

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS  
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NO.  
531-17-1-203-0002

PAGE 1 OF 77

2. CONTRACT NO. 3. AWARD/EFFECTIVE DATE 4. ORDER NO. 5. SOLICITATION NUMBER  
VA260-16-Q-1018 6. SOLICITATION ISSUE DATE  
11-08-2016

7. FOR SOLICITATION INFORMATION CALL: a. NAME  
Kelleen Minor b. TELEPHONE NO. (No Collect Calls)  
208-429-2028 8. OFFER DUE DATE/LOCAL TIME  
11-29-2016 4:00 MST

9. ISSUED BY CODE 531  
Department of Veterans Affairs  
Network Contracting Office 20  
960 Broadway Ave, Suite 460  
Boise ID 83706

10. THIS ACQUISITION IS  UNRESTRICTED OR  SET ASIDE: \_\_\_\_\_ % FOR:  
 SMALL BUSINESS  WOMEN-OWNED SMALL BUSINESS  
 HUBZONE SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED  
 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS  EDWOSB SMALL BUSINESS PROGRAM NAICS: 621999  
 8(A) SIZE STANDARD:  
\$15 Million

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED  SEE SCHEDULE  
12. DISCOUNT TERMS  
13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)   
13b. RATING N/A  
14. METHOD OF SOLICITATION  RFQ  IFB  RFP

15. DELIVER TO CODE 531  
Department of Veterans Affairs  
Network Contracting Office 20  
960 Broadway Ave, Suite 460  
Boise ID 83706

16. ADMINISTERED BY CODE 531  
Department of Veterans Affairs  
Network Contracting Office 20  
960 Broadway Ave, Suite 460  
Boise ID 83706

17a. CONTRACTOR/OFFEROR CODE FACILITY CODE  
TELEPHONE NO. DUNS: DUNS4:

18a. PAYMENT WILL BE MADE BY CODE  
Department of Veterans Affairs  
FMS-VA-2(101)  
Financial Services Center  
PO Box 149971  
Austin TX 78714-9971  
PHONE: FAX:

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER  
 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED  
 SEE ADDENDUM

| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/SERVICES   | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
|--------------|---|--------------|----------|----------------|------------|
|              | <p>The Veterans Administration, Boise Idaho VA Medical Center has a requirement for Electromagnetic Extracorporeal Shock Wave Lithotripsy (ESWL) and CO2 Laser Operator, including related Cystoscopy procedures, and technical support. Please see the following pages for detail.</p> <p>Period of Performance: Date of Award - 09/30/2017 Plus Four (4) one-year option periods.</p> <p>Quotes shall be submitted in accordance with Section E of this solicitation.</p> <p>(Use Reverse and/or Attach Additional Sheets as Necessary)</p> |              |          |                |            |

25. ACCOUNTING AND APPROPRIATION DATA  
531-3670160-203-820200-2560 0100201G3

26. TOTAL AWARD AMOUNT (For Govt. Use Only)

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED.  
 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

29. AWARD OF CONTRACT: REF. \_\_\_\_\_ OFFER DATED \_\_\_\_\_. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)  
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT) 30c. DATE SIGNED 31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)  
Jackie Merriman Contracting Officer 31c. DATE SIGNED

## Table of Contents

|   |           |
|---|-----------|
| <b>SECTION A.....</b>   | <b>1</b>  |
| A.1 SF 1449 SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS .....  | 1         |
| <b>SECTION B - CONTINUATION OF SF 1449 BLOCKS.....</b>  | <b>4</b>  |
| B.1 CONTRACT ADMINISTRATION DATA.....   | 4         |
| B.2 PERFORMANCE WORK STATEMENT .....  | 5         |
| B.3 COST/PRICE SCHEDULE .....   | 24        |
| <b>SECTION C - CONTRACT CLAUSES.....</b>  | <b>27</b> |
| C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAY 2015) .....  | 27        |
| C.2 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUN 2016) .....                             | 33        |
| C.3 52.203-99 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS (DEVIATION) (FEB 2015)...                   | 39        |
| C.4 52.216-18 ORDERING (OCT 1995).....  | 40        |
| C.5 52.216-19 ORDER LIMITATIONS (OCT 1995).....   | 40        |
| C.6 52.216-22 INDEFINITE QUANTITY (OCT 1995).....   | 41        |
| C.7 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999) .....   | 41        |
| C.8 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000) .....   | 41        |
| C.9 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997) .   | 42        |
| C.10 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984) .....  | 42        |
| C.11 SUPPLEMENTAL INSURANCE REQUIREMENTS .....  | 42        |
| C.12 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008) .....  | 43        |
| C.13 VAAR 852.215-71 EVALUATION FACTOR COMMITMENTS (DEC 2009) .....   | 43        |
| C.14 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012) .....   | 43        |
| C.15 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984).....  | 44        |
| C.16 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998).....   | 45        |
| <b>SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS.....</b>  | <b>46</b> |
| D.1 QUALITY ASSURANCE SURVEILLANCE PLAN (QASP).....   | 46        |
| <b>SECTION E - SOLICITATION PROVISIONS.....</b>   | <b>53</b> |
| E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (OCT 2015).....  | 53        |
| E.2 52.203-98 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS—REPRESENTATION (DEVIATION) (FEB 2015) ..... | 57        |
| E.3 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012).....       | 57        |
| E.4 52.216-1 TYPE OF CONTRACT (APR 1984).....   | 58        |
| E.5 52.233-2 SERVICE OF PROTEST (SEP 2006) .....  | 58        |

E.6 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)..... 58

E.7 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)..... 59

E.8 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)..... 60

E.9 52.212-2 EVALUATION—COMMERCIAL ITEMS (OCT 2014)..... 60

**E.10 ADDENDUM TO 52.212-2 - INSTRUCTIONS FOR SUBMITTING TECHNICAL EVALUATION CRITERIA ..... 61**

E.11 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (APR 2016)..... 62

## 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: TBD
- b. GOVERNMENT: Contracting Officer 36C260

Department of Veterans Affairs  
 Network Contracting Office 20  
 960 Broadway Ave, Suite 460  
 Boise ID 83706

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  Monthly in arrears

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  
 FMS-VA-2(101)  
 Financial Services Center  
 PO Box 149971  
 Austin TX 78714-9971

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

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

## B.2 PERFORMANCE WORK STATEMENT

### PERFORMANCE WORK STATEMENT ELECTROMAGNETIC EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY

For the  
Boise VAMC  
500 W. Fort St.  
Boise, ID 83702

#### SECTION 1.0 GENERAL:

**1.1 Authority:** This contract is entered into under the authority with Public Law 104-262 and 38 U.S.C.8153. The contractor agrees to provide Health Care Resources in accordance with the terms and conditions stated herein at the Boise

**1.2** VA Medical Center (BOISE VAMC).

**1.3 Services Required:** Department of Veterans Affairs (VA) Medical Center, 500 W Fort St. Boise, ID (hereinafter called Boise VAMC) requires Electromagnetic Extracorporeal Shock Wave Lithotripsy (ESWL) and a CO2 laser operator, including related Cystoscopy procedures, and technical support.

**1.4 Place Of Performance:** The contract personnel will be assigned to the Boise VAMC Surgery Service.

**1.5 Period of Performance:** This will be a one year base period with an additional (4) years option periods from the date of award. No services shall be performed by the contractor after the base period without written approval from the contracting officer.

**1.6 Scope of Work:** The Contractor shall provide all labor, materials, transportation, equipment and supervision, in compliance with federal, state and local regulations, to provide ESWL, including related cystoscopy procedures, and technical support for the Boise VAMC on an as needed basis. The contract will require the contractor to provide Mobile Lithotripsy Services, ESWL services, for Urology Surgeons at the Boise VAMC, one (1) time per month for an estimated 25 patients per year to include all equipment and technician support required. The VA estimates that there will be 1 to 3 patients per visit. The per-procedure pricing shall include single stone and multiple stones procedures per unilateral or bilateral episode. The equipment must be prepared to perform the first procedure of the day at a mutually agreed upon time and continue to perform procedures until the Boise VAMC

schedule for the day is complete. There also may be scheduled days that no procedures are needed and the using facility may cancel the day with the Contractor twenty-four (24) hours prior to the scheduled day with no charges to the Government.

