

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NO. 438-17-2-191-0011		PAGE 1 OF 88	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. ORDER NO.		5. SOLICITATION NUMBER VA263-17-R-0560	
6. SOLICITATION ISSUE DATE 04-27-2017		7. FOR SOLICITATION INFORMATION CALL: a. NAME Charles Morin		b. TELEPHONE NO. (No Collect Calls) 612-344-2149		8. OFFER DUE DATE/LOCAL TIME 05-12-2017 4:00PM CST	
9. ISSUED BY Department of Veterans Affairs NCO 23 - Minneapolis 708 S. Third St., Suite 200E Minneapolis MN 55415				10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB <input checked="" type="checkbox"/> SDVOSB and VOSB <input type="checkbox"/> 8(A) NAICS: 621399 SIZE STANDARD: \$7.5 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 NCO 23 - Minneapolis One Veterans Drive, Building 70 Minneapolis MN 55417			
16. ADMINISTERED BY Department of Veterans Affairs NCO 23 - Minneapolis 708 S. Third St., Suite 200E Minneapolis MN 55415				17a. CONTRACTOR/OFFEROR CODE FACILITY 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 type="checkbox"/> SEE ADDENDUM				19. ITEM NO.			
20. See CONTINUATION Page SCHEDULE OF SUPPLIES/SERVICES				21. QUANTITY			
22. UNIT				23. UNIT PRICE			
24. AMOUNT				25. ACCOUNTING AND APPROPRIATION DATA See CONTINUATION Page			
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 checked="" 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>one</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)			
31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) Contracting Officer				30c. DATE SIGNED			
31c. DATE SIGNED				32. AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE			

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SECTION B - CONTINUATION OF SF 1449 BLOCKS**B.1 CONTRACT ADMINISTRATION DATA**

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

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

a. CONTRACTOR:

b. GOVERNMENT:

Department of Veterans Affairs

NCO 23 - Minneapolis

708 S. Third St., Suite 200E

Attention: Charles Morin, Contract Specialist

Email: Charles.morin@va.gov

Phone: 612-334-2149

Minneapolis MN 55415

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

☒ 52.232-34, Payment by Electronic Funds Transfer—Other Than System For Award Management, or

☐ 52.232-36, Payment by Third Party

3. INVOICES: Invoices shall be submitted in arrears:

a. Quarterly ☐

b. Semi-Annually ☐

c. Other ☒ Monthly

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

Department of Veterans Affairs

Financial Services Center

PO Box 149971

Austin TX 78714-9971

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

AMENDMENT NO	DATE

(End of Clause)

B.2 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)

This solicitation includes VAAR 852.219-10 VA Notice of Total Service- Disabled Veteran-Owned Small Business Set-Aside. 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.

B.3 SCHEDULE OF SERVICES

SCHEDULE OF SERVICES

The Contractor shall furnish all personnel to provide services necessary to provide Registered Nurses (RN), Licensed Practical Nurses (LPN), or Sitter services for eligible beneficiaries of the Department of Veterans Affairs Medical Center, Sioux Falls VA Health Care System (hereinafter referred to as SFVAHCS).

Services provide will be on an as-needed basis in order to backfill during nursing shortages. This is an IDIQ contract and is solely intended for short-term backfill during nursing shortages. Services ordered off this IDIQ will be via the use of Task Orders.

Pricing Instructions:

Unit Cost will be the cost per hour per position description. All quantities are estimated as this is an IDIQ contract.

Guaranteed Minimum Order:

The Department of Veterans Affairs, SFVAHCS will guarantee a minimum order of \$35,000.00 on the base period and each exercised option period.

