

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NO.	PAGE 1 OF 77
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NO.	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE	
			VA263-17-R-0056	12-22-2016	
7. FOR SOLICITATION INFORMATION CALL:	a. NAME Patrick Karelis		b. TELEPHONE NO. (No Collect Calls) 612-344-2183	8. OFFER DUE DATE/LOCAL TIME 01-20-2017 2:00 pm CST	
9. ISSUED BY Department of Veterans Affairs NCO 23 - Minneapolis 708 S. Third St., Suite 200E Attention: Patrick Karelis Minneapolis MN 55415		CODE	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR: <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A) NAICS: 621512 SIZE STANDARD: \$15 Million		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING N/A
14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP		15. DELIVER TO Department of Veterans Affairs Nebraska - Western Iowa HCS 4101 Woolworth Ave. Omaha NE 68105			
16. ADMINISTERED BY Department of Veterans Affairs NCO 23 - Minneapolis Attention: Patrick Karelis 708 S. Third St., Suite 200E Minneapolis MN 55415		17a. CONTRACTOR/OFFEROR CODE			
18a. PAYMENT WILL BE MADE BY Department of Veterans Affairs Financial Services Center PO Box 149971 Austin TX 78714-9971 PHONE: FAX:		17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>			
18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input checked="" type="checkbox"/> SEE ADDENDUM		18c. FACILITY CODE			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE
	Neurophysiology Services Provide Neurophysiology to beneficiaries of the Nebraska-Western Iowa Health Care System Estimated Period of Performance March 1, 2017 through February 28, 2018 See Schedule of Services, Section B.2 for pricing See Performance Work Statement, Section B.3 for further details Depart of Labor Wage Determination 2005-2325 Revision 17 dated 12/29/2015 is in effect at this time. (Use Reverse and/or Attach Additional Sheets as Necessary)				
25. ACCOUNTING AND APPROPRIATION DATA			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 <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.			27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED		
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED			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) Scott Hendrix Contracting Officer		31c. DATE SIGNED	

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SECTION B - CONTINUATION OF SF 1449 BLOCKS

B.1 CONTRACT ADMINISTRATION

Contracting Officer's Representative (COR) is Denise Waschick, 402-955-5957 or denise.waschick@va.gov.

Contracting Officer is Scott Hendrix at 612-344-2146.

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

1. CONTRACT ADMINISTRATION DATA

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

Contractor Name: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

E-mail: _____

Federal Taxpayer Identification
Number _____

Dun and Bradstreet Number _____

b. Government: **Contracting Officer - Scott E. Hendrix**
Network Contracting Office 23
708 South Third Street, Suite 200E
Minneapolis, MN 55415
Phone (612) 344-2146
Fax (612) 333-3667
Scott.hendrix@va.gov

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 Central Contractor Registration, or

52.232-36, Payment by Third Party

NVOICES: Invoices shall be submitted in arrears:

- a. Quarterly
- b. Semi-Annually
- c. Other Monthly

3. BILLING FOR SERVICES:

Invoice requirements and supporting documentation: Supporting documentation and invoice must be submitted no later than the 20th workday of the month. Subsequent changes or corrections shall be submitted by separate invoice. In addition to information required for submission of a “proper” invoice in accordance with FAR 52.212-4 (g), all invoices must include:

- Name and Address of Contractor
- Invoice Date and Invoice Number
- Contract Number and Purchase/Task Order Number
- Date of Service
- Hourly Rate
- Quantity of hours worked
- Total price

Vendor Electronic Invoice Submission Methods:

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

VA’s Electronic Invoice Presentment and Payment System – The FSC uses a third-party contractor, OB10, to transition vendors from paper to electronic invoice submission. Please go to this website: <http://ob10.com/us/en/veterans-affairs-us/> to begin submitting electronic invoices, free of charge.

A system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>).

The Contract may contact FSC at the phone number or email address listed below with any questions about the e-invoicing program or OB10:

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

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

AMENDMENT NUMBER	DATE
_____	_____
_____	_____
_____	_____

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

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

7. **TYPE OF CONTRACT:** Resultant contract shall be an Indefinite Delivery/Indefinite Quantity (IDIQ) contract effective for the period stated in the Schedule of Services.

8. **TERM OF CONTRACT:** Resultant contract(s) shall be effective for a base period of twelve (12) months from date of award with four (4) twelve month option periods.

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

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

11. **SECURE FAX:** VA Handbook 6500 requires the following statement on all fax cover sheets be included: "This fax is intended only for the use of the person or office to which it is addressed and may contain information that is privileged, confidential, or protected by law. All others are hereby notified

that the receipt of this fax does not waive any applicable privilege or exemption for disclosure and that any dissemination, distribute on, or copying of this communication is prohibited. If you have received this fax in error, please notify this office immediately at the telephone number listed above.”

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

B.2 SCHEDULE OF SERVICES

The contractor agrees to provide Neurophysiologic Monitoring services in accordance with the terms and conditions stated herein, at the VA Nebraska Western Iowa Health Care System, (VA NWIHCS). The services and prices specified in the Section entitled Schedule of Services of this contract.

Place of Performance: Services shall be provided on site, at the VA NWIHCS, Omaha Division, and 4101 Woolworth Ave, Omaha, NE 68105.

Pricing Instructions:

The following Contract Line Items (CLINs) represent estimated quantities and do not reflect the actual quantities that may be required. The estimated quantities may decrease or increase based on the volume of work. The contract shall be for the actual requirements of the VA as ordered by the VA during the life of the contract. Prices are to be all-inclusive; pricing will include all associated costs including: transportation, equipment, licenses, etc.

This will be an Indefinite Delivery, Indefinite Quantity (IDIQ) contract.

Contract Minimum: \$21,500.00

Contract Maximum: \$500,000.00

Hourly Rate: Price Schedule reflects estimated costs.

PRICE SCHEDULE**BASE PERIOD: 03/01/2017 – 02/28/2018**

CLIN	SUB CLIN	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE
0001		Intraoperative Monitoring (All Inclusive)	250	HRS		
0002		Disposable Sub dermal Needle	636	EA		
0003		Twisted Disposable Needle	6	EA		
		TOTAL – BASE PERIOD				\$

OPTION YEAR I PERIOD: 03/01/2018 – 02/28/2019

CLIN	SUB CLIN	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE
1001		Intraoperative Monitoring (All Inclusive)	263	HR		
1002		Disposable Sub dermal Needle	668	EA		
1003		Twisted Disposable Needle	7	EA		
		TOTAL – OPTION YEAR I				\$

OPTION YEAR II PERIOD: 03/01/2019 – 02/29/2020

CLIN	SUB CLIN	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE
2001		Intraoperative Monitoring (All Inclusive)	276	HRS		
2002		Disposable Sub dermal Needle	669	EA		
2003		Twisted Disposable Needle	8	EA		
		TOTAL – OPTION YEAR II				\$

OPTION YEAR III PERIOD: 03/01/2020 – 02/28/2021

CLIN	SUB CLIN	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE
3001		Intraoperative Monitoring (All Inclusive)	290	HR		
3002		Disposable Sub dermal Needle	702	EA		
3003		Twisted Disposable Needle	9	EA		
		TOTAL – OPTION YEAR III				\$

OPTION YEAR IV PERIOD: 03/01/2021 – 02/28/2022

CLIN	SUB CLIN	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	TOTAL PRICE
4001		Intraoperative Monitoring (All Inclusive)	290	HR		
4002		Disposable Sub dermal Needle	702	EA		
4003		Twisted Disposable Needle	9	EA		
		TOTAL – OPTION YEAR IV				\$

TOTAL Aggregate Amount (Base and all Option periods): \$ _____

B.3 PERFORMANCE WORK STATEMENT

1. SERVICES PROVIDED:

Contractor shall provide Neurophysiologic Monitoring services to include the technical and neurophysiologist interpretation of somatosensory evoked potentials (SEP) and Electromyography (EMG) procedures to meet the requirements of this contract. SEP testing is defined as providing intra-operative monitoring of neurosurgical patients by trained technicians. All work is to be performed for VA beneficiaries at the VA Nebraska Western Iowa Health Care System, (VA NWIHCS), Omaha Division, 4101 Woolworth Avenue, Omaha, Nebraska.