**1.6.1 Contractor's Specific Requirements:**

**1.6.2** The Contractor's technical personnel shall be certified, trained, and current in ESWL, and cystoscopy services and operation of the equipment units as well as CO2 laser equipment and operation policies/regulations pertaining to use of the laser. The technician shall assist the attending Urologist and other physicians in the operating room and/or cystoscopy suite in the operation of the equipment units. The technician may be required to operate the device and any related imaging equipment during the procedures.

**1.6.3** The equipment must meet or exceed the following criteria:

- a) Treats all stones anywhere in the urinary tract
- b) Has a greater than 80% success rate based on FDA clinical study data
- c) Is modular and can treat patients in the operating room/cystoscopy suite
- d) Has the ability to do endourological procedures before and after ESWL without moving the patient
- e) Will accommodate patients up to four hundred (400) pounds
- f) Specific equipment NOT required: CO2 laser is maintained and owned by the Boise VAMC.

**1.6.4** Such additional materials and supplies, including consumables (i.e., electrodes), are necessary to conduct ESWL procedures with the equipment units.

**1.6.5** Maintenance of the devices to include service and preventative maintenance to insure that the devices are in the highest level of functioning condition, with, as a minimum, maintenance performed at the manufacturer's manual requirements. Maintenance logs or copies must be available at all times.

- 1.6.6** Assist in the education of each facility's personnel as it relates to ESWL Lithotripsy.
- 1.6.7** Be responsible for obtaining all necessary licenses, approvals, permits and be in compliance with all federal, state and local laws and regulations applicable to the devices and delivery of ESWL related services provided for under the terms of this contract.
- 1.6.8** CO2 laser operators must be able to demonstrate competencies and provide documentation applicable to local and federal regulations.
- 1.6.9** Delivery of all reports, digital, film and file records of all procedures performed with the devices to the operating room urology charge nurse. These medical records shall be the property of the Department of Veterans Affairs, BOISE VAMC/531 facility.
- 1.6.10** The contractor shall perform all services under this contract in accordance with any and all regulatory and accreditation standards applicable to the individual VA facility, including without limitations, those required by The Joint Commission (TJC) certification for the state of Idaho and shall comply with all Veterans Health Administration (VHA) regulations and directives. Contractor shall provide consultation, if requested, in the development of protocols, utilization review, peer review and risk management as required by regulatory bodies.
- 1.6.11** Contractor to arrive at the surgery check-in 1 hour prior to scheduled first procedure.
- 1.6.12** Equipment provided meets criteria, passes bio-med check, and performs functions as designed. Equipment arrives on the 3<sup>rd</sup> floor of the main Medical Center, Building 85, for check-in. Check-in VA administrative staff will contact VA bio-med for safety check before entering OR.

**1.7 Definitions:**

**1.7.1** The following terms when used in this Contract shall be defined as follows:

Acceptable Quality Level (AQL). The AQL is the maximum percent defective that, for purposes of sampling inspections can be considered satisfactory.

Contracting Officer (CO) - A person duly appointed with the authority to enter into and administer contracts on behalf of the U.S. Government. Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

Contracting Officer's Representative COR -. An individual designated by the Contracting Officer to act as his/her representative to assist in administering a contract. The source and authority for a COR are contained in the written letter of designation. The Contracting Officer may delegate one or more VAMC employees who are responsible for monitoring the performance of the Contractor.

Customer Complaint. A means of documenting certain kinds of contract service problems. A government program that is explained to every organization that receives service under this contract, which is used to evaluate contractor's performance.

Non-personal services contract - a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees."

Performance Requirements Summary (PRS). Identifies the key service outputs of the contract that will be evaluated by the government to assure contract performance standards are met by the Contractor.

Quality Control. Those actions taken by a contractor to control the performance of services so that they meet the requirements of the PWS.

Quality Improvement (QI) - the ongoing process of responding to data gathered through quality monitoring efforts, to improve the quality of health care delivered to individuals. This process involves follow-up studies of the measures taken to effect change in order to demonstrate that the desired change has occurred.

Quality Monitoring (QM) - the ongoing process of assuring that the delivery of health care is appropriate, timely, accessible, available, medically necessary and in keeping with established guidelines and standards and reflective of the current state of medical knowledge.

## **2.0 Personnel Qualifications:**

### **2.0.1 Contractor personnel provided under this contract shall:**

- a. have an unrestricted license in a US state, territory or Commonwealth of the United States or District of Columbia
- b. Able to read, write, speak, and understand the English language;
- c. Be a US citizen.

### **2.0.2 Citizenship Related Requirements:** If technically qualified United States Citizens will be given preference over, non-citizens in accordance with current regulations. Non-citizens must provide proof of eligibility to work and an e-verify printout.

### **2.0.3** All Lithotripsy specialists referred by the Contractor to perform the services provided by this contract shall be certified by the American Registry of Radiologic Technologists.

### **2.0.4** Contractor shall, without additional expenses to the Government, be responsible for obtaining all necessary licenses, approvals, and permits and be in compliance with all federal, state and local laws and regulations applicable to the lithotripter and delivery of ESWL and CO2 laser related services provided for under this contract. The Contractor will be responsible for providing this information to the COR, if requested.

### **2.0.5** Contractor personnel shall be subject to the same quality assurance standards, meeting or exceeding current recognized national standards as all regular BOISE VAMC employees. Contractor personnel shall perform the services in accordance with the ethical, professional, and technical standards of BOISE VAMC.

### **2.0.6** Contractor shall immediately notify the Contracting Officer and COR anytime a Contractor employee(s) and/or facility are involved in malpractice actions or loss of certification.

### **2.0.7 Board Certification /Eligibility:** License/Certification: Registered Radiologic technologist through the American Registry of Radiologic Technologists . Additionally, Contractor must ensure that all certifications held by personnel working under this contract shall be maintained, and are full and unrestricted.

### **2.0.8** If the certification status changes for any contract personnel, Contractor shall inform the CO and COR within 15 days.

**2.0.9 Technical Proficiency:**

- a. All care provided to Veterans is expected to be of the highest quality and is subject to peer review, focused professional practice review, ongoing professional practice review, and quality assurance activities.
- b. Adhere to BOISE VAMC Rules and Regulations and OCD policies and procedures relative to patient assessment and reassessment. Participate, with BOISE VAMC staff, in developing the patient's plan of care. Provide feedback to the BOISE VAMC staff as the plan of care is executed and coordinated revisions to the plan of care, if required.
- c. The services to be performed: shall be performed in accordance with VA policies, procedures, and the regulations. The Government may evaluate the quality of professional and administrative service provided, but retains no control over the medical, professional aspects of services rendered (e.g., professional judgments, and/or diagnosis for specific medical treatment).
- d. The services required in this awarded contract shall be performed in accordance with established principles and ethics of the profession. The quality of healthcare provided shall meet or exceed the current recognized standards established by the American Medical Association (AMA), <http://www.ama-assn.org/> Joint Commission (JC), <http://www.jointcommission.org/standards/> and those of other professional associations, which specify standards of performance for the medical profession.

**2.0.10 Training:**

- a. All providers shall maintain their licensure and board certification. If the contractor's certifications and or licensure status changes they shall inform the Contracting Officer immediately.
- b. All Contractor employees and subcontractors requiring access to VA computer network are required to complete VA's Information Security and Privacy Awareness Training (ISPAT) training annually. The courses required are Privacy Policy (HIPPA) and VA ISPAT Training can be obtained from the Talent Management System (TMS) at <https://www.tms.va.gov/plateau/user/login.jsp> by self-enrollment in the system. Documented proof in the form of a certificate must be provided to the Contracting Officer. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract, and at the request of the VA, submit another employee for consideration.
- c. VA Cyber Security Awareness Training: All Contractor employees and subcontractors requiring access to VA computer network are required to

complete VA's Information Security and Privacy Awareness Training (ISPAT) training annually. The courses required are Privacy Policy (HIPPA) and VA ISPAT Training can be obtained from the Talent Management System at <https://www.tms.va.gov/plateau/user/login.jsp> by the TMS administrator. Documented proof in the form of a certificate must be provided to the Contracting Officer. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract, and at the request of the VA, submit another employee for consideration.

**2.0.10.1 Standard Personnel Testing: N/A**

**2.0.10.2 National Provider Identification (NPI): N/A**

**2.0.10.2.1 DEA Number: N/A**

**2.0.11 Conflict of Interest:** See VHA Handbook 1660.3, Conflict of Interest; Aspects of Contracting for Scarce Medical Specialist Services; Enhanced Use Leases; Health Care Resource Sharing; Non-VA Purchased Care (Fee Basis); and Intergovernmental Personnel Action Agreements (IPAS). These publications and handbooks are available at: <http://www1.va.gov/vhapublications/index.cfm>

**2.0.12 Citizenship Related Requirements:** If technically qualified United States Citizens will be given preference over, non-citizens in accordance with current regulations. Non-citizens must provide proof of eligibility to work and an e-verify printout.