BASE Period: 6-26-2017 through 6-25-2018					
CLIN	Description	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Annual Cost</u>
0001	RN, CLC Sioux Falls SD	320	Hours	\$_____	\$_____
0002	RN, Emergency Department Sioux Falls, SD	160	Hours	\$_____	\$_____
0003	RN, ICU Sioux Falls, SD	80	Hours	\$_____	\$_____
0004	RN, Medical Surgical Sioux Falls, SD	160	Hours	\$_____	\$_____
0005	RN, Mental Health Sioux Falls, SD	80	Hours	\$_____	\$_____
0006	RN, Outpatient Sioux Falls, SD	80	Hours	\$_____	\$_____
0007	RN, Surgical Specialty Sioux Falls, SD	80	Hours	\$_____	\$_____
0008	RN, CBOC Locations (Aberdeen SD and Watertown SD)	80	Hours	\$_____	\$_____
0009	RN, CBOC Locations (Wager SD, Sioux City IA, and Spirit Lake IA)	80	Hours	\$_____	\$_____
0010	LPN Sioux Falls, SD	320	Hours	\$_____	\$_____
0011	Sitter Services Sioux Falls, SD	510	Hours	\$_____	\$_____
TOTAL ESTIMATED COST FOR BASE YEAR:					\$_____

OPTION YEAR 1: 6-26-2018 through 6-25-2019					
CLIN	Description	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Annual Cost</u>
1001	RN, CLC Sioux Falls SD	320	Hours	\$_____	\$_____
1002	RN, Emergency Department Sioux Falls, SD	160	Hours	\$_____	\$_____
1003	RN, ICU Sioux Falls, SD	80	Hours	\$_____	\$_____
1004	RN, Medical Surgical Sioux Falls, SD	160	Hours	\$_____	\$_____
1005	RN, Mental Health Sioux Falls, SD	80	Hours	\$_____	\$_____
1006	RN, Outpatient Sioux Falls, SD	80	Hours	\$_____	\$_____
1007	RN, Surgical Specialty Sioux Falls, SD	80	Hours	\$_____	\$_____
1008	RN, CBOC Locations (Aberdeen SD and Watertown SD)	80	Hours	\$_____	\$_____
1009	RN, CBOC Locations (Wager SD, Sioux City IA, and Spirit Lake IA)	80	Hours	\$_____	\$_____
1010	LPN Sioux Falls, SD	320	Hours	\$_____	\$_____
1011	Sitter Services Sioux Falls, SD	510	Hours	\$_____	\$_____
TOTAL ESTIMATED COST FOR OPTION YEAR 1:					\$_____

OPTION YEAR 2: 6-26-2019 through 6-25-2020					
CLIN	Description	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Annual Cost</u>
2001	RN, CLC Sioux Falls SD	320	Hours	\$_____	\$_____
2002	RN, Emergency Department Sioux Falls, SD	160	Hours	\$_____	\$_____
2003	RN, ICU Sioux Falls, SD	80	Hours	\$_____	\$_____
2004	RN, Medical Surgical Sioux Falls, SD	160	Hours	\$_____	\$_____
2005	RN, Mental Health Sioux Falls, SD	80	Hours	\$_____	\$_____
2006	RN, Outpatient Sioux Falls, SD	80	Hours	\$_____	\$_____
2007	RN, Surgical Specialty Sioux Falls, SD	80	Hours	\$_____	\$_____
2008	RN, CBOC Locations (Aberdeen SD and Watertown SD)	80	Hours	\$_____	\$_____
2009	RN, CBOC Locations (Wager SD, Sioux City IA, and Spirit Lake IA)	80	Hours	\$_____	\$_____
2010	LPN Sioux Falls, SD	320	Hours	\$_____	\$_____
2011	Sitter Services Sioux Falls, SD	510	Hours	\$_____	\$_____
TOTAL ESTIMATED COST FOR OPTION YEAR 2:					\$_____