2. REQUIREMENTS - GENERAL:

- Contractor will provide the following supplies, equipment, and personnel to be used in performing the services below:
 - (1) Provide contract neurophysiologic monitoring technician(s) to be available for surgical procedures as determined by the attending physician. Surgeries are typically scheduled during the hours of 7:00 a.m. – 7:00 p.m., Monday through Friday. The VA will pay only for actual services performed at the VA facility and will not pay for “on-call” or standby time.
 - (2) Provide neurophysiologic monitoring services and evoked potential testing on an as needed basis for surgery patients.
 - (3) Functional nerve monitoring unit(s)(NMU)
 - (4) Technician(s) to operate NMU
 - (5) Appropriate disposables for procedure
 - (6) For surgical cases such as intra-operative neurophysiologic monitoring involving sensitive work in and around facial nerves
 - (7) Set-up and operate NMU and interpret sensory readings
 - (8) Services are to be conducted in the operating room and associated areas of the Omaha VA Medical Center (OVAMC) on a **per case basis** as determined by the Chief of Surgical Service.
 - (9) Be sufficiently knowledgeable to test equipment prior to use and to make any adjustments in the equipment settings that are required.
 - (10) Surgeon will notify the OR/Case Manager in Surgical Service when monitoring services are needed for a neurosurgical patient. The OR/Case Manager or appropriate designee will contact the Contractor with the request for monitoring. All changes to the proposed monitoring, to include date/time, type of monitoring, etc., will be conveyed by the OR/Case Manager or appropriate designee to the Contractor.
 - (11) Maintain and service equipment routinely to ensure that the NMU is in the highest level of functioning condition without breakdowns, causing no delay to OVAMC patient procedures. Service records are to be maintained to document performance reports and will be furnished the Contracting Officer prior to the start of the contract and each option year thereafter.

3. RESPONSIBILITIES INCLUDE:

- Participate in establishing before surgery, communication protocols with the surgical team to report monitoring activity;
- Accurately apply all recording and stimulating electrodes;
- Responsible for setting up all necessary OR equipment and supplies necessary for neurophysiological intraoperative monitoring and the placement of suitable electrodes on predetermined measured positions on the patient's body.
- Perform monitoring procedures and documentation according to established protocols;
- Identify monitored waveforms and any variation from baseline;
- Have an understanding of anesthetic techniques and physiologic changes that can affect the waveforms being monitored;
- Be competent in the operating of monitoring equipment, including troubleshooting and electrical safety;
- Interpret the intraoperative monitoring recording and make recommendations regarding action or consequence to the attending surgeon.
- Technician must maintain up-to-date knowledge of developments in the field of Neurophysiological monitoring.
- Effective member of patient care team, e.g., participates in patient care activities, telephone usage, communicates effectively with surgical staff.
- Documentation of Intraoperative neurophysiologic monitoring (IONM) completed and placed in the patient's chart prior to leaving the hospital.
- Follow all VA infection control policies and procedures to include, but not limited to:
 - Dress Code
 - Surgical Conscience
 - Complies and sets up equipment and supplies utilizing recommended practices and aseptic technique.
 - Maintains integrity of all sterile areas.
 - Arrives in a timely manner so as not to delay the surgical process.

4. REQUIREMENTS –TIMELINESS:

- Respond within 24-48 hours when contacted to provide service.
- Ensure that equipment, disposables and personnel are in place prior to surgery start time.

5. QUALIFICATIONS – NEUROPHYSIOLOGY MONITORING TECHNICIAN:

- Bachelor's degree, graduate of an electroencephalographic technology program accredited by the Commission on Accreditation of Allied Health and Education Programs (CAAHEP), or equivalent training.

License/Certification/Registration Requirements:

- Registration by American Board of Registration of Electroencephalographic and Evoked Potential Technologists (ABRET) in Electroencephalography (EEG) or Evoked Potential (EP) or Certified Neurophysiologic Intraoperative Monitoring (CNIM).

Experience:

- Minimum of one year of documented experience in EEG or EP & Intraoperative neurophysiologic monitoring (IONM). Experience must have been in the last year. Documented competency in modalities of intraoperative monitoring (see listing below in Knowledge, Skills and Abilities section) as well as evidence of having performed at least 100 cases per year.

Knowledge, Skills And Abilities - Knowledge required by the Intraoperative Monitoring Technician:

- Knowledge of scientific rationale in coordination of the patient care.
- Knowledge and expertise in the following areas of Intra-operative Neurophysiological Monitoring
 - a. Transcranial Electrical Motor Evoked Potentials (TcMEPs)
 - b. Somatosensory Evoked Potential (SSEPs)
 - c. Evoked Electromyography (eEMG)
 - d. Spontaneous Electromyography (sEMG)
- Knowledge of Universal Precautions.
- Knowledge of safety and environment of care procedures.
- Knowledge of all equipment that is to be used.

Physical Demands:

- Must be able to push, pull, lift and carry 0-100 pounds on an intermittent basis. Able to sit, stand, 67-100% of the time. Must be able to walk and bend consistently.

General:

- Must be proficient in spoken and written English as required by 38 U.S.C. 7402(d) and 7407(d).
- Citizenship – Citizen of the United States (VA may consider permanent residents with J-1 visas in accordance with US Government policy when no qualified US citizen is available).

6. VA NEBRASKA WESTERN IOWA HEALTH CARE SYSTEM ACKNOWLEDGES THAT:

- Contractor shall provide **all** supplies, equipment, clinical software and personnel to be used in performing Monitoring Services.
- **Scheduling of Monitoring Services.** Contractor will provide Monitoring Services to VA Nebraska Western Iowa Health care System as requested by the appropriate designee in the Surgical Services when monitoring services are needed for a patient. The Administrative Officer or appropriate designee will contact contractor with the request for monitoring. All changes to the proposed monitoring, to include date/time, type of monitoring, etc., will be conveyed by the Administrative Officer or appropriate designee to the Contractor.

- The provision of Monitoring Services does not include training or supervision of VA Nebraska Western Iowa Health Care System's personnel or the provision of services which are not described in this agreement.
- Neither the VA Nebraska Western Iowa Health Care System's neurophysiologic monitoring personnel nor competitor manufacturer's representatives will be present during any surgeries for which contractor provides neurophysiologic monitoring, and contractor is not required to complete monitoring of any case in which this requirement is violated.

SPECIAL CONTRACT REQUIREMENTS

The contractor agrees to provide Neurophysiologic Monitoring Services in accordance with the terms and conditions stated herein, at the Department of Veterans Affairs Medical Center, Omaha VAMC, the services and prices specified in the Section entitled Schedule of Supplies/Services of this contract.