**2.0.13 Office of Inspector General (OIG) Statement:** The contractor is required to check the HHS Office of Inspector General List of excluded individuals/entities on the OIG Website ([www.hhs.gov/oig](http://www.hhs.gov/oig)) for each person providing services under this contract to ensure that the individuals providing services under the contract have not engaged in fraud or abuse regarding Sections 1128 and 1128A of the Social Security Act regarding federal health care programs. Further, the contractor is required to certify in its proposal that all persons listed in the contractor's proposal have been verified as not appearing on the OIG list. During the performance of this contract, the Contractor is prohibited from using any individual or business listed on the List of Excluded Individuals/Entities.

**2.1. Technical Definitions Peculiar to this PWS. (In alphabetical order).**

ESWL: Extracorporeal Shock Wave Lithotripsy or Lithotripsy: For the purpose of this agreement, lithotripsy means the following: Extracorporeal shock wave lithotripsy for kidney stones treatment overview. Extracorporeal shock Wave lithotripsy uses sound waves to break kidney stones into small pieces that can more easily pass into the bladder. The patient lies on a water-filled cushion. X-rays or ultrasound tests are used to precisely locate the stone. High-energy sound waves pass through the body without

injuring it and shatter the stone into small pieces. These small pieces move through the urinary tract and out of the body more easily than a large stone. The process takes about an hour. Sedatives or local anesthesia may be used. A hollow tube (stent) may be used when stones larger than 2.5 cm (1 in.) are present. The stent helps the small stone pieces to pass and prevents blockage of the urethra.

JC: Joint Commission. An independent, not-for-profit organization, The Joint Commission accredits and certifies more than 18,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.

## **2.2 Technical Direction:**

- a. Submission: As part of the pre-award Contractor Responsibility determination and during the performance of the contract for the purpose of on-going Contractor competency evaluation, the VA will perform or require for evaluation, from the Offeror/Contractor one or more of the following:
  1. Submission of information to allow evaluation of their qualifications and past performance. This information should be specific, concise, and complete and provide sufficient information to demonstrate the offeror's capacity to meet or exceed the requirements of the contract.
  2. Submission of evidence of accomplishment of training and education that is required by the terms of the contract.
  3. Submission of evidence of experience and achievements in work similar to that required by the contract.
  4. Board certification or licensure that meets or exceeds standards relative to the industry being contracted.
- b. Contractor **will not** refer a provider who has had a terminated license, registration or certification for cause, or if the provider voluntarily relinquished such license, registration or certification in any state after being notified in writing by a state of potential termination for cause. (The definition for "cause" is "substandard care, professional misconduct, or professional incompetence.") All providers assigned by the contractor shall have a current, full and unrestricted license to practice medicine in any State, Territory, or Commonwealth of the United States or in the District of Columbia. If required by the State of Licensure, current registration shall also be maintained.
- c. **Invoices:** Invoices shall be submitted monthly in arrears with the following information:
  1. Contract number and purchase order number.
  2. Station ID (531)
  3. Dates of Service and Patient's Medical Record Number
  4. Price
  5. Invoices will be billed as individual line items as they are listed in the price schedule.

- d. Monthly invoice(s) will contain only those cases worked for that month. Previous invoiced caseload shall not be intermingled with current invoice. **Invoices not** received in proper format will be returned.
- e. The BOISE VAMC will not pay any hiring fees if the contract ESWL Technicians is hired for a permanent position.
- f. Service Contract Act (SCA) is not applicable to this contract.
- g. Marketing: Contractor shall not advertise or use any marketing material, logos, trade names, service marks, or other material belonging to the Boise VAMC without consent.
- h. Safety requirements: in the performance of this contract, the contractor shall take such safety precautions as the contracting officer or his designee may determine to be reasonable and necessary to protect the lives and health of occupants of the building. The contracting officer or his designee will notify the contractor of any non-compliance with the foregoing provisions and the action to be taken. The contractor shall after receipt of such notice, immediately correct the condition to which attention has been directed. Such notice, when served on the contractor or his representative at the site of the work, shall be deemed sufficient for the purpose aforesaid. If the contractor fails or refuses to comply promptly, the contracting officer may issue an order stopping all or any part of the work and hold the contractor in default.

ESWL Technicians are required to use universal precautions to guard against possibility of accidental exposure to blood-borne pathogens. BOISE VAMC will provide appropriate Personal Protective Equipment (PPE). ESWL Technicians will follow the guidance provided in the BOISE VAMC SOPs regarding Infection Control, Safety, and Hazardous Waste Management.

### **2.3 Non Personal Services:**

- a. It is expressly agreed and understood that this is a non-personal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.
- b. An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

- c. The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government
- d. The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met under either the new policy, or a combination of old and new policies, if applicable.
- e. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

**2.3.1 No Employee status:**

The parties agree that such personnel working under this contract shall not be considered VA employees for any purpose and shall be considered employees of the Contractor. The relationship of the parties is not and shall not be construed or interpreted to be a partnership, joint venture or agency. The relationship of the Parties is an independent contractor relationship.

**2.3.2 TORT:**

Contractor employees are not covered by the Federal Tort Claims Act. When the Contractor or its employee has been identified as a provider in a tort claim, the Contractor is responsible for notifying the Contractor's legal counsel and/or insurance carrier. Any settlement or judgment arising from a Contractor or employee's action or non-action is the responsibility of the Contractor and/or insurance carrier. The contractor shall provide a copy of current license and malpractice insurance certificate.

**2.4 Key Personnel and Emergency Substitutions:**

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

---

---

---

- b. The provider assigned by the contractor shall fall under all the existing BOISE VAMC quality monitors relating to services provided such as, medical records review, Peer Review, Incident reporting, Infection Control, etc.
- c. The Government reserves the right to refuse acceptance of a contractor, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. The Contracting Officer, Administrative Contracting Officer and Contracting Officer's Representative shall deal with issues raised concerning contract personnel's conduct. The final arbiter is the Contracting Officer.
- d. The Contracting Officer Representative shall resolve complaints concerning Contractor relations with the Government employees or patients. In the event that the Contractor is involved and named in a validated patient complaint, and the Government is unable to resolve the issue the Government reserves the right to refuse acceptance of the services of such personnel. In the event of incidents involving physical or verbal abuse the contractor will be immediately removed from the facility and will not return until clearance is given by the Contracting Officer and the Facility Director. In the event any issues cannot be resolved the Contracting Officer is the final authority on validating complaints.
- e. BOISE VAMC personnel shall brief the Contractor on VAMC policies and procedures on the first scheduled duty day.

**3 Hours of Operation:**

Normal Clinic Hours are from 7am to 5pm.

**3.0.1 Contractor Employee Additional Information:**

- a. Contractor's employee must be present at the VA facility during required hours and must be performing the required services identified in the Performance Work Statement to invoice for hours worked. The payments for holiday time (for work performed in the case of an emergency) and for any leave, including sick leave or vacation time is the responsibility of the contractor. The services covered by this contract shall be furnished by the Contractor during work hours as defined herein.

- b. Any hours worked beyond the normally scheduled shifts shall be reviewed by the Chief of Staff, and approved by the COR to determine appropriateness. Any time worked deemed unnecessary by the Chief of Staff will not be paid by the VA.

### **3.0.2 Work Schedule:**

Depending upon staffing levels the work hours will be:

- a. Regular Working Hours: Any time between 7:00 A. M. and 5:00 P. M. Monday through Friday that is not a Federal Holiday.
- b. Non-Working Hours: Any hours outside those shown as Regular Working Hours. Federal Holidays are considered Non Working Hours.
- c. Federal Holidays: are those holidays observed by the United States Government: i.e., New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day and any other day specifically declared by the President of the United States to be a Federal Holiday.

- 3.0.3 Cancellation Policy:** Boise VAMC reserves the right to withdraw any or all service requirements if they become available from other VAMC's or an ESWL Technician is hired at BOISE VAMC . Any reduction in service requirements shall be at no charge to the Government.

