic copies	Within 30 days from receipt of proposals
Seven	Technical Transaction Support		varies
Eight	Communications		Bi weekly/monthly updates and communications

## 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 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (DEC 2014)**

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

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

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

(4) 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 (Feb 1999).
- (28) 52.222-26, Equal Opportunity (Mar 2007) (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) 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.)

□ (34)(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.)

□ (35)(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.

□ (36)(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.

□ (37) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).

□ (38)(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.

□ (39) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

□ (40) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

□ (41)(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.

□ (42) 52.225-5, Trade Agreements (NOV 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

□ (43) 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).

□ (44) 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).

□ (45) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

□ (46) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

□ (47) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

□ (48) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

□ (49) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

□ (50) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

□ (51) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

□ (52) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

□ (53)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

□ (ii) Alternate I (Apr 2003) of 52.247-64.

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

□ (1) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67).

□ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

□ (3) 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).

□ (4) 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).

□ (5) 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).

□ (6) 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).

□ (7) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495).

□ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792).

□ (9) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).



[] (10) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2014) (Executive Order 13658).

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

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

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

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

(viii) 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.

(ix) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67).

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

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

(xi) 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).

(xii) 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).

(xiii) 52.222-54, Employment Eligibility Verification (AUG 2013).

(xiv) 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).

(xv) 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.

(xvi) 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.

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2014) (Executive Order 13658).

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

(End of Clause)

### **C.3 52.216-18 ORDERING (OCT 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from through .

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of Clause)

### **C.4 52.216-22 INDEFINITE QUANTITY (OCT 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the

"maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after .

(End of Clause)

#### **C.5 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 .

(End of Clause)

#### **C.6 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 ; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 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 .

(End of Clause)

#### **C.7 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)**

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

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

*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 the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence

on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it ☐ is, ☐ is not a small business concern under NAICS Code 531390 assigned to contract number .

*[Contractor to sign and date and insert authorized signer's name and title].*

(End of Clause)

#### **C.8 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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

(End of Clause)

#### **C.9 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)**

Funds are not presently available for performance under this contract beyond . The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond , until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(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 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)**

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

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

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

(End of Clause)

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

### D.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (APR 2014)

(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 30 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 (<https://assist.dla.mil/online/start/>);

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

(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 (<https://assist.dla.mil/wizard/index.cfm>);

(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)

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

Provisions that are incorporated by reference (by Citation Number, Title, and Date), have the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

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

**D.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)

**D.3 52.216-28 MULTIPLE AWARDS FOR ADVISORY AND ASSISTANCE SERVICES (OCT 1995)**

The Government intends to award multiple contracts for the same or similar advisory and assistance services to two or more sources under this solicitation unless the Government determines, after evaluation of offers, that only one offeror is capable of providing the services at the level of quality required.

(End of Provision)

**D.4 VAAR 852.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 2008)**

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

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

management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest.

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

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

(End of Provision)

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

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

Hand-Carried Address:

Department of Veterans Affairs  
Office of Asset Enterprise Management  
810 Vermont Avenue, NW  
Washington DC 20420  
Mailing Address:

Department of Veterans Affairs  
Office of Asset Enterprise Management  
810 Vermont Avenue, NW  
Washington DC 20420

(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)

#### **D.6 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)

PLEASE NOTE: The correct mailing information for filing alternate protests is as follows:

Deputy Assistant Secretary for Acquisition and Logistics,  
Risk Management Team, Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, DC 20420

Or for solicitations issued by the Office of Construction and Facilities Management:

Director, Office of Construction and Facilities Management  
811 Vermont Avenue, N.W.  
Washington, DC 20420

#### **D.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)

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

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

considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

(End of Provision)

### Evaluation Factors (proposal should be emailed as two separate attachments)

Quotations will be reviewed and evaluated in accordance with the evaluation criteria explained below. The following description summarizes the relationship of the factors to each other. The evaluation factors in order of precedence are:

1. Technical Approach which is comprised of the following subfactors in descending order of importance: A. Understanding of the Requirements, B. Personnel—Qualifications and Experience, C. Corporate Capability and Stability
2. Past Performance
3. Veteran's Involvement
4. Cost

The technical approach factor is significantly more important than past performance, and past performance is significantly more important than Veteran's involvement. All technical factors when combined are significantly more important than price.

Offerors' quotations will be written submissions and will consist of two volumes.

Volume I a	Technical Approach [no more than 30 pages]
Volume I b	Past Performance [no more than 10 pages]
Volume I c	Veteran factors (subcontracting plan) [N/A]
Volume II	Solicitation/RFQ with completed Schedules of Prices and associated tables; completed fill-ins in Contract Administration Data; Representations, Certifications, and Other Statements of Offerors [no page limit]

#### 1. TECHNICAL APPROACH:

##### A. Understanding of the Requirement

Note: (If the firm has multiple divisions and locations, limit the description and documentation to only the division(s) and location(s) proposed to do the work).