1. SERVICES:

- a. The services specified in the Sections entitled Schedule of Services, Statement of Work and Special Contract Requirements may be changed by written modification to this contract. The modification will be prepared by the VA Contracting Officer and, prior to becoming effective, shall be approved by the contractor as part of the bi-lateral modification process.
- b. Other necessary personnel for the operation of the services contracted for at the VA will be provided by the VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.
- c. The services to be performed by the contractor will be performed in accordance with VA policies and procedures and the regulations of the medical staff by laws of the VA facility.
- d. This contract is a non-personal health care services contract as defined in Federal Acquisition Regulation 37.101 and is as follows – “Non personal services contract means 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.”
- e. Contractor will hold certificate of insurance for general liability, workmen's compensation and vehicle insurance. Prior to award of the contract the Contractor shall furnish to the VA a certificate of insurance evidencing that all required coverage has been obtained. The Contractor shall be responsible for maintaining this certificate/coverage for the duration of the contract.
- f. Under no circumstances will Contractor bill any patient or patient's insurance company for any procedure. All costs will be charged only to Omaha VAMC at the designated rate(s) as listed by the Contractor in the Schedule of Items. Those rates will be all-inclusive based on the described service categories herein.

2. QUALIFICATIONS:

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

3. **WORK HOURS:** The services covered by this contract shall be furnished by the contractor as defined herein.

- a. Normal working hours are Monday through Friday, 7:00 a.m. – 7:00 p.m.
- b. The contractor will not be required, except in case of emergency, to furnish such services during off-duty hours as described below:

(1) National Holidays: The ten (10) holidays observed by the Federal Government are as follows:

New Year's Day	Martin Luther King's Birthday
President's Day	Memorial Day
Independence Day	Labor Day
Columbus Day	Veterans Day
Thanksgiving Day	Christmas Day

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

(2) Emergency/Off-Duty hours:

- 1) Weekdays: 7:00 p.m. to 7:00 a.m.
- 2) Weekends: Friday, 7:00 p.m. Through Monday, 7:00 a.m.

4. **ON-CALL SERVICES:**

- a. It is VA Medical Service policy that a technician will be "on call" at home, or where available by phone or pager during the same tour of duty as the assigned house officers. Thus, the technician is to be available for both ward and officer of the Day (OD) support, and is expected to visit the medical center as needed. Arrangements should be made for transfer of on call responsibility if the assigned technician will be unavailable.
- b. Contractor will provide a master call list with an assigned point of contact and will provide a new roster when changes occur. Personnel on call along with pager/cell phone numbers must be provided.
- c. On-call technician should respond within 15 minutes (by phone) and 60 minutes (in person) of being notified. Failure to meet this requirement could result in review of contract compliance.

- d. On-call and call-back services are included in the total compensation of each technician and will not be paid separately. In the event, a technician is required to report to the VA, he/she will be reimbursed based on actual hours worked and at the hourly rate identified in the price schedule. Technician will record hours on the sign-in sheets on the day when work was performed.

5. KEY PERSONNEL AND TEMPORARY EMERGENCY SUBSTITUTIONS:

- a. Prior to contract award, the Contractor shall furnish a list of key personnel/trained technicians providing services under this contract to both the CO and COR.
- b. During the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required by the following paragraph. After the initial 90-day period of the contract, the Contractor shall submit the information required by paragraph (c) to the contracting Officer at least 15 days prior to making any permanent substitutions.
- c. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel.
- d. For temporary substitutions where the key person will not be reporting to work for three (3) consecutive work days or more, the contractor will provide a qualified replacement for the key person. This substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated above.
- e. CONTINUITY OF SERVICES: The contractor shall ensure that qualified backup technicians are available to provide coverage during scheduled and unscheduled absences of primary contract technician.

- 6. APPROVAL OF CONTRACTOR PERSONNEL:** The Department of Veterans affairs reserves the right to refuse services under this contract or require dismissal from contract work of any contractor employee or subcontractor employee who, by reason of previous unsatisfactory performance at the Omaha Division, VA NWHCS or for any other rational reason, is considered by the Contracting Officer to be objectionable, as long as ninety (90) days written notification of unsatisfactory performance has been provided to the Contractor, and the problem has not been cured in the ninety (90) day period. Any disagreement about performance still existing at the end of this ninety (90) day period will be handled by the Contracting Officer.

7. PERSONNEL POLICY:

- a. 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:
 - Workers compensation
 - Professional liability insurance
 - Health examinations
 - Income tax withholding, and
 - Social security payments.
- b. The parties agree that the contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.
- c. Contractor's personnel shall be required to dress in a professional manner and wear their contractor's/VA badge at all times while on the VA premise.

8. **RECORD KEEPING:** The VA Medical Center shall establish and maintain a record keeping system through the patient's electronic medical record. Medical Record documentation will be reviewed according to QASP Methods of Surveillance by the COR.

9. **SUPPORT (BLS) REQUIREMENTS:**

- a. **BLS:** For contracted personnel that will not utilize moderate sedation, the following identifies the training requirements:

(1) Evidence of current American Heart Association BLS training.

Notes:

- 1) Contractors are ultimately responsible for their own cost of BLS training.
- 2) For current contract personnel working on contract at VA NWIHCS: There are three options for completing the BLS requirement through the American Heart Association:
 - a. A contractor can purchase at their own expense a BLS course in the community.
 - b. Take the American Heart Association blended learning which requires the purchase of the AHA online Heart code key at www.onlineaha.org for Part 1. There will be no cost to the contractor to complete parts 2 and 3 by contacting the NWI BLS VA program director.
 - c. If there is space available in a face-to-face class, there will be no cost to the contractor. Contractors will register for Basic Life Support for Healthcare Providers (BLS) via the VA's Talent Management System.
- 3) For new contracted personnel not on a current contract with VA NWIHCS: Will be responsible for their own cost of certification and must have current required certification

at the commencement of the contract.

- 4) A copy of the front and back of an American Heart Association BLS course card must be provided to the clinical service's point of contact.

10. DISASTER/EMERGENCY COVERAGE: In the event of a Federal, local or community disaster or emergency, the Contractor will continue to provide services to the VA at the same level as is contained in this contract.

11. STANDARD OF CARE: The standard of care should be equal to that provided by the VA if the VA were capable of providing the services required at their location. The contractor shall provide competent, quality Neurophysiologic Monitoring services to all patients of the VA NWIHCS, in the performance of contract requirements. Contractor shall provide all services specified in this contract for any VA beneficiary, regardless of the race, color, religion, sex, or national origin of the person for whom such services are ordered. The Contractor further warrants that he/she shall not resort to subcontracting as a means of circumventing this provision.

12. CONTRACT PERFORMANCE MONITORING: Monitoring of contractor's performance shall be done by the Contracting Officer's Representative (COR). Incidents of contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer. Contractor shall comply with the required standards as outlined in the Quality Assurance Surveillance Plan (QASP) (attached). The QASP shall be attached to the resultant contract and shall define the methods and frequency of surveillance conducted. The QASP will be signed by the Contractor Program Manager and COR, outlining the evaluation criteria to ensure the contractor is aware of the management and quality criteria required to meet the terms of the contract.

- a. Frequency of Performance Measure Assessment: The COR shall visit/correspond with the contractor either as needed or, at a minimum, on a quarterly basis. In addition, the following performance measure reports will occur:
- b. Semi-Annual Reports are prepared and completed by the COR within 45 days of the end of the reporting period. Quarterly reports will include data for deficient measures only. Contractor will review semi-annual (or quarterly if needed) performance measure reports and acknowledge receipt of report by returning a signed copy, along with any comments, to the Contracting Officer within 30 days of receipt of the report.
- c. Contractor's Performance Report: At the end of each contract period, the COR will assess the summary of the contractor's performance and shall provide a written assessment. This written assessment will be forwarded to the Contracting Officer as documentation of contractor's performance and/or for a request to exercise option period, renewal of a contract or termination of a contract. This information will be loaded into the Contractor Performance Assessment Reporting System (CPARS).
- d. Performance Standards (see attached QASP, attachment 1).