## **4 CONTRACTOR RESPONSIBILITIES:**

- 4.2 Services Required:** This contract is to provide ESWL Technicians (Technicians) services to BOISE VAMC in accordance with Public Law 104-262 and 38 U.S.C.8153. These services shall be available seven (7) days a week, twenty-four (24) hours a day, 365 days per year by the Contractor to the Department of Veterans Affairs Medical Center, 500 W. Fort St, Boise Idaho.

### **4.3 Standards of Practice:**

- a. Contractor shall be responsible for meeting or exceeding VA and Joint Commission (or equivalent) standards.
- b. The contractor shall be responsible for protecting the personnel furnishing services under this contract. To carry out this responsibility, the Contractor shall provide the following for these personnel:
  - 1. Worker's compensation
  - 2. Professional liability insurance
- c. Health examinations income tax withholding, and
- d. Social Security payments

- e. By signing this solicitation, the Contractor hereby acknowledges that it is and will continue to comply with State workers compensation laws that are applicable to the Contractor. While it is understood by the Federal government that workers compensation laws may not apply to a contractor with respect to that contractor's independent contractors and as such that contractor will not be required to make workers compensation premium payments for such independent contractors, it is wholly the burden and responsibility of the contractor to make such a determination pursuant to State workers compensation laws. The Federal government does not offer any legal advice on such a determination and contractors are encouraged to seek independent legal advice when making such a determination.
- f. The Contractor shall comply with all current VHA policies. The Contractor is required to meet VHA performance and quality criteria and standards including, but not limited to, customer satisfaction, preventative index, chronic disease index and clinical guidelines. Performance and quality standards may change during the course of the contract. New or revised quality/performance criteria or standards will be provided to the contractor before their implementation date. Compliance with mandated performance is required as a condition of this contract.
- g. The services required in this agreement shall be performed in accordance with established principles and ethics of the medical profession. The quality of healthcare provided shall meet or exceed the current recognized standards established by the American Medical Association (AMA), Joint Commission (JC), Veterans Health Administration regulations and medical staff by-laws and those of other professional associations that specify standards of performance for the medical profession.
- h. The Contractor shall be responsible for providing responsible management of medical care. Care provided will respect and integrate the patient's beliefs, values and cultural influences. The Contractor shall involve the patient in care decisions by keeping him/her fully informed about the diagnosis, plan of care and treatment goals, risks and benefits of proposed treatment, and prognosis; shared decision-making shall be pursued.
- i. The contractor is not required to use the hospital computer system.

### **4.3 Resident Supervision and Teaching:**

\_\_\_% of the time. N/A

**4.3.1 Resident Supervision/Teaching: N/A**

**4.3.2 Academic Environment: N/A**

**4.3.3 Resident Patient Care Documentation: N/A**

**4.3.4 Technical Direction and Oversight:** Monitoring of contractor's time shall be demonstrated through sign-in/sign-out sheets. The contractor shall be required to sign an attendance log upon reporting to work and departing from work. The Budget Technician for 3 BOISE VAMC shall be the VA official responsible for verifying purchase order compliance. After purchase order award, any incidents of contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.

**4.3.5 Authorities:** By performing services under this contract, the Contractor is considered part of the VA healthcare activity for purposes of the following statutes and respective regulations implementing these statutes: Title 5 U.S.C Section 552a (Privacy Act), Title 38 U.S.C. Section 5701, Title 38 U.S.C. Section 5705, Title 38 U.S.C Section 7332, and Public Law 104-191 (HIPAA), Public Law 104-262 and 38 U.S.C.8153.

**4.3.6 HIPAA:** Contractor and any subcontractors must adhere to the provisions of HIPAA. This includes both Privacy and Security Rules published by HHS.

**4.3.7 Disclosure:**

- a. As required by Public Law 104-191, Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Department of Health and Human Services (HHS) has promulgated rules governing the use and disclosure of protected health information by covered entities. The covered entity component of the Department of Veterans Affairs is the Veterans Health Administration (VHA). In accordance with HIPAA, the contractor may be required to enter into a Business Associate Contract (BAA) with VHA.
- b. Any contract resulting from this solicitation will be subject to the Privacy Act of 1974. Federal Acquisition Regulations 52.224-1 Privacy Act Notification and 52.224-2 Privacy Act are incorporated by reference.

**4.3.8 Professional standards for documenting care:** Contract personnel are responsible for ensuring that their documentation practices are in accordance with all applicable state and federal regulations. SEE VHA HANDBOOK 1907.01, HEALTH INFORMATION MANAGEMENT AND HEALTH RECORDS.

[http://www1.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=1469](http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1469)

**4.3.9 Release of Information:**

- a. Contract personnel shall not have access to patient medical records/information and general files
- b. Contract personnel who obtain access to hardware or media that may manipulate or store drug or alcohol abuse data, sickle cell anemia treatment records, records or tests or treatment for or infection with HIV, medical quality assurance records, or any other sensitive information protected under the statutes and implementing regulations previously mentioned shall not have access to the records unless absolutely necessary to perform their contractual duties. Any contract person who has access to the previously mentioned data and/or information must not disclose it to anyone, including other contract personnel not involved in the performance of

- the particular contractual duty for which access to this data and/or information was obtained.
- c. Information or records accessed and/or created by the Contractor in the course of performing services under this contract are the property of the VA and shall not be accessed, released, transferred, or destroyed except in accordance with applicable federal law, regulations, and/or VA/VHA policy. The Contractor will not copy information contained in VA information systems, either by printing to paper or by copying to another digital format, without the explicit instruction and written approval from of the VA officials, except as is necessary to make single copies in the ordinary course of providing patient care. The Contractor will not commingle the data from VA information systems with information from other sources. Contractor shall report any unauthorized disclosure of VA information to the VA officials.
  - d. If this contract is terminated for any reason, the Contractor will provide VA with all individually identifiable VA patient treatment records or other information in its possession, and any copies made pursuant to paragraph 6 above, within seven (7) calendar days of the termination of this contract.
  - e. The Contractor shall follow all VA policies regarding the retention of records. As an alternative, the Contractor may deliver the records to VA for retention.
  - f. The Contractor shall follow all of the previously mentioned statutes and respective regulations implementing these statutes and VHA Handbook 1605.1 - Privacy and Release of Information and any other VA/VHA policies and procedures governing the information discussed in this section of the contract. Copies of the information discussed in the aforementioned paragraphs may be viewed by contract personnel in the Office of Health Information Management. All contract personnel with access to any of the previously mentioned records (electronic or paper) will be required to complete VHA Privacy Policy Training before accessing such record systems. This training must also be completed annually. The COR will be responsible for ensuring and documenting that this requirement is satisfied.
  - g. Any changes in the laws, regulations, or VA/VHA policies or procedures governing the information covered by this section of the contract, during the term of this contract, shall be deemed to be incorporated into this contract.
  - h. VA has unrestricted access to the records generated by the contractor pursuant to this contract.

## 5 ADMINISTRATIVE:

- a. **EMERGENCY HEALTH SERVICES:** The VA will render emergency health services for an incapacitating injury or otherwise serious illness occurring while on duty. Medical expenses for treatment are billed to contract provider's medical insurance. Lost services caused by injury or sickness of Contractor's employee, unless replaced with another employee, will not be invoiced by Contractor. Contractor will furnish the VA with the necessary injury/illness form(s) for reporting purposes. The VA for statistical and/or billing purposes will retain a copy of the complete form(s).
- b. **UNIFORMS:** Contractor Employees shall provide their own Contractor nametags, which are to be worn at all times. When working in the VA Operating Room,

contract employees shall only wear VA scrubs. Uniforms, special clothing and equipment that are provided by BOISE VAMC will be left at the workstation upon completion of duty shift.

- c. **IDENTIFICATION, PARKING, SMOKING, AND VA REGULATIONS:** The Contractor's employees shall wear visible identification, provided by the Department, at all times while on the premises of the VAMC. The VA will not invalidate or make reimbursement for parking violations of the Department under any conditions. Smoking is only allowed in designated areas per VA Policy. Possession of weapons is prohibited. Enclosed containers, including tool kits, shall be subject to search. Violations of VA regulations may result in citation answerable in the United States (Federal) District Court, not a local district, State, or municipal court.
- d. **AMENDMENTS:** In accordance with FAR 52.212-4 the services specified in this contract may be changed only by written modification to this contract. The VA Contracting Officer will prepare the modification and have both parties approve the modification.
- e. **CONTRACTING OFFICER'S REPRESENTATIVE(S):** The Contracting Officer shall designate representatives to act for him/her in furnishing technical guidance and advice or generally supervise 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.