OPTION YEAR 3: 6-26-2020 through 6-25-2021					
CLIN	Description	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Annual Cost</u>
3001	RN, CLC Sioux Falls SD	320	Hours	\$_____	\$_____
3002	RN, Emergency Department Sioux Falls, SD	160	Hours	\$_____	\$_____
3003	RN, ICU Sioux Falls, SD	80	Hours	\$_____	\$_____
3004	RN, Medical Surgical Sioux Falls, SD	160	Hours	\$_____	\$_____
3005	RN, Mental Health Sioux Falls, SD	80	Hours	\$_____	\$_____
3006	RN, Outpatient Sioux Falls, SD	80	Hours	\$_____	\$_____
3007	RN, Surgical Specialty Sioux Falls, SD	80	Hours	\$_____	\$_____
3008	RN, CBOC Locations (Aberdeen SD and Watertown SD)	80	Hours	\$_____	\$_____
3009	RN, CBOC Locations (Wager SD, Sioux City IA, and Spirit Lake IA)	80	Hours	\$_____	\$_____
3010	LPN Sioux Falls, SD	320	Hours	\$_____	\$_____
3011	Sitter Services Sioux Falls, SD	510	Hours	\$_____	\$_____
TOTAL ESTIMATED COST FOR OPTION YEAR 3:					\$_____

OPTION YEAR 4: 6-26-2021 through 6-25-2022					
CLIN	Description	Estimated Quantity	Unit	Unit Cost	Annual Cost
4001	RN, CLC Sioux Falls SD	320	Hours	\$_____	\$_____
4002	RN, Emergency Department Sioux Falls, SD	160	Hours	\$_____	\$_____
4003	RN, ICU Sioux Falls, SD	80	Hours	\$_____	\$_____
4004	RN, Medical Surgical Sioux Falls, SD	160	Hours	\$_____	\$_____
4005	RN, Mental Health Sioux Falls, SD	80	Hours	\$_____	\$_____
4006	RN, Outpatient Sioux Falls, SD	80	Hours	\$_____	\$_____
4007	RN, Surgical Specialty Sioux Falls, SD	80	Hours	\$_____	\$_____
4008	RN, CBOC Locations (Aberdeen SD and Watertown SD)	80	Hours	\$_____	\$_____
4009	RN, CBOC Locations (Wager SD, Sioux City IA, and Spirit Lake IA)	80	Hours	\$_____	\$_____
4010	LPN Sioux Falls, SD	320	Hours	\$_____	\$_____
4011	Sitter Services Sioux Falls, SD	510	Hours	\$_____	\$_____
TOTAL ESTIMATED COST FOR OPTION YEAR 4:					\$_____

TOTAL CONTRACT COST (BASE YEAR PLUS ALL OPTIONS COST):
\$_____

B.4 PERFORMANCE WORK STATEMENT (PWS)

PERFORMANCE WORK STATEMENT (PWS)

for

Registered Nurse (RN), Licensed Practical Nurse (LPN), Nurse Practitioner (NP), and Sitter Services for the Sioux Falls VA Health Care System (VAHCS) and assigned Community Based Outpatient Clinics (CBOCs)

1. GENERAL

1.1. Services Provided: The Contractor shall provide one or more registered nurses (RN), nurse practitioners (NP), licensed practical nurses (LPN) or sitters in accordance with the terms and conditions stated herein at the Sioux Falls VA Health Care System (SFVAHCS) for various shifts. Services to be performed as supplemental staffing coverage.

1.2. Place of Performance - Contractor shall furnish services at the following locations:

1.2.1. Sioux Falls VA Health Care System (VAHCS), 2501 West 22nd Street, Sioux Falls, South Dakota 57105

1.2.2. Community Based Outpatient Clinics (CBOCs):

1.2.2.1.1. Aberdeen CBOC, 2301 8th AVE NE, STE 225, Aberdeen, SD 57401

1.2.2.1.2. Wagner CBOC, 400 West Hwy 46, Wagner, SD 57380

1.2.2.1.3. Watertown CBOC, 917 29th Street SE, Watertown, SD 57201

1.2.2.1.4. Spirit Lake CBOC, 1310 Lake Street, Spirit Lake, IA 51360

1.2.2.1.5. Sioux City CBOC, 1551 Indian Hills Dr, STE 206, Sioux City, IA 51104

1.3. Authority: Title 38, USC 8153, Health Care Resources (HCR) Sharing Authority.

1.4. Policy/Handbooks: The contractor shall be subject to the following policies, including any subsequent updates during the period of performance:

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

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

- 1.4.3.VHA Handbook 1100.17: National Practitioner Data Bank Reports -
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2135
- 1.4.4.VHA Handbook 1100.18 Reporting And Responding To State Licensing Boards -
http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1364
- 1.4.5.VHA Handbook 1100.19 Credentialing and Privileging -
http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2910
- 1.4.6.VHA Handbook 1907.01 Health Information Management and Health Records:
http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=3088
- 1.4.7.Privacy Act of 1974 (5 U.S.C. 552a) as amended
http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm
- 1.5. Definitions/Acronyms- Terms used in this task order shall be interpreted as follows unless the context expressly requires a different construction and/or interpretation. In case of a conflict in language between the Definitions and other sections of this task order, the language in this section shall govern.
 - 1.5.1. ADPCS/NE: Associate Director Patient Care Services/Nurse Executive
 - 1.5.2. ABIM: American Board of Internal Medicine <http://www.abim.org/>
 - 1.5.3. ACEN: Accreditation Commission for Education in Nursing:
<http://www.acenursing.org/>
 - 1.5.4. ACEP: American College of Emergency Physicians
 - 1.5.5. ACGME: Accreditation Council for Graduate Medical Education
 - 1.5.6. ACLS: Advanced Cardiac Life Support
 - 1.5.7. ATLS: Advanced Trauma Life Support
 - 1.5.8. AOD: Admitting Officer of the Day
 - 1.5.9. BLS: Basic Life Support
 - 1.5.10. CCNE: Commission on Collegiate Nursing Education:
www.aacn.nche.edu/accreditation
 - 1.5.11. CDC: Centers for Disease Control and Prevention
 - 1.5.12. CDR: Contract Discrepancy Report
 - 1.5.13. CEU: Certified Education Unit
 - 1.5.14. CME: Continuing Medical Education
 - 1.5.15. CMS: Centers for Medicare and Medicaid Services
 - 1.5.16. Contracting Officer (CO) – The person executing this task order on behalf of the Government with the authority to enter into and administer contracts and make related determinations and findings.
 - 1.5.17. Contracting Officer’s Representative (COR) – A person appointed by the CO to take necessary action to ensure the Contractor performs in accordance with and adheres to the specifications contained in the task order and to protect the interest of the Government. The COR shall report to the CO promptly any indication of non-compliance in order that appropriate action can be taken.
 - 1.5.18. COS: Chief of Staff
 - 1.5.19. CPARS: Contractor Performance Assessment Reporting System
 - 1.5.20. CPRS: Computerized Patient Recordkeeping System- electronic health record system used by the VA.

- 1.5.21. Credentialing: Credentialing is the systematic process of screening and evaluating qualification and other credentials, including licensure, required education, relevant training and experience and current competence and health status.
- 1.5.22. DEA: Drug Enforcement Agency
- 1.5.23. ED: Emergency Department
- 1.5.24. FSMB: Federation of State Medical Boards
- 1.5.25. HHS: Department of Health and Human Services
- 1.5.26. HIPAA: Health Insurance Portability and Accountability Act
- 1.5.27. HR: Human Resources
- 1.5.28. ISO: Information Security Officer
- 1.5.29. Medical Emergency - a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably result in: Permanently placing a patient's health in jeopardy, causing other serious medical consequences, causing impairments to body functions, or causing serious or permanent dysfunction of any body-organ or part.
- 1.5.30. MOD: Medical Officer of the Day
- 1.5.31. National Provider Identifier (NPI): NPI is a standard, unique 10-digit numeric identifier required by HIPAA. The Veterans Health Administration must use NPIs in all HIPAA-standard electronic transactions for individual (health care practitioners) and organizational entities (medical centers).
- 1.5.32. Non-Contract Provider - any person, organization, agency, or entity that is not directly or indirectly employed by the Contractor or any of its subcontractors
- 1.5.33. NP: Nurse Practitioner
- 1.5.34. NPPES: National Plan and Provider Enumeration System
- 1.5.35. PA: Physician Assistant
- 1.5.36. PACT: Patient Aligned Care Team
- 1.5.37. PALS: Pediatric Advanced Life Support
- 1.5.38. POP: Period of Performance
- 1.5.39. PPD: Purified Protein Derivative
- 1.5.40. PWS: Performance Work Statement
- 1.5.41. Privileging (Clinical Privileging): Privileging is the process by which a practitioner, licensed for independent practice; e.g., without supervision, direction, required sponsor, preceptor, mandatory collaboration, etc.; is permitted by law and the facility to practice independently, to provide specific medical or other patient care services within the scope of the individual's license, based upon the individual's clinical competence as determined by peer references, professional experience, health status, education, training and licensure. Clinical privileges must be facility-specific and provider-specific.
- 1.5.42. QASP: Quality Assurance Surveillance Plan
- 1.5.43. Sitter: Patient Sitter
- 1.5.44. Veterans Health Administration (VHA): The central office for administration of the VA medical centers through throughout the United States. The VHA is located in Washington, D.C.
- 1.5.45. Veterans Integrated Services Network (VISN): The regional oversight for the VA medical centers in Michigan and Indiana.
- 1.5.46. VISTA (Veterans Integrated Systems Technology Architecture): A PC based system that will capture and store clinical imagery, scanned documents and other non-textual data files and integrates them into patient's medical record and with the hospital information system.
- 1.5.47. VetPro: a federal web-based credentialing program for healthcare providers.