The contractors understanding of the PWS requirements, as demonstrated by the rationale and completeness of the elements for Technical, Analytic, and Transaction Services Support for the Department of Veterans Affairs (VA) Enhanced-Use Lease projects.

##### B. Personnel - Qualifications and Experience

- (1) The quotation must identify and provide résumés on all proposed key personnel (that is, all personnel other than clerical personnel) and must identify the status of those personnel at the time of the quotation. To identify status the quotation must clearly state whether each proposed person is currently a full time or part time employee of the firm or someone who has agreed to join the firm if the quotation is selected for award. Résumés of all personnel who are not currently

employees must be accompanied by a signed and notarized statement that the person has agreed to the use of his or her resume in the quotation package. Additionally, the quotation must identify the working location (address) to which each proposed person would be assigned. If the intent is for any personnel to work from home (full time or part time) this must be identified and discussed. (If the firm has multiple divisions and locations, limit the description and documentation to only the division(s) and location(s) proposed to do the work).

- (2) Documentation submitted with the quotation must clearly demonstrate:
- a. Program managers, project managers, and team leads have training, certification, and/or education, and experience providing services in the following areas:
    - Project Management
    - Project Financial Advisory Services
    - Transaction Specialist Services
    - Due Diligence and Support Services
  - b. Team members have documented training, certification, and/or education and documented experience providing services in the following areas:
    - Project Financial Advisory Services
    - Transaction Specialist Services
    - Due Diligence and Support Service

### C. Corporate Capability and Stability

Note: (If the firm has multiple divisions and locations, limit the description and documentation to only the division(s) and location(s) proposed to do the work).

Documentation demonstrates that the Offeror has the longevity, size, scope, reputation, and financial stability to maintain capability and perform the requirements throughout the entire period of the BPA.

#### **Note: Overall Factor Rating for Technical Approach**

During evaluation, VA intends to give credit for exceeding the minimum requirements, as explained in the table below:

Rating	Equivalence	Definition
Blue	Outstanding	The factor clearly meets and consistently exceeds the Government's stated requirements in all areas in a manner beneficial to the Government. The information provided suggests a very low risk of less than satisfactory performance on the part of the offeror.

Green	Excellent	The factor meets the Government's stated requirements in all areas, and in some areas the offeror exceeds the Government's stated requirements in a manner beneficial to the Government. The information provided suggests a low risk of less than satisfactory performance on the part of the offeror.
Yellow	Good	The factor meets the Government's stated requirements in all areas. The information provided suggests a moderate risk of less than satisfactory performance on the part of the offeror.
Red	Poor	The factor fails to meet at least one of the Government's stated requirements. The information provided suggests a very substantial risk of less than satisfactory on part of the offeror.

## **2. PAST PERFORMANCE**

The Offeror will be evaluated on their past performance. Offeror shall submit three references for recent (from the past three years) and relevant experience (i.e., experience in providing the services as described by the Performance Work Statement contained in the solicitation and services that are similar in scope). For Past Performance, the information used shall consist of reference data provided by the Offeror in their proposal submission, information in both Government and commercial database and other information available as VA determines is reasonable.

## **3. VETERANS INVOLVEMENT**

Offeror must already be verified by Center for Verification and Evaluation (CVE) [www.vetbiz.gov](http://www.vetbiz.gov) as a SDVOSB to be eligible for award. Non verified quotes will not be reviewed and or considered.

## **4. PRICE (Use the provided Price template)**

This Volume shall be organized in such a manner to address and/or provide sufficient details in price breakdown of the quotation. Information must be detailed enough to clearly document that the proposed mix of labor categories, the labor category rates, and the discounted rates offered are accurate, realistic, complete, and consistent with the proposed technical volume and with the requirements of the PWS. Documentation shall also explain any description of any assumption of terms and conditions, as well as a specific description of any pricing and technical assumptions that the response is predicated on.

Quotations which are unrealistic in terms of technical commitment or unrealistically low in price will be deemed to show an inherent lack of technical competence or failure to comprehend the complexity and risk of the contract requirements. This may be grounds for the rejection of the quotation. The Government may reject any quotation that is unreasonable or materially unbalanced as to prices. An unbalanced quotation is one that incorporates prices significantly less than cost for some items and/or prices that are significantly overstated for other items.

Note: Provide quotes for the option line items as well

## **CONTRACT AWARD**

This will be a single award. This Contract award shall be made to the responsible Quoter whose offer, in conforming to this RFQ, is most advantageous to the Government, price and other factors considered. The Government reserves the right to award without discussions.