13. QUALITY MANAGEMENT REQUIREMENTS:

a. General

- (1) All applicable VAMC policies and procedures shall be followed by the contract.
- (2) Contract personnel shall provide compassionate care with respect for the special needs of the veteran population served.
- (3) Care delivered will reflect the VA Medical Center's mission, vision and values.

b. Patient Rights

- (1) Care provided will respect and integrate the patient's beliefs, values and cultural influences.
- (2) Protection of all patients' rights is of highest priority.
- (3) The contractors are required to review the Patient Rights handbook, and follow the standard of care.
- (4) Patient privacy and confidentiality shall be maintained at all times.
- (5) Computer access will be granted on a need-to-know basis, and security of computerized information will be maintained at all times.
- (6) All patient complaints which cannot be resolved by the contractor shall be referred to the VAMC Patient Representative.
- (7) The contractor and patient care services provided shall be included in VAMC data collection activities related to patient compliments, complaints and satisfaction.
- (8) No eligible veteran shall be denied care for treatment which is not reimbursed by the third party insurance carrier.

c. Patient Safety

- (1) Patient safety shall be a primary focus of the contractor.
- (2) Every effort shall be made by the contractor to prevent medication errors, falls, and patient injury caused by acts of commission or omission in the delivery of care.
- (3) The VAMC shall determine when a Root Cause Analysis (RCA) is required of the contractor and must be submitted to the COR in a timely manner.

d. Patient Assessment

- (1) All care provided shall be based on assessed patient needs.
- (2) Findings from assessment and reassessment shall be clearly documented in the medical record, which is used by all members of the interdisciplinary care team in care planning and treatment.
- (3) Assessment for invasive procedures will include all elements as explicitly outlined in VAMC Bylaws and applicable policies.
- (4) All required documentation shall be fully completed within VAMC required timeframes.

e. Performance Improvement

- (1) The contractor shall fully participate in the VAMC Performance Improvement (PI) program.

- (2) Contractor PI activities may be directed by the VAMC, VISN or VHA, as well as accreditation or licensing bodies.
- (3) High priority shall be given by the contractor to the prevention of risk for the patient.

f. Human Resources

- (1) All contracted staff shall complete a formal VAMC orientation.
- (2) All related documentation, such as completed competency checklists or educational training records, shall be maintained by the contractor and available for VAMC review upon request.

g. Information Management. Strict adherence to all documentation related to the performance of invasive procedures shall be maintained.

14. CONTRACTOR RECALL AND SAFETY PLAN AND PROCESS NOTIFICATION TO FACILITIES:

Contractor shall take immediate action to notify the Contracting Officer (CO) whenever a product, piece of equipment or item is recalled or considered dangerous, hazardous or unsafe in order to remove such products, equipment or items from use. This notification process also applies to safety alerts. The contractor recall and safety notification plan and process is necessary so that proper notification to individuals who have received or individuals who may utilize such products, equipment or items can be made in as expedient and efficient manner as possible. The contractor shall provide to the CO their plan for this safety notification process and also maintain a record system in order to document any safety incident issues by their date, time, and description of the recall or safety alert issue provided to the CO.

15. CONTRACTOR PERSONNEL SECURITY REQUIREMENTS: All contractors who require access to the Department of Veterans Affairs, computer systems and/or sensitive information shall be the subject of a background investigation (National Agency Check with Inquiries (NACI)) and must receive a favorable adjudication from the VA Office of Security, Information Security Officer and Law Enforcement prior to contract performance. This requirement is applicable to all sub-contractor personnel requiring the same access. If the investigation is not completed prior to the start date of the contract, the contractor will be responsible for the actions of those individuals they provide to perform work for the VA.

- a. The position sensitivity has been designated as low risk.
- b. Background Investigation. The level of background investigation commensurate with the required level of access is minimum background investigation, if required. All costs incurred with the background investigation process will be paid by the VA.
- c. VA Cyber Security Awareness Training: Each contractor assigned work under the contract is required to receive and document completion of VA training on Cyber Security. The requirements for fulfilling this provision can be found at <https://www.tms.va.gov>. Contractor shall provide documented proof to the Contracting Officer that all contractors servicing a VA contract have received annual training.

d. Contractor Responsibilities:

- (1) The contractor shall ensure all personnel requiring access to the computer systems are able to read, write, speak and understand the English language.
- (2) Complete fingerprint capture at local VA Police Services. If a VA site other than NWHCS (Omaha, Lincoln or Grand Island) is conducting the process, the results need to be sent to NWHCS's Security Officer Identifier (SOI) #VAF5 and Submitting Office Number (SON) #1445. Fingerprints captured in Omaha are completed in Room B804, Monday-Friday 8:00 a.m. - 4:00 p.m. and conducted on a walk-in basis or scheduling an appointment by contacting their office at 402-995-5225 or 5818. Grand Island: Room S508, Monday-Friday, 8:00 a.m. – 4:30 p.m. (closed from Noon – 1:00 p.m.). Each applicant to be fingerprinted will need to present a valid state driver's license or valid state I.D.
- (3) Complete the Background Investigation Request Worksheet (to be furnished by the VA) and fax to VA NWHCS Contracting Office. The Contracting Office will enter the information into our Security Investigations Center (SIC) Contractor Request Database.
- (4) E-mails will be sent from our SIC, Little Rock, AR, to the applicant, company's point of contact and Contracting Officer (CO). This e-mail will provide the applicant with the website link for forms and instructions on how to complete the process.
- (5) Applicants must complete and mail their paperwork within 30 days to the SIC. If not received within 40 days, the request will be terminated and a new request be submitted or the contractor may be removed from the contract for non-compliance.
- (6) The contractor, when notified of an unfavorable determination by the Government shall withdraw the contractor from consideration from working under the contract.
- (7) Failure to comply with the contractor personnel security requirements may result in termination of the contract for default.
- (8) Upon successful completion of the process, a VA personal identity verification (PIV) card will be issued to the contractor. Contractor will use this card to access the computer. The VA badge/PIV card will be worn by the contractor at all times while on VA controlled property.

e. Government Responsibilities:

- (1) The VA Contracting Officer will provide the necessary forms to the contractor.
- (2) The Contracting Officer will ensure that the contractor provides evidence that investigations have been completed or are in the process of being requested.

16. INFECTION CONTROL COMPLIANCE:

a. **OSHA REGULATION CONCERNING OCCUPATIONAL EXPOSURE TO**

BLOODBORNE PATHOGENS: Contractor shall provide generic self-study training for all contractor(s); provide their own Hepatitis B vaccination series at no cost to the VA if they elect to receive it; maintain an exposure determination and control plan; maintain required records; and ensure that proper follow-up evaluation is provided following an exposure incident. The VA NWHCS shall notify the Contractor and vice versa of any significant communicable disease exposures as appropriate. Contractor shall adhere to current CDC/HICPAC Guideline for Infection Control in health care personnel (as published in American Journal for Infection Control- AJIC 1998; 26:289-354 <http://www.cdc.gov/hicpac/pdf/InfectControl98.pdf>) for disease control. Contractor shall provide follow up documentation of clearance to return to the workplace prior to their return. Refer to VA NWHCS Blood and Body Fluid Exposure Management Procedure Policy (attached). Contractor shall provide written certification of training compliance with the Blood borne Pathogens Standards, 29 CFR Part 1910.1030 (copy available on request) to the Contracting Officer's Representative (COR) prior to Contractor compensating work. Contractor/contractor staff shall adhere to VAMC Infection Control policies and procedures, including the VA NWHCS Blood and Body Fluid Exposure Management Procedure policy for any potential exposure to blood or body fluids (attached).

b. **MANTOUX/PURIFIED PROTEIN DERIVATIVE (PPD) TESTING:** Contractor shall provide evidence to the COR:

- (1) Negative PPD test within fourteen (14) calendar days prior to beginning service. If an earlier PPD test was given over twelve (12) months previously, the current test shall be a 2-step Mantoux test.
- (2) Medical evidence that personnel are disease free for those having a positive PPD. A negative chest radiographic report for active tuberculosis (TB) shall be provided in cases of positive PPD results.
- (3) An annual TB test is completed for all contract personnel. Contractor shall provide evidence of re-tests to the COR within ten (10) calendar days of the re-test.

c. **RUBELLA TESTING:** Contractor shall provide proof of immunization for all contractor(s) for measles, mumps, rubella or a rubella titer of 1.8 or greater. If the titer is less than 1.8, a rubella immunization shall be administered with follow-up documentation to the COR.

d. **DRUG TESTING:** All Contractor personnel shall be subject to VA's Drug-Free Workplace Policy. Personnel may receive a drug test and are subject to random drug testing thereafter. This includes any situation of "reasonable suspicion" and "accident or unsafe practice testing". Refusal to be tested or interfering with the process shall result in immediate termination of the contract. In addition, Contractor shall be subject to background check with local and county law officials to determine "suitability" for this sensitive position.