## 6 GOVERNMENT RESPONSIBILITIES:

### 6.2 Oversight of Service/Performance Monitoring:

- a. Oversight and performance monitoring will be accomplished by following the attached QASP. Services rendered will be verified by a record keeping system, maintained by the Chief of Staff or designee, which assures the VA pays for only those services actually requested.
- b. The services specified in this contract may be changed by written modification to this contract. The modification will be prepared and approved by the VA Contracting Officer prior to becoming effective.
- c. **ORDER OF PRECEDENCE:** The terms, conditions, and attachments referenced herein, including any formal written modifications thereto, constitute the complete agreement between the parties and take precedence over any other language, oral or written.
- d. **Contracting Officer:** The Contracting Officer (CO) is responsible for the overall administration of this contract. Contractor is advised that **only** the Contracting Officer, acting within the scope of his/her duties and responsibilities, has the

authority to make changes to the contract, which affects contract prices, terms and conditions of this contract:

- e. **Governing Law:** This contract shall be governed, construed and enforced in accordance with Federal Law.

**7 PERFORMANCE STANDARDS, QUALITY ASSURANCE AND QUALITY**

**IMPROVEMENT:** The Government may evaluate the quality of professional and administrative services provided, but retains no control over the medical, professional aspects of services rendered (e.g., professional judgments, diagnosis for specific medical treatment).

7.2 **Methods of Surveillance:** In accordance with the QASP. Periodic Inspection Validated User/Customer Complaints Periodic Sampling Annual Review

7.3 **Performance Standards:** Contract personnel shall be subject to the following standards and acceptable quality levels.

7.3.1 Standards 1-Arrival Time/Timeliness of Care  
Standards 1- AQL: 95%

7.3.2 Standard 2 – Provide quality and safe equipment and supplies  
Standard 2 - AQL: 100%

7.3.3 Standard 3 – Adequate and Timely Documentation on Patient Record  
Standard 3-AQL: 100%

7.4 **See Attached QASP**

**8 SPECIAL CONTRACT REQUIREMENTS:**

Contract employees shall wear agency identification badge as well as VA badge at all times while on the premises of the BOISE VAMC.

8.2 **Contractor Security Requirements:** Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same

Federal laws, regulations, standards, and VA Directives and Handbooks as VA personnel regarding information and Information System Security.

**8.1 Contractor Security Investigation Requirements**

The following information explains the current process for Background Investigations (BI) that are required to bring contractor personnel routine access to a facility and to authorize access to VA/Federally owned information systems. This is directed to all contractor personnel performing services for the facility, including CBOC's (Community Based Outpatient Care), and extends into protected information. This must be completed prior to the start date.

- a. This is a federal law and is established under HSPD-12, FIPS Pub-201-1, EO 10450, and VA Directive 0710. **This process is specific and required beyond any additional agency credentialing and vetting processes.**
- b. All contractor employees must submit the appropriate forms to the department sponsor to begin the application process (OF-306 & Contractor Sponsorship Form). Non US citizens will be required to submit a copy of their e-Verify record. **Facilities have switched to a paperless application system and will require additional information.**
- c. Special Agency Check (SAC) is a process in which fingerprints are captured to establish the identity of an individual and determine if there are any outstanding actionable issues, as noted by the FBI. A SAC is needed as the initial requirement for the entire BI program.
  1. Contact the Human Resources Department to schedule an appointment for courtesy electronic fingerprints at the nearest VHA or VBA facility. The Contracting Officer will identify the appropriate SOI/SON numbers to be given to HR at the time of printing. The time frame takes approximately 48 hours to 1 week for contracting to receive the results and adjudicate them.
  2. If the fingerprints are unidentifiable, you will be asked to have them retaken.
- d. A National Agency Check with Inquiries (NACI) is the minimum BI that is required to access federal information systems and sensitive information. Contractor employee(s) shall not commence working at VA facilities under contract, until the Contracting Officer receives an email notification from the VHA Security and Investigation Center (SIC) in Little Rock, Arkansas, confirming **completion** of the contractor employee's documentation. This documentation is then forwarded to OPM for the Federal Investigative Service to conduct the scope of the BI.
- e. Once the documentation is received by the SIC, the Contracting Officer can authorize a tentative clearance for a contractor employee to begin work on a contract.
- f. A NACI will only be initiated if you have cleared the adjudication process at the local level and all required documentation is received. The NACI is a position sensitivity designation of low risk.
- g. The Contractor Employee, the Contracting Officer/COR, and one additional email account (Contractor's Supervisor, COR, etc.); will receive all correspondence from the SIC.
- h. The contractor employee will receive an email notifying of entry into OPM's e-QIP database. Once received, the contractor employee will have **7 days** to go into his or her account at [www.opm.gov/e-qip](http://www.opm.gov/e-qip) and complete the background questionnaire.
- i. Once the questionnaire is complete, the contractor employee must ensure the **"release to agency"** has been clicked and the **2 signature pages** are printed. Please forward signed signature pages to the Contracting Officer ASAP.
- j. Once completed, the Security Specialist will receive notification from the SIC..
- k. The Contractor shall provide complete BI applications for all Contract Employees to the SIC promptly and in sufficient time to meet the contract performance or delivery schedule (or: within 7 calendar days after contract award). If a delay in the notification from SIC to the Contractor that a complete application has been received

is due to the failure of the Contractor to provide a complete application as soon as practicable (or within 7 calendar days) after contract award, this delay shall not excuse the Contractor from meeting the contract performance or delivery schedule and may result in termination for cause.

- l. All Contractor employees and subcontractors requiring access to VA computer network are required to complete VA's Information Security and Privacy Awareness Training (ISPAT) training annually. The courses required are Privacy Policy (HIPPA) and VA ISPAT Training can be obtained from the Talent Management System at <https://www.tms.va.gov/plateau/user/login.jsp> by self-enrollment in the system. Documented proof in the form of a certificate must be provided to the Contracting Officer. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract, and at the request of the VA, submit another employee for consideration.
- m. The contractor will notify the COR immediately when their employee(s) no longer require(s) access to VA computer systems.
- n. Failure to complete the EQIP process will result in possible termination of access. Any second BI request will require payment of the fees associated with reinitiating the NACI process the Contractor.

**B.3 COST/PRICE SCHEDULE**

|             |  |              |    |    |    |
|-------------|--|--------------|----|----|----|
| <b>001</b>  | <p>The Contractor shall provide services for Mobile Lithotripsy Services, ESWL Services, for Urology Surgeons at the Boise VAMC, to include all equipment and technician support required in accordance with the Performance Work Statement (PWS). Quantity is estimated at one (1) each per month; the Contractor shall invoice for actual procedures performed, only.</p> <p>Contract Period:<br/>POP Begin: Date of Award<br/>POP End: 09-30-2017</p> | <b>10.00</b> | EA | \$ | \$ |
| <b>1001</b> | <p>The Contractor shall provide services for Mobile Lithotripsy Services, ESWL Services, for Urology Surgeons at the Boise VAMC, to include all equipment and technician support required in accordance with the Performance Work Statement (PWS). Quantity is estimated at one (1) each per month; the Contractor shall invoice for actual procedures performed, only.</p> <p>Contract Period:<br/>POP Begin: 10-01-2017<br/>POP End: 09-30-2018</p>    | 25.00        | EA | \$ | \$ |
| <b>2001</b> | <p>The Contractor shall provide services for Mobile Lithotripsy</p>  | 25.00        | EA | \$ | \$ |

|  |   |       |    |    |    |
|--|---|-------|----|----|----|
| <p>Services, ESWL<br/>                 Services, for Urology<br/>                 Surgeons at the Boise<br/>                 VAMC, to include all<br/>                 equipment and<br/>                 technician support<br/>                 required in accordance<br/>                 with the Performance<br/>                 Work Statement (PWS).<br/>                 Quantity is estimated at<br/>                 one (1) each per month;<br/>                 the Contractor shall<br/>                 invoice for actual<br/>                 procedures performed,<br/>                 only.<br/>                 Contract Period:<br/>                 POP Begin: 10-01-2018<br/>                 POP End: 09-30-2019</p> |   |       |    |    |    |
| <b>3001</b>  | <p>The Contractor shall<br/>                 provide services for<br/>                 Mobile Lithotripsy<br/>                 Services, ESWL Services,<br/>                 for Urology Surgeons at<br/>                 the Boise VAMC, to<br/>                 include all equipment and<br/>                 technician support<br/>                 required in accordance<br/>                 with the Performance<br/>                 Work Statement (PWS).<br/>                 Quantity is estimated at<br/>                 one (1) each per month;<br/>                 the Contractor shall<br/>                 invoice for actual<br/>                 procedures performed,<br/>                 only.<br/>                 Contract Period:<br/>                 POP Begin: 10-01-2019<br/>                 POP End: 09-30-2020</p> | 25.00 | EA | \$ | \$ |

|             |   |       |    |    |    |
|-------------|---|-------|----|----|----|
| <b>4001</b> | <p>The Contractor shall<br/>                 provide services for<br/>                 Mobile Lithotripsy<br/>                 Services, ESWL<br/>                 Services, for Urology<br/>                 Surgeons at the Boise<br/>                 VAMC, to include all</p> | 25.00 | EA | \$ | \$ |
|-------------|---|-------|----|----|----|

equipment and technician support required in accordance with the Performance Work Statement (PWS). Quantity is estimated at one (1) each per month; the Contractor shall invoice for actual procedures performed, only.