- 1.5.48. Veterans Affairs Medical Center (VAMC): Unless identified with the name of a different VA Medical Center, for purposes of this task order, this term shall mean the Sioux Falls VA Health Care System.
- 1.5.49. Veterans Health Care System (VAHCS): Unless identified with the name of a different VA Health Care System, for purposes of this task order, this term shall mean the Sioux Falls VA Health Care System.

2. QUALIFICATIONS

2.1. Contract Staff/Facility

2.1.1. License - Contract staff, nurse(s) and nurse practitioner(s) assigned by the Contractor to perform the services covered by this contract shall have a current license to practice medicine in any State, Territory, or Commonwealth of the United States or the District of Columbia. All licenses held by the personnel working on this contract shall be full and unrestricted licenses. Contract nurse(s) or nurse practitioner(s) who have current, full and unrestricted licenses in one or more states, but who have, or ever had, a license restricted, suspended, revoked, voluntarily revoked, voluntarily surrendered pending action or denied upon application will not be considered for the purposes of this contract.

2.1.2. Credentialing and Privileging – Certification for nurse practitioners who will provide care in accordance with this contract to the Associate Director Patient Care Services/Nurse Executive, Sioux Falls VA Health Care System, at the beginning of each contract year. All qualifications are subject to review by the Nurse Executive. The Contracting Officer will be notified prior to any changes in personnel. VA reserves the right to approve the assignment of individual personnel furnished by the Contractor to perform the functions specified in the contract.

2.1.2.1. ** Only NPs are credentialed and privileged; all RNs, NPs and LPNs are licensed. Sitters should be certified as nursing assistants.

2.1.2.2. If a contract nurse or nurse practitioner is not credentialed and privileged or has credentials/privileges suspended or revoked, the Contractor shall furnish an acceptable substitute without any additional cost to the government.

2.1.3. Technical Proficiency - Contract staff shall be technically proficient in the skills necessary to fulfill the government's requirements, including the ability to speak, understand, read and write English fluently. Contractor shall provide documents upon request of the CO/COR to verify current and ongoing competency, skills, certification and/or licensure related to the provision of care, treatment and/or services performed. Contractor shall provide verifiable evidence of all educational and training experiences including any gaps in educational history for all contract staff. Contract NP staff shall be responsible for abiding by the Facility's Medical Staff By-Laws, rules, and regulations (referenced herein) that govern medical staff behavior. RNs, LPNs, and CNAs shall be responsible for abiding by state licensing board standards, VA policies and procedures, and Code of Ethics.

2.1.4. Continuing Medical Education (CME)/Certified Education Unit (CEU) Requirements: Contractor shall provide the COR copies of current CMEs as required or requested by

the SFVAHCS. Contracted staff that are certified or licensed in a state that requires continuing education will continue to meet the minimum standards to remain current with certification and/or licensure. Contractor shall report CME hours to the credentials office for tracking. These documents are required for both privileging and re-privileging. Failure to provide shall result in loss of privileges for contract staff.