17. **PRIVACY ACT REQUIREMENTS:** Performance of contract services may involve review of VA patient records containing information subject to the Privacy Act, 5 U.S.C. Section 552a. The Contractor will perform in accordance with FAR clause 52.224-2, Privacy Act, Section I and provisions of Public Law 104-191 HIPAA. The Contractor shall maintain confidentiality of such

information and shall be held liable in the event of a breach of confidentiality.

18. CONFIDENTIALITY:

- a. The contractor understands and agrees that the information in the medical records of all patients is confidential. Strict confidentiality is to be maintained. Rules of Confidentiality expected to be conformed with are delineated in 38 U.S.C. 3301, 38 U.S.C. 4132, 5 U.S.C. 552 (1) et Seq. The contractor and its personnel shall be held liable in the event of breach of confidentiality. Any person, who knowingly or willingly discloses confidential information from the authorizing VA Medical Center, may be subject to fines.
- b. If, in the performance of official duties, the contractor's personnel have regular access to printed files containing sensitive information, which must be protected under the provisions of the Privacy Act of 1974, and other applicable laws and regulations, the employee is responsible for protecting that information from unauthorized release or from loss, alteration or unauthorized deletion. Contractors and their employees shall be required to adhere to the VA Privacy policy/ HIPAA, cyber security awareness, compliance and business integrity, emergency preparedness management, fire and life safety, green environmental management systems – GEMS, infection control, managing hazardous materials, medical center security and no-fear. Additional requirements may be added as deemed necessary by the contracting officer.
- c. VA may provide the contractor(s) with access to pertinent patient medical information, within the existing privacy rules and regulations, for the purpose of providing coordinated comprehensive care. Contractor(s) shall ensure the confidentiality of all patient information and shall be held liable in the event of the breach of confidentiality. All HIPAA regulatory guidelines pertaining to medical records and care will be followed.

19. COMPLIANCE WITH REGULATIONS AND POLICIES:

- a. The Contractor shall perform required services in accordance with the standards of The Joint Commission, established principles and ethics of the medical profession established by the American Medical Association (AMA) and American College of Emergency Physicians (ACEP). The Contractor shall adhere to Veterans Health Administration (VHA) regulations and the policies, procedures, and regulations of the Medical Staff Bylaws of the VAMC (refer to attachment 7).
- b. The Contractor shall perform required services in compliance with all VA security policies and applicable confidentiality statutes, including 38 U.S.C. 5701, 38 U.S.C. 5705, 38 U.S.C. 7332, 5 U.S.C. 552a (Privacy Act), as well as 45 C.F.R. Parts 160, 162 and 164 (Health Insurance Portability and Accountability Act).
- c. Contracted personnel caring for patients and receiving payment for such care from the Department of Veteran Affairs shall meet the current Patient Safety Standards of The Joint Commission.
- d. Contracted personnel are responsible for identifying and communicating to the CO and COR any conflicts of interest at the time of proposal and during the entirety of contract performance. At the

time of proposal, the Contractor shall provide a statement which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided. The Contractor shall also provide statements containing the same information for any identified consultants or subcontractors who shall provide services. The Contractor must also provide relevant facts that show how its organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest. These statements shall be in response to the VAAR provision 852.209-70 Organizational Conflicts of Interest (Jan 2008) and fully outlined in response to the subject attachment in Section D of the solicitation document (see Attachment 3 – Organizational Conflict of Interest).

- e. The Contractor certifies that the Contractor shall comply with any and all legal provisions contained in the Immigration and Nationality Act of 1952, As Amended; its related laws and regulations which are enforced by Homeland Security, Immigration and Customs Enforcement, and the U.S Department of Labor as these may relate to non-immigrant foreign nationals working under contract or subcontract for the Contractor while providing services to Department of Veterans Affairs patient referrals.
- (1) While performing services for the Department of Veterans Affairs, the Contractor shall not knowingly employ, contract or subcontract with an illegal alien; foreign national non-immigrant who is in violation their status, as a result of their failure to maintain or comply with the terms and conditions of their admission into the United States. Additionally, the Contractor is required to comply with all “E-Verify” requirements consistent with “Executive Order 12989” and any related pertinent Amendments, as well as applicable Federal Acquisition Regulations.
 - (2) If the Contractor fails to comply with any requirements outlined in the preceding paragraphs or its Agency regulations, the Department of Veterans Affairs may, at its discretion, require that the foreign national who failed to maintain their legal status in the United States or otherwise failed to comply with the requirements of the laws administered by Homeland Security, Immigration and Customs Enforcement and the US Department of Labor, shall be prohibited from working at the Contractor’s place of business that services Department of Veterans Affairs patient referrals; or other place where the Contractor provides services to veterans who have been referred by the Department of Veterans Affairs; and shall form the basis for termination of this contract for breach.
 - (3) This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.
 - (4) The Contractor agrees to obtain a similar certification from its subcontractors. The certification shall be made as part of the offerors response to the RFP using the subject attachment in Section D of the solicitation document (see Attachment 4 – Immigration and Nationality Act Certification).
- f. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:

- (1) Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the Contractor Rules of Behavior, Appendix D (see Attachment #2 Contractor Rules of Behavior)
- (2) Review and complete the Data Use Agreement for data exchange between NWI HCS and the contractor (see Attachment #8 Data Use Agreement).

B.4 IT CONTRACT SECURITY

VA HANDBOOK 6500.6 VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY

1. GENERAL

Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same Federal laws, regulations, standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security.

2. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

a. A contractor/subcontractor shall request logical (technical) or physical access to VA information and VA information systems for their employees, subcontractors, and affiliates only to the extent necessary to perform the services specified in the contract, agreement, or task order.

b. All contractors, subcontractors, and third-party servicers and associates working with VA information are subject to the same investigative requirements as those of VA appointees or employees who have access to the same types of information. The level and process of background security investigations for contractors must be in accordance with VA Directive and Handbook 0710, Personnel Suitability and Security Program http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=1568 , http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=832&FTYPE=2 . The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.

c. Contract personnel who require access to national security programs must have a valid security clearance. National Industrial Security Program (NISP) was established by Executive Order 12829 to ensure that cleared U.S. defense industry contract personnel safeguard the classified information in their possession while performing work on contracts, programs, bids, or research and development efforts. The Department of Veterans Affairs does not have a Memorandum of Agreement with Defense Security Service (DSS). Verification of a Security Clearance must be processed through the Special Security Officer located in the Planning and National Security Service within the Office of Operations, Security, and Preparedness.

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

e. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor's employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.