Contract Period:  
POP Begin: 10-01-2020  
POP End: 09-30-2021

TOTAL \$

## SECTION C - CONTRACT CLAUSES

### C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAY 2015)

(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)

#### ADDENDUM to FAR 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS

Clauses 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 clauses are incorporated into 52.212-4 as an addendum to this contract:

### **C.2 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUN 2016)**

(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 (NOV 2015).

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

(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

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

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (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 (OCT 2015) (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. (OCT 2015) (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 2015) (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 2015) 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, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (DEC 2015) (15 U.S.C. 637(m)).

(24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (DEC 2015) (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 (FEB 2016) (E.O. 13126).

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

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

(29) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (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 (FEB 2016) (38 U.S.C. 4212).

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

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

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

(34) 52.222-54, Employment Eligibility Verification (OCT 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

(35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C.6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

(36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

(37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

(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.)

(38)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

(ii) Alternate I (OCT 2015) of 52.223-13.

(39)(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.

(40) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).

(41)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

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

(42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

(43) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

(44) 52.223-21, Foams (JUN 2016) (E.O. 13693).

(45) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

(46)(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.

(47) 52.225-5, Trade Agreements (FEB 2016) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

(48) 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).

(49) 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).

(50) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

(51) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

(52) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

(53) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

(54) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

(55) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

(56) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

(57) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

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

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

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

(1) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495).

(2) 52.222-41, Service Contract Labor Standards (MAY 2014) (41 U.S.C. chapter 67).

(3) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

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

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

(8) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

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

(10) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

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

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (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 \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

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

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

(vi) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212).

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

(viii) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

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

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

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

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

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

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

(xiv) 52.222-54, Employment Eligibility Verification (OCT 2015) (E. O. 12989).

(xv) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

(xvi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xvii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

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

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

(End of Clause)

### **C.3 52.203-99 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS (DEVIATION) (FEB 2015)**

(a) The Contractor shall not require employees or contractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The contractor shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered by this clause are no longer in effect.

(c) The prohibition in paragraph (a) of this clause does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(d)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Contractor is not in compliance with the provisions of this clause.

(2) The Government may seek any available remedies in the event the contractor fails to comply with the provisions of this clause.

(End of Clause)

#### **C.4 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 Date of Award through 09/30/2017.

(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.5 52.216-19 ORDER LIMITATIONS (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$1,000.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor—

(1) Any order for a single item in excess of \$50,000.00;

(2) Any order for a combination of items in excess of \$50,000.00; or

(3) A series of orders from the same ordering office within 5 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 2 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

### **C.6 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 09/30/2017.

(End of Clause)

### **C.7 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

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

(End of Clause)

### **C.8 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

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

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

(End of Clause)

### **C.9 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)**

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

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

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

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

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

(End of Clause)

### **C.10 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)**

Funds are not presently available for performance under this contract beyond 09/30/2017. 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 09/30/2017, 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.11 SUPPLEMENTAL INSURANCE REQUIREMENTS**

In accordance with FAR 28.307-2 and FAR 52.228-5, the following minimum coverage shall apply to this contract:

(a) Workers' compensation and employers liability: Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 is required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

(b) General Liability: \$500,000.00 per occurrences.

(c) Automobile liability: \$200,000.00 per person; \$500,000.00 per occurrence and \$20,000.00 property damage.

(d) The successful bidder must present to the Contracting Officer, prior to award, evidence of general liability insurance without any exclusionary clauses for asbestos that would void the general liability coverage.

(End of Clause)

### **C.12 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.13 VAAR 852.215-71 EVALUATION FACTOR COMMITMENTS (DEC 2009)**

The offeror agrees, if awarded a contract, to use the service-disabled veteran-owned small businesses or veteran-owned small businesses proposed as subcontractors in accordance with 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, or to substitute one or more service-disabled veteran-owned small businesses or veteran-owned small businesses for subcontract work of the same or similar value.

(End of Clause)

### **C.14 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

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

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

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

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

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

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

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

(b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial

purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

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

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

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

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

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

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

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

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

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

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

(End of Clause)

### **C.15 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)**

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

(End of Clause)

**C.16 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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

<http://www.acquisition.gov/far/index.html>

<http://www.va.gov/oal/library/vaar/>

(End of Clause)

| <b><u>FAR<br/>Number</u></b> | <b><u>Title</u></b>  | <b><u>Date</u></b> |
|------------------------------|--|--------------------|
| 52.203-3                     | GRATUITIES   | APR 1984           |
| 52.203-17                    | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS<br>AND REQUIREMENT TO INFORM EMPLOYEES OF<br>WHISTLEBLOWER RIGHTS | APR 2014           |
| 52.204-13                    | SYSTEM FOR AWARD MANAGEMENT MAINTENANCE  | JUL 2013           |
| 52.204-18                    | COMMERCIAL AND GOVERNMENT ENTITY CODE<br>MAINTENANCE   | JUL 2015           |
| 52.232-40                    | PROVIDING ACCELERATED PAYMENTS TO SMALL<br>BUSINESS SUBCONTRACTORS   | DEC 2013           |
| 52.237-2                     | PROTECTION OF GOVERNMENT BUILDINGS,<br>EQUIPMENT, AND VEGETATION   | APR 1984           |
| 52.242-13                    | BANKRUPTCY   | JUL 1995           |

(End of Addendum to 52.212-4)

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

### D.1 QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)

#### Lithotripsy Services

The contractor will be evaluated in accordance with the following:

#### 1. PURPOSE

This Quality Assurance Surveillance Plan (QASP) provides a systematic method to evaluate performance for the stated contract. This QASP explains the following:

- What will be monitored?
- How monitoring will take place.
- Who will conduct the monitoring?
- How monitoring efforts and results will be documented.

This QASP does not detail how the contractor accomplishes the work. Rather, the QASP is created with the premise that the contractor is responsible for management and quality control actions to meet the terms of the contract. It is the Government's responsibility to be objective, fair, and consistent in evaluating performance.

This QASP is a "living document" and the Government may review and revise it on a regular basis. However, the Government shall coordinate changes with the contractor through contract modification. Copies of the original QASP and revisions shall be provided to the contractor and Government officials implementing surveillance activities.

#### 2. GOVERNMENT ROLES AND RESPONSIBILITIES

The following personnel shall oversee and coordinate surveillance activities.

a. Contracting Officer (CO) – The CO shall ensure performance of all necessary actions for effective contracting, ensure compliance with the contract terms, and shall safeguard the interests of the United States in the contractual relationship. The CO shall also assure that the contractor receives impartial, fair, and equitable treatment under this contract. The CO is ultimately responsible for the final determination of the adequacy of the contractor's performance.

Assigned CO: < Government will enter name >

Organization or Agency:

b. Contracting Officer's Representative (COR) – The COR is responsible for technical administration of the contract and shall assure proper Government surveillance of the contractor's performance. The COR shall keep a quality assurance file. The COR is not empowered to make any contractual commitments or to authorize any contractual changes on the Government's behalf.

Assigned COR: Adele Smith, Surgery Administrative Officer

Organization or Agency: Surgery Service, VA Medical Center, Boise, ID

#### 3. CONTRACTOR REPRESENTATIVES

The following employee(s) of the contractor serve as the contractor's program manager(s) for this contract.

Primary: TBD

Alternate:

#### 4. **Performance Standards**

The contractor is responsible for performance of ALL terms and conditions of the contract. CORs will provide contract progress reports quarterly to the CO reflecting performance on this plan and all other aspects of the resultant contract. The performance standards outlined in this QASP shall be used to determine the level of contractor performance in the elements defined. Performance standards define desired services. The Government performs surveillance to determine the level of Contractor performance to these standards.

The Performance Requirements are listed below in Section 6. The Government shall use these standards to determine contractor performance and shall compare contractor performance to the standard and assign a rating. At the end of the performance period, these ratings will be used, in part, to establish the past performance of the contractor on the contract.

#### 5. **Incentives/DEDUCTS**

The Government shall use past performance as incentives. Incentives shall be based on ratings received on the performance standards.

#### 6. **Methods of QA Surveillance**

Various methods exist to monitor performance. The COR shall use the surveillance methods listed below in the administration of this QASP.

a. **ANNUAL REVIEW.** (Performance Measure 6) – Annual audit of staff complaints. Chief, Anesthesiology Service will review on a quarterly basis.

b. **PERIODIC INSPECTION.** (Performance Measures 1, 2, 3, 4, 5, 7, 8) Inspections scheduled and reported quarterly per COR delegation or as needed. All inspections and reports will be conducted in compliance with VA Privacy and Information Security Standards.

**PERFORMANCE MEASURES**

| <b>Measures</b>      | <b>PWS Reference</b> | <b>Performance Requirement</b>  | <b>Standard</b>   | <b>Acceptable Quality Level</b> | <b>Surveillance Method</b>              | <b>Incentive</b>                            | <b>Disincentive/Deduct</b>                     |
|----------------------|----------------------|---|---|---------------------------------|---|---|--|
| Arrival Time         | 7.2.1                | Timeliness of staff providing the lithotripsy services at the VAMC, Boise, ID | Contractor to be at the VAMC, Boise 1 hour prior to scheduled time  | 100% Compliance                 | Periodic check by Urology and OR staff  | Favorable contactor performance evaluation. | Unfavorable contractor performance evaluation. |
| Equipment & Supplies | 7.2.2                | Equipment and supplies are provided for each procedure                        | Equipment provided meets quality and safety criteria, passes bio-med check and performs functions as designed | 100% Compliance                 | Periodic check by Urology and OR staff  | Favorable contactor performance evaluation. | Unfavorable contractor performance evaluation. |
| Documentation        | 7.2.3                | Completes results for patient records   | Provides documentation to OR personnel following procedure  | 100%                            | Annual Review by Chief, urology Service | Favorable contactor performance evaluation. | Unfavorable contractor performance evaluation  |

## 7. RATINGS

Metrics and methods are designed to determine rating for a given standard and acceptable quality level. The following ratings shall be used:

|                        |   |
|------------------------|---|
| <b>EXCEPTIONAL:</b>    | <p>Performance meets contractual requirements and exceeds many to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with few minor problems for which corrective actions taken by the contractor were highly effective.</p> <p><b>Note:</b> To justify an <b>Exceptional</b> rating, you should identify <u>multiple</u> significant events in each category and state how it was a benefit to the GOVERNMENT. However a singular event could be of such magnitude that it alone constitutes an Exceptional rating. Also there should have been NO significant weaknesses identified.</p>   |
| <b>VERY GOOD:</b>      | <p>Performance meets contractual requirements and exceeds some to the Government's benefit. The contractual performance of the element or sub-element being assessed was accomplished with some minor problems for which corrective actions taken by the contractor were effective.</p> <p><b>Note:</b> To justify a <b>Very Good</b> rating, you should identify a significant event in each category and state how it was a benefit to the GOVERNMENT. Also there should have been NO significant weaknesses identified.</p>  |
| <b>SATISFACTORY:</b>   | <p>Performance meets contractual requirements. The contractual performance of the element or sub-element contains some minor problems for which corrective actions taken by the contractor appear or were satisfactory.</p> <p><b>Note:</b> To justify a <b>Satisfactory</b> rating, there should have been only minor problems, or major problems the contractor recovered from without impact to the contract. Also there should have been NO significant weaknesses identified.</p>  |
| <b>MARGINAL:</b>       | <p>Performance does not meet some contractual requirements. The contractual performance of the element or sub-element being assessed reflects a serious problem for which the contractor has not yet identified corrective actions. The contractor's proposed actions appear only marginally effective or were not fully implemented.</p> <p><b>Note:</b> To justify <b>Marginal</b> performance, you should identify a significant event in each category that the contractor had trouble overcoming and state how it impacted the GOVERNMENT. A <b>Marginal</b> rating should be supported by referencing the management tool that notified the contractor of the contractual deficiency (e.g. Management, Quality, Safety or Environmental Deficiency Report or letter).</p>   |
| <b>UNSATISFACTORY:</b> | <p>Performance does not meet most contractual requirements and recovery is not likely in a timely manner. The contractual performance of the element or sub-element being assessed contains serious problem(s) for which the contractor's corrective actions appear or were ineffective.</p> <p><b>Note:</b> To justify an <b>Unsatisfactory</b> rating, you should identify multiple significant events in each category that the contractor had trouble overcoming and state how it impacted the GOVERNMENT. However, a singular problem could be of such serious magnitude that it alone constitutes an unsatisfactory rating. An <b>Unsatisfactory</b> rating should be supported by referencing the management tools used to notify the contractor of the contractual deficiencies (e.g. Management, Quality, Safety or Environmental Deficiency Reports, or letters).</p> |

## **8. DOCUMENTING PERFORMANCE**

a. The Government shall document positive and/or negative performance. Any report may become a part of the supporting documentation for any contractual action and preparing annual past performance using CONTRACTOR PERFORMANCE ASSESSMENT REPORT (CPAR).

b. If contractor performance does not meet the Acceptable Quality Level, the CO shall inform the contractor. This will normally be in writing unless circumstances necessitate verbal communication. In any case the CO shall document the discussion and place it in the contract file. When the COR and the CO determine formal written communication is required, the COR shall prepare a Contract Discrepancy Report (CDR), and present it to the CO. The CO will in turn review and will present to the contractor's program manager for corrective action.

The contractor shall acknowledge receipt of the CDR in writing. The CDR will specify if the contractor is required to prepare a corrective action plan to document how the contractor shall correct the unacceptable performance and avoid a recurrence. The CDR will also state how long after receipt the contractor has to present this corrective action plan to the CO. The Government shall review the contractor's corrective action plan to determine acceptability. The CO shall also assure that the contractor receives impartial, fair, and equitable treatment. The CO is ultimately responsible for the final determination of the adequacy of the contractor's performance and the acceptability of the Contractor's corrective action plan.

Any CDRs may become a part of the supporting documentation for any contractual action deemed necessary by the CO. See Sample CDR below.

| <b>CONTRACT DISCREPANCY REPORT</b>  |      |                                       |           |                    |
|---|------|---------------------------------------|-----------|--------------------|
| 1. CONTRACT NUMBER  |      | 2. REPORT NUMBER FOR THIS DISCREPANCY |           |                    |
| 3. TO: <i>(Contracting Officer)</i>   |      | 4. FROM: <i>(Name of COR)</i>         |           |                    |
| 5. DATES  |      |                                       |           |                    |
| a. CDR PREPARED   |      | b. RETURNED BY CONTRACTOR:            |           | c. ACTION COMPLETE |
| 6. DISCREPANCY OR PROBLEM <i>(Describe in detail. Include reference to PWS Directive; attach continuation sheet if necessary.)</i>  |      |                                       |           |                    |
| 7. SIGNATURE OF COR   |      |                                       |           | Date:              |
| 8. SIGNATURE OF CONTRACTING OFFICER   |      |                                       |           | Date:              |
| 9a. TO <i>(Contracting Officer)</i>   |      | 9a. FROM <i>(Contractor)</i>          |           |                    |
| 10. CONTRACTOR RESPONSE AS TO CAUSE, CORRECTIVE ACTION AND ACTIONS TO PREVENT RECURRENCE. <i>(Cite applicable quality control program procedures or new procedures. Attach continuation sheet(s) if necessary.)</i> |      |                                       |           |                    |
| 11. SIGNATURE OF CONTRACTOR REPRESENTATIVE  |      |                                       |           | Date:              |
| 12. GOVERNMENT EVALUATION. <i>(Acceptance, partial acceptance, reflection. Attach continuation sheet(s) if necessary.)</i>  |      |                                       |           |                    |
| 13. GOVERNMENT ACTIONS <i>(Acceptance, partial acceptance, reflection. Attach continuation sheet(s) if necessary.)</i>  |      |                                       |           |                    |
| 14. CLOSE OUT   |      |                                       |           |                    |
|   | NAME | TITLE                                 | SIGNATURE | DATE               |
| CONTRACTOR NOTIFIED   |      |                                       |           |                    |
| COR   |      |                                       |           |                    |
| CONTRACTING OFFICER   |      |                                       |           |                    |