3. VA INFORMATION CUSTODIAL LANGUAGE

a. Information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor/subcontractor in performance

or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the VA. This clause expressly limits the contractor/subcontractor's rights to use data as described in Rights in Data - General, FAR 52.227-14(d) (1).

b. VA information should not be co-mingled, if possible, with any other data on the contractor/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct onsite inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.

c. Prior to termination or completion of this contract, contractor/ subcontractor must not destroy information received from VA, or gathered/ created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, Records and Information Management http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=429&FTType=2 and its Handbook 6300.1 Records Management Procedures, applicable VA Records Control Schedules, http://www.va.gov/vapubs/viewPublication.asp?Pub_ID=475&FTType=2 and VA Handbook 6500.1, Electronic Media Sanitization http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=416&FTType=2 . Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.

d. The contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies in this contract.

e. The contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement or to preserve electronic information stored on contractor/subcontractor electronic storage media for restoration in case any electronic equipment or data used by the contractor/subcontractor needs to be restored to an operating state. If copies are made for restoration purposes, after the restoration is complete, the copies must be appropriately destroyed.

f. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.

g. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1605.05, Business Associate Agreements http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=3027. Absent an agreement to use or disclose protected health information, there is no business associate relationship.

h. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.

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

j. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.

k. Notwithstanding the provision above, the contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the contractor/subcontractor is in receipt of a court order or other requests for the above mentioned information, that contractor/subcontractor shall immediately refer such court orders or other requests to the VA contracting officer for response.

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

4. INFORMATION SYSTEM DESIGN AND DEVELOPMENT

a. Information systems that are designed or developed for or on behalf of VA at non-VA facilities shall comply with all VA directives developed in accordance with FISMA, HIPAA, NIST, and related VA security and privacy control requirements for Federal information systems. This includes standards for the protection of electronic PHI, outlined in 45 C.F.R. Part 164, Subpart C, information and system security categorization level designations in accordance with FIPS 199 and FIPS 200 with implementation of all baseline security controls commensurate with the FIPS 199 system security categorization (reference Appendix D of VA Handbook 6500, VA Information Security Program). During the development cycle a Privacy Impact Assessment (PIA) must be completed, provided to the COR, and approved by the VA Privacy Service in accordance with VA Directive 6508, Implementation Of Privacy Threshold Analysis And Privacy Impact Assessment http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=767&FTYPE=2.

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

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

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

e. The security controls must be designed, developed, approved by VA, and implemented in accordance with the provisions of VA security system development life cycle as outlined in NIST Special Publication 800-37, Guide for Applying the Risk Management Framework to Federal Information Systems, VA Handbook 6500, Risk Management Framework For VA Information Systems – Tier 3: VA Information Security Program http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=793&FTYPE=2 and VA Handbook 6500.5, Incorporating Security and Privacy in System Development Lifecycle http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=485&FTYPE=2.

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

g. The contractor/subcontractor agrees to:

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

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

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

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

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

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

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

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

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

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

j. The vendor shall notify VA within 24 hours of the discovery or disclosure of successful exploits of the vulnerability which can compromise the security of the Systems (including the confidentiality or integrity of its data and operations, or the availability of the system). Such issues shall be remediated as quickly as is practical, but in no event longer than 30 days.

k. When the Security Fixes involve installing third party patches (such as Microsoft OS patches or Adobe Acrobat), the vendor will provide written notice to the VA that the patch has been validated as not affecting the Systems within 10 working days. When the vendor is responsible for operations or maintenance of the Systems, they shall apply the Security Fixes within 30 days.

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

5. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE

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

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

c. Outsourcing (contractor facility, contractor equipment or contractor staff) of systems or network operations, telecommunications services, or other managed services requires certification and accreditation (authorization) (C&A) of the contractor's systems in accordance with VA Handbook 6500.3, Assessment, Authorization, And Continuous Monitoring Of VA Information Systems http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=733&FType=2. Government- owned (government facility or government equipment) contractor-operated systems, third party or business partner networks require memorandums of understanding and interconnection agreements (MOU-ISA) which detail what data types are shared, who has access, and the appropriate level of security controls for all systems connected to VA networks.

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

e. The contractor/subcontractor must conduct an annual self-assessment on all systems and outsourced services as required. Both hard copy and electronic copies of the assessment must be provided to the COR. The government reserves the right to conduct such an assessment using government personnel or another contractor/subcontractor. The contractor/subcontractor must take appropriate and timely action

(this can be specified in the contract) to correct or mitigate any weaknesses discovered during such testing, generally at no additional cost.

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

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

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

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

(c) A statement needs to be signed by the Director (System Owner) that states that the drive could not be removed and that (a) and (b) controls above are in place and completed. The ISO needs to maintain the documentation.

6. SECURITY INCIDENT INVESTIGATION

a. The term "security incident" means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor/ subcontractor shall immediately notify the COR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/ subcontractor has access.

b. To the extent known by the contractor/subcontractor, the contractor/ subcontractor's notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the contractor/subcontractor considers relevant.

c. With respect to unsecured protected health information, the business associate is deemed to have discovered a data breach when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.

d. In instances of theft or break-in or other criminal activity, the contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and Security and Law Enforcement. The contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.

7. LIQUIDATED DAMAGES FOR DATA BREACH

a. Consistent with the requirements of 38 U.S.C. §5725, a contract may require access to sensitive personal information. If so, the contractor is liable to VA for liquidated damages in the event of a data breach or privacy incident involving any SPI the contractor/subcontractor processes or maintains under this contract. However, it is the policy of the VA to forgo collection of liquidated damages in the event the contractor provides payment of actual damages in an amount determined to be adequate by the agency.

b. The contractor/subcontractor shall provide notice to VA of a "security incident" as set forth in the Security Incident Investigation section above. Upon such notification, VA must secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for contract termination.

c. Each risk analysis shall address all relevant information concerning the data breach, including the following:

- (1) Nature of the event (loss, theft, unauthorized access);
- (2) Description of the event, including:
 - (a) date of occurrence;
 - (b) data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
- (3) Number of individuals affected or potentially affected;
- (4) Names of individuals or groups affected or potentially affected;
- (5) Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text;
- (6) Amount of time the data has been out of VA control;
- (7) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);

- (8) Known misuses of data containing sensitive personal information, if any;
- (9) Assessment of the potential harm to the affected individuals;
- (10) Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and
- (11) Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.

d. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount of \$37.50 per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:

- (1) Notification;
- (2) One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
- (3) Data breach analysis;
- (4) Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
- (5) One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
- (6) Necessary legal expenses the subjects of an SPI data breach may incur to repair falsified or damaged credit are not included in the liquidated damages amount and will be handled as actual damages, which the contractor should anticipate as among the costs of doing business, and should consider in developing its cost estimates.

8. SECURITY CONTROLS COMPLIANCE TESTING

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

9. TRAINING

a. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:

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

b. The contractor shall provide to the contracting officer and/or the COR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within 1 week of the initiation of the contract and annually thereafter, as required.

c. Failure to complete the mandatory annual training and sign the Rules of Behavior annually, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.

B.5 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes VAAR 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, and VAAR 852.215-71, Evaluation Factor Commitments. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing contractor compliance with the subcontracting commitments incorporated into the contract. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding contract compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor compliance with the subcontracting commitments.

B.6 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes FAR 52.219-14 Limitations on Subcontracting. Accordingly, any contract resulting from this solicitation will include this clause. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) retained by VA to assist in assessing the contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to contractor's offices where the contractor's business records or other proprietary data are retained and to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information,

paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

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 52.203-99 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.3 52.216-18 ORDERING (OCT 1995)

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

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

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

(End of Clause)

C.4 52.216-19 ORDER LIMITATIONS (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than one (1) procedure, 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 125 hours;

(2) Any order for a combination of items in excess of 150 hours; or

(3) A series of orders from the same ordering office within 30 calendar 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 five (5) calendar 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.5 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 the final expiration date of the contract.