## SECTION E - SOLICITATION PROVISIONS

### E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (OCT 2015)

(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 \$3,500, and offers of \$3,500 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:

**E.2 52.203-98 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS— REPRESENTATION (DEVIATION) (FEB 2015)**

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), Government agencies are not permitted to use funds appropriated (or otherwise made available) under that or any other Act for contracts with an entity that requires employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contactors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

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

(c) *Representation.* By submission of its offer, the Offeror represents that it does not require employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(End of Provision)

**E.3 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)**

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

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

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

(b) The Offeror represents that—

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

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

(End of Provision)

#### **E.4 52.216-1 TYPE OF CONTRACT (APR 1984)**

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

(End of Provision)

#### **E.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:

Kelleen Minor

Contract Specialist  
Hand-Carried Address:

Department of Veterans Affairs  
Network Contracting Office 20  
960 Broadway Ave, Suite 460  
Boise ID 83706  
Mailing Address:

Department of Veterans Affairs  
Network Contracting Office 20  
960 Broadway Ave, Suite 460  
Boise ID 83706

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

(End of Provision)

#### **E.6 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)**

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

(1) Include the name, address, fax number, and telephone number of the protester;

- (2) Identify the solicitation and/or contract number;
  - (3) Include an original signed by the protester or the protester's representative and at least one copy;
  - (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;
  - (5) Specifically request a ruling of the individual upon whom the protest is served;
  - (6) State the form of relief requested; and
  - (7) Provide all information establishing the timeliness of the protest.
- (b) Failure to comply with the above may result in dismissal of the protest without further consideration.
- (c) Bidders/offerors and contracting officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(End of Provision)

#### **E.7 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)

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

## **E.8 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.acquisition.gov/far/index.html>

<http://www.va.gov/oal/library/vaar/>

(End of Provision)

| <b><u>FAR</u></b><br><b><u>Number</u></b> | <b><u>Title</u></b>  | <b><u>Date</u></b> |
|---|--|--------------------|
| 52.204-7                                  | SYSTEM FOR AWARD MANAGEMENT  | JUL 2013           |
| 52.204-16                                 | COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING  | JUL 2015           |
| 52.225-25                                 | PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN—REPRESENTATION AND CERTIFICATIONS | OCT 2015           |

(End of Addendum to 52.212-1)

## **E.9 52.212-2 EVALUATION—COMMERCIAL ITEMS (OCT 2014)**

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

Technical Capability

Past Performance

Price

Technical and past performance, when combined, are equal to price.

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

## **E.10 ADDENDUM TO 52.212-2 - INSTRUCTIONS FOR SUBMITTING TECHNICAL EVALUATION CRITERIA**

The contractor shall provide the following:

**E.5.1. BASIS FOR CONTRACT AWARD:** This requirement shall be evaluated on the offeror's technical capabilities and past and present performance history on a basis approximately equal to price. By submission of its offer in accordance with the instructions provided in clause [FAR 52.212-1](#), Instructions To Offerors, the offeror accedes to the terms of this contract and all such offers shall be treated equally except for their Technical and performance records and prices. The evaluation process shall proceed as follows:

(a) Introduction: The Government shall award a contract resulting from this solicitation to the responsible offeror whose offer conforms to the solicitation by evaluating the factors in paragraph 4.2.1 Evaluation Approach.

(b) Submission of offers. The quote shall consist of three separate parts as listed below. Offer is due before or the exact time specified in this solicitation.

(c) Award shall be made to an offeror on the basis of the lowest priced quote meeting the technical acceptability standard. (In accordance with 15.101-2) The Government intends to award without discussion with respective offerors. Therefore, the Offeror's initial quote should contain the best terms from a price and technical standpoint. The Government, however, reserves the right to conduct discussion if deemed in its best interest. Furthermore, if discussions are to be conducted, the Government shall establish a competitive range. The competitive range shall be comprised of the most highly rated quotes, unless the range is further reduced for purposes of efficiency pursuant to FAR 15.306(c)(2). The evaluation process shall proceed as follows:

1. Technical Acceptability: The Government's Technical Evaluation Board (TEB) shall evaluate the offeror's technical quote on a pass/fail basis.

2. Past Performance: Offerors are required to demonstrate recent (within the last three years), successful performance under contracts (ongoing or complete) which are **similar in scope, magnitude, and complexity to the subject requirement**.

3. Price: Award shall be made to the offeror that quotes the lowest price and are determined to be technically acceptable for the location specified in accordance with the contractor's current BPA.

(d) Procedures:

All offerors shall be required to prepare and submit their complete quote submission in accordance with the quotation preparation instructions in Provision 52.212-1, of this Request for Quote. Quotes and other information shall be evaluated against the evaluation criteria stated in this provision.

### **E.5.2. Evaluation Approach**

#### **1. Technical Capacity –**

##### **1. Personnel Experience –**

a. Contractor shall provide resumes of prospective personnel that are capable of performing the requirements stated within the Performance Work Statement listed in this Request for Quotation.. Contractor shall provide details of this experience.

b. Contractor shall provide detail on how the requirements listed in the Performance Work Statement shall be accomplished.

**2. Past Performance** – List of contracts performed (minimum of 3 – maximum of 5) over the past 5 years with similar type, scope, size and complexity ongoing or completed with points of contact for reference.

**Format for proposal Parts 1 and 2 shall be as follows (electronic submissions are preferred):**

- (a) The proposals shall be 8 1/2” x 11” paper except for fold-outs used for charts, tables, or diagrams, which may not exceed 11” x 17”.
- (b) A page is defined as one face of a sheet of paper containing information.
- (c) Typing shall not be less than 11 font.
- (d) Elaborate formats, bindings or color presentations are not desired or required.
- (e) Page limit for technical capacity shall be 10 pages.

## **E.11 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (APR 2016)**

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

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

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

“Forced or indentured child labor” means all work or service—

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

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

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

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

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

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

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

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

“Predecessor” means an entity that is replaced by a successor and includes any predecessors of the predecessor.

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

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

“Sensitive technology”—

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

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

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

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

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

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

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

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

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

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

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

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

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

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

“Subsidiary” means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

“Successor” means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

“Veteran-owned small business concern” means a small business concern—

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

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

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

“Women-owned small business concern” means a small business concern—

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

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

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

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

(2) The offeror has completed the annual representations and certifications electronically via the SAM website access through <http://www.acquisition.gov>. After reviewing the SAM database information, the

offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_

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

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

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:\_\_\_\_\_.*] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

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

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

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

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

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

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

(2) Foreign End Products:

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

*[List as necessary]*

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

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

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

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

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

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

*[List as necessary]*

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

Other Foreign End Products:

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

*[List as necessary]*

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

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

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

Canadian End Products:

Line Item No.

---

---

---

*[List as necessary]*

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

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

Canadian or Israeli End Products:

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

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

*[List as necessary]*

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

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
*[List as necessary]*

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

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

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

Other End Products:

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

*[List as necessary]*

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

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

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

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

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

(4) [ ] Have, [ ] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

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

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

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

(ii) *Examples.*

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

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

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

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

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

(1) *Listed end products.*

Listed End Product      Listed Countries of Origin

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

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

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

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

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

(2)  Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

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

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

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

Sole proprietorship;

- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_.

(5) *Common parent.*

- Offeror is not owned or controlled by a common parent;
- Name and TIN of common parent:

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

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

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

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

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

(2) *Representation.* The Offeror represents that—

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

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.*

(1) The offeror shall email questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

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

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

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

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

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

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

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

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

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

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

Immediate owner CAGE code: \_\_\_\_.

Immediate owner legal name: \_\_\_\_.

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

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

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

Highest-level owner CAGE code: \_\_\_\_.

Highest-level owner legal name: \_\_\_\_.

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

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

(1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it  is or  is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated “is” in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_\_ (or mark “Unknown”).

Predecessor legal name: \_\_\_\_.

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

(End of Provision)