(End of Clause)

C.6 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 calendar days of contract expiration.

(End of Clause)

C.7 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 calendar days of contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 calendar 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.8 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

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

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

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

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

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

(End of Clause)

C.9 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.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 the current Fiscal Year. 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 the current Fiscal Year, 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 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.12 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.13 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.14 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)

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

* Amounts are listed below:

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

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

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

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

* Amounts from paragraph (a) above:

\$1,000,000 per occurrence/\$3,000,000 aggregate

(End of Clause)

C.15 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

(End of Clause)

<u>FAR</u> <u>Number</u>	<u>Title</u>	<u>Date</u>
52.203-16	PREVENTING PERSONAL CONFLICTS OF INTEREST	DEC 2011
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	JUL 2016
52.224-1	PRIVACY ACT NOTIFICATION	APR 1984
52.224-2	PRIVACY ACT	APR 1984
52.227-14	RIGHTS IN DATA—GENERAL	MAY 2014
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013
52.237-3	CONTINUITY OF SERVICES	JAN 1991

(End of Addendum to 52.212-4)

C.16 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).

Employee Class

Monetary Wage-Fringe Benefits

(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)

SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

- Attachment 1 - QASP- Neurophysiology monitoring Services.
- Attachment 2 - Contractor Rules of Behavior.
- Attachment 3 - Organizational Conflict of Interest.
- Attachment 4 - Immigration and Nationality Act Certification.
- Attachment 5 - Blood Borne Pathogen Exposure Control Plan-1-8-16.
- Attachment 6 - Past Performance Questionnaire.
- Attachment 7 - NWHCS Medical Staff Bylaws Dec 02 2014.
- Attachment 8 - DUA-Neurophysiology Long Term.
- Attachment 9 - WD 2005-2325 Rev. 17 Dtd 12-29-2015.

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)

E.2 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.

Paragraph C of 52.212-1 Instructions to Offerors – Commercial Items is tailored with the following in order to extend the period of acceptance of offers:

(c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 120 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

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

E.3 PROPOSAL SUBMITTAL INSTRUCTIONS

PROPOSAL PREPARATION INSTRUCTIONS

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

Solicitation Questions:

Any questions to this solicitation must be submitted electronically to the Contract Specialist at Patrick.Karelis@va.gov no later than 10:00AM CST, January 6, 2016. No other form of communication will be accepted.

INFORMATION REGARDING SUBMISSION OF PROPOSAL: Faxed proposals will NOT be accepted. Proposals will be accepted typed or in legible handwriting. Proposals will be accepted by email to: patrick.karelis@va.gov be sure to number your emails (1 of 5, 2 of 5, etc)

OR proposals can be mailed or hand carried delivery to:

Department of Veterans Affairs
Network Contracting Office 23 (NCO 23)
ATTN: Patrick Karelis
708 S. Third Street, Suite 200E
Minneapolis, MN 55415

Offerors proposals are to be submitted in three parts: (1) a price proposal (the "Price Proposal"), (2) a technical proposal (the "Technical Proposal"), and (3) a Past Performance (see paragraph 3 below on submittal). The offeror shall include only one copy of each part.

*If mailed or hand carried: the offeror is required to submit a copy of the RFP response on CD-ROM along with the printed copy. Printed copies should not include marketing or promotional material. The electronic version (CD-ROM) of this RFP technical response shall be named **VISN 23 NWI Neurophysiology Monitoring Services [Vendor Name] RFP.doc**. Pricing information shall be entered into the Schedule of Services section of the RFP (Paragraph B.2 Schedule of Services); no other version of a pricing schedule will be accepted. All envelopes shall be clearly marked with the RFP number at the lower left-hand corner. Each envelope shall be identified as "PRICE PROPOSAL", "TECHNICAL PROPOSAL", and "PAST PERFORMANCE".*

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

Any questions to this solicitation must be submitted electronically to the Contract Specialist at Patrick.Karelis@va.gov no later than 1:00PM CST, January 2, 2016. No other form of communication will be accepted.

Specific Instructions:

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

- (a) Complete blocks 12, 17a and b, and 30a through c of the RFP, page 1, Standard Form (SF) 1449, and all fill-ins in the Contract Administration Data section and Contractor Administration Data section of the solicitation. In doing so, the offeror accedes to the contract terms and conditions as written in the solicitation in its entirety.
- (b) Insert proposed unit prices for each Contract Line Item Number (CLIN) including all option periods. All price proposals must be submitted using the Schedule of Services section of the RFP. The proposal must be submitted for a base year plus four option years.
- (a) Complete the necessary fill-ins for Key Personnel, if specified. (Otherwise, see paragraph 2d & 2e below for submittal). Contractor shall submit a listing of key personnel in the following format:
Neurophysiology Monitor Name: _____.
- (c) Complete the necessary fill-ins and certifications in the Contract Clauses section. Representations and Instructions section shall be returned in its entirety. For Description/Specifications through Contract Clauses sections, the offeror shall submit only the pages that require a fill-in.

- (d) The Contractor must return a signed: Quality Assurance Surveillance Plan (Attachment 1), Contractor Rules of Behavior (Attachment 2), Organization Conflict of Interest (Attachment 3), Immigration and Nationality Act Certification (Attachment 4), NWI Blood and Body Fluid Exposure Management (Attachment 5), Past Performance (Attachment 6), Data Use Agreement (Attachment 8)..
 - (e) Return any solicitation amendments to the original solicitation documents, signed by the same official authorized to sign the SF 1449.
2. PART II – TECHNICAL PROPOSAL – Submit one copy
- (a) **Section 1 – Cover letter.** Shall be a maximum two-page Cover Letter and shall include the name and address of the organization submitting the proposal, together with the name, address, e-mail address and telephone number of the contact person who has the actual power to legally bind the offeror and make representations relative to the offeror’s proposal and any resultant contract, for the offeror.
 - (b) **Section 2 – Table of Contents.** Shall be a detailed Table of Contents and shall include an outline of the proposal, identified by a sequential page number and section reference and section title.
 - (c) **Section 3 – Narrative Response to Evaluation Factors (See VAAR 852.273-73 Evaluation – Health Care Resources).** In order to evaluate each proposal, it is necessary that each offeror respond to all items in the same order as presented herein. Offers shall be organized with sections appropriately identified. Offerors are to propose how they intend to fulfill the requirements of this solicitation and how their total offer will meet the minimum needs of the specifications. The response should be concise and provide sufficient information to demonstrate the offeror’s capability to satisfactorily perform the objectives. The narrative response shall be typed not less than 12 pitch and be presented in the order of the technical evaluation factors. The offeror will use 8 ½” x 11” paper except for fold-outs used for charts, tables, or diagrams, which may not exceed 11” x 17.”
 - (d) Contractor shall submit a listing of key personnel in the following format:
Neurophysiology Monitor Name: _____.
 - (e) Curriculum Vitae of each key personnel shall be submitted with the proposal.
3. PART III – PAST PERFORMANCE – *Limited to no more than two (2) pages per contract listed. Only references for same or similar type contract. Submit one (1) copy.* As part of the evaluation process, the Government will assess each offeror’s past performance deemed relevant to the requirements of this solicitation. The offeror shall present factual material dealing with contracts held with other Government agencies or with private sector businesses on which the same or similar services were provided. Information requested includes successful execution of contracts, and in problem areas, the steps taken to resolve or correct. Offerors are cautioned that the Government will use information provided by the offerors and

information obtained from other sources in the development of the performance confidence assessments.

- (a) PAST PERFORMANCE QUESTIONNAIRES: Each offeror shall send out Past Performance Questionnaires (Attachment 6) to each of the offeror's past performance references identified in those contracts listed in the contractor's Past Performance Information. The responsibility to send out Past Performance Questionnaires rests solely with each offeror – IT SHALL NOT BE DELEGATED TO ANY OTHER ENTITY.
1. Complete Section A, General Information, of the Past Performance Questionnaire and fax or email Past Performance Questionnaire to all past performance references listed in the contractor's Past Performance Information. Evaluators are only allowed to use the Attachment 6, Past Performance Questionnaire. Altered or substituted questionnaires will not be evaluated. Offerors are responsible to ensure questionnaires are transmitted to their references, and to indicate which references the questionnaire was sent to (see paragraph c, Section 3, Narrative Response to Evaluation Factors above).
 2. Once the Past Performance Questionnaires are completed by the evaluator's POCs, the information contained in the Questionnaires shall be considered source selection sensitive and not released to you, the offeror. Questionnaires shall be sent directly to the Government.
 3. Past Performance Questionnaires are to be completed and sent directly to the Government by the evaluator completing the Questionnaire. It is the sole responsibility of the offeror to track the submission of Past and Present Performance Questionnaires and ensure that the Government receives them AS SOON AS POSSIBLE BUT NO LATER THAN THE CLOSING TIME AND DATE OF THE SOLICITATION. It is also the sole responsibility of the offeror to inform the evaluators of any extensions the Government approves to the date and time proposal are due to be submitted.
 4. The evaluator shall e-mail questionnaires to Patrick Karelis at patrick.karelis@va.gov.
 5. If the offeror claims there is no past performance, then that status must be identified to the Contracting Officer not later than the date/time proposals are due from all offerors.

(END OF CLAUSE)

E.4 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 contractors 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.5 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.6 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.7 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:

Scott Hendrix

Hand-Carried Address:

Department of Veterans Affairs

NCO 23 - Minneapolis

Attention: Scott Hendrix

708 S. Third St., Suite 200E

Minneapolis MN 55415

Mailing Address:

Department of Veterans Affairs

NCO 23 - Minneapolis

Attention: Scott Hendrix

708 S. Third St., Suite 200E

Minneapolis MN 55415

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

(End of Provision)

E.8 VAAR 852.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 2008)

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

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

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

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

(End of Provision)

E.9 VAAR 852.215-70 SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESS EVALUATION FACTORS (DEC 2009)

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

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

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

(End of Provision)

E.10 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.11 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.12 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008)

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

(End of Provision)

E.13 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)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	JUL 2016
52.204-17	OWNERSHIP OR CONTROL OF OFFEROR	JUL 2016
852.273-70	LATE OFFERS	JAN 2003

(End of Addendum to 52.212-1)

E.14 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 offer:

- (1) Technical Capability

- a. Experience
 - b. Timely Patient Access
- (2) Past Performance
 - (3) Veterans Preference
 - (4) Price

Relative Importance: Technical Capability and Past Performance will be afforded primary emphasis with Technical Capability being more important than Past Performance. Past Performance is more important than Veterans Preference. Sub-factors within the technical evaluation are equal in importance. Evaluation factors other than cost/price, when combined, are significantly more important than cost/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. This includes options under FAR 52.217-8, Option to Extend Services, which applies to this solicitation. Evaluation of options under FAR 52.217-8 will be accomplished by using the prices offered for the last option period to determine the price for a 6-month option period, which will be added to the base and other option years to arrive at the total price. Evaluation of options will 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.

Factor 1 Technical Capability:

The Technical Capability evaluation is divided into three (3) sub-factors. The technical rating will be based on the extent to which the offeror demonstrates the following:

The offeror shall address their understanding of VA's requirement to include their technical approach to fulfilling the requirement. The offeror shall be evaluated on the extent to which each of the numbered tasks delineated in the Performance Work Statement (PWS) are addressed. In addition, each offeror shall be evaluated specifically on the sub-factors referenced below:

1. **Experience:** The offeror must demonstrate the ability to meet the requirements by providing information on providing Neurophysiologic Monitoring Service. How many years of experience providing Neurophysiologic Monitoring Service?
2. **Timely Patient Access:** The offeror shall express ideas and processes that ensure the contractor can respond to emergent calls within 15 minutes (by phone) and within 60 minutes (in person) of being notified and all non-emergent or routine cases within a 24-48 hour notice. To include a staffing plan to show how the contractor will provide appropriate staffing to meet the schedule criteria under the PWS.

Factor 2 Past Performance: An offeror's past performance is important in determining its ability to successfully perform required services. The government is especially interested in recent and relevant

past performance that relates very closely to the requirement set forth in the performance-based work statement.

Provide a narrative identifying the type and scope of practice for the past (3) years addressing professional background, experience, and level of professional competence. Provide any information currently available (letters, metrics, customer surveys, independent surveys, etc.) which demonstrates customer satisfaction with overall job performance and quality of services provided for same or similar type contract. In addition, explain any corrective actions taken in the past, if any, for substandard performance and any current performance problems.

Provide documentation of any past or pending malpractice and/or tort claims.

The government will evaluate the quality and extent of offerors performance deemed relevant to the requirements of this RFP. The government will use information submitted by the offeror and other sources such as other Federal Government offices and commercial sources, to assess performance. The evaluation of past performance information will take into account past performance information regarding predecessor companies and key personnel who have relevant experience, that will perform major or critical aspects of the requirement when such information is relevant to the acquisition.

The Government may evaluate information on problems identified and encountered on previous contracts and corrective actions taken by the offeror. In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror will not be evaluated favorably or unfavorably on past performance.

(a). Past Performance will be evaluated in accordance with FAR 15.305(a) (2). Performance ratings assess the probability of the offeror successfully accomplishing the proposed effort based on the offerors past performance. In assessing past performance, the evaluators will primarily rely on information provided by offerors' completed past performance questionnaires. However, the Government may use data independently obtained from other government and commercial sources to be used in the evaluation process.

(b). The Government will evaluate the offerors ability to successfully perform the service based on demonstrated past and present experience under recent and relevant contracts. Recent is defined as projects performed in the last three (3) years. Relevant is defined as contracts involving the delivery of Neurophysiology Monitoring services.

(c). Recent past performance consists of contracts, completed or in progress, performed for Federal agencies and commercial customers within the last three (3) years from date of issuance of this solicitation. The purpose of the past performance evaluation is to allow the government to assess the offeror's ability to perform the effort described in this RFP, based on the offeror's demonstrated present and past performance. The assessment process will result in an overall Past Performance assessment in accordance with the ratings defined below. Offerors with no relevant past or present performance history or the offeror's performance record is so limited that no assessment rating can be reasonably assigned shall receive the rating "Neutral," meaning the rating is treated neither favorably nor unfavorably.

Factor 3 Veterans Preference:

In accordance with Veterans Affairs Acquisition Regulation (VAAR) 852.215-70, the VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

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

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

Factor 4 Price

The offer should contain the offeror's best terms from a price standpoint.

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).

In accordance with FAR 52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns, Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except offers from HUBZone small business concerns that have not waived the evaluation preference; and otherwise successful offers from small business concerns.

1. Although the price proposal is lower than the others in importance, it will contribute to the source selection decision. While price proposal will not be rated as is Technical Capability, Past Performance, and Veterans Preference evaluation criteria (Factors 1, 2, and 3), it will be evaluated in terms of fairness and reasonableness. After an evaluation of the Technical Capability, Past Performance, and Veterans Preference criteria have been completed, price will be compared against these evaluations to determine the combination most advantageous to the Government.

(END OF CLAUSE)

E.15 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (JUL 2016)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) Website

located at <https://www.sam.gov/portal>. If the Offeror has not completed the annual representations and certifications electronically, 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
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(2) *Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]*

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

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

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

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

(2) Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) *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 (1)(3) through (1)(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.

(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)