2.1.5. Training (ACLS, BLS, CPRS and VA MANDATORY): Contractor shall meet all VA educational requirements and mandatory course requirements defined herein; all training must be completed by the contract staff as required by the VA. Additional training requirements may be added at the discretion of the Government. Training requirements may include the following:

- Active Threat Training
- Advanced Cardiac Life Support (ACLS), as required for specific nursing areas.
- Age Specific and Cultural Competencies
- Basic Life Support (BLS)
- Computerized Patient Record System (CPRS) Training
- Infection Control and Bloodborne Pathogens
- Patient Abuse
- Patient Safety
- Patient Rights
- Prevention & Management of Disruptive Behavior (PMDb) Level I
- VA Privacy and Information Security Awareness and Rules of Behavior
- VHA Privacy and HIPAA Focused Training

2.1.6. Standard Personnel Testing (PPD, etc.): Contractor shall provide proof of the following tests for contract staff within five (5) calendar days after task order award and prior to the past year.

2.1.6.1. TUBERCULOSIS TESTING: Contractor shall provide proof of a negative reaction to PPD testing for all contract staff. A negative chest radiographic report for active tuberculosis shall be provided in cases of positive PPD results. The PPD test shall be repeated annually.

2.1.6.2. RUBELLA TESTING: Contractor shall provide proof of immunization for all contract staff for measles, mumps, rubella or a rubella titer of 1.8 or greater. If the titer is less than 1.8, a rubella immunization shall be administered with follow-up documentation to the COR.

2.1.6.3. OSHA REGULATION CONCERNING OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS: Contractor shall provide generic self-study training for all contract staff; 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 SFVAHCS shall notify the Contractor of any significant communicable disease exposures as appropriate. Contractor shall adhere to current CDC/HICPAC Guideline

for Infection Control in health care personnel (as published in American Journal for Infection Control- AJIC 1998; 26:289-354 <http://www.cdc.gov/hicpac/pdf/InfectControl98.pdf>) for disease control. Contractor shall provide follow up documentation of clearance to return to the workplace prior to their return.

- 2.1.7. Conflict of Interest: The Contractor and all contract staff are responsible for identifying and communicating to the CO and COR conflicts of interest at the time of proposal and during the entirety of task order performance. At the time of proposal, the Contractor shall provide a statement which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided. The Contractor shall also provide statements containing the same information for any identified consultants or subcontractors who shall provide services. The Contractor must also provide relevant facts that show how it's organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest. These statements shall be in response to the VAAR provision 852.209-70 Organizational Conflicts of Interest (Jan 2008) and fully outlined in response to the subject attachment in Section D of the solicitation document.

2.1.8. Citizenship related Requirements

- 2.1.8.1. The Contractor certifies that the Contractor shall comply with any and all legal provisions contained in the Immigration and Nationality Act of 1952, As Amended; its related laws and regulations that are enforced by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor as these may relate to non-immigrant foreign nationals working under contract or subcontract for the Contractor while providing services to Department of Veterans Affairs patient referrals;
- 2.1.8.2. While performing services for the Department of Veterans Affairs, the Contractor shall not knowingly employ, contract or subcontract with an illegal alien; foreign national non-immigrant who is in violation their status, as a result of their failure to maintain or comply with the terms and conditions of their admission into the United States. Additionally, the Contractor is required to comply with all "E-Verify" requirements consistent with "Executive Order 12989" and any related pertinent Amendments, as well as applicable Federal Acquisition Regulations.
- 2.1.8.3. If the Contractor fails to comply with any requirements outlined in the preceding paragraphs or its Agency regulations, the Department of Veterans Affairs may, at its discretion, require that the foreign national who failed to maintain their legal status in the United States or otherwise failed to comply with the requirements of the laws administered by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor, shall be prohibited from working at the Contractor's place of business that services Department of Veterans

Affairs patient referrals; or other place where the Contractor provides services to veterans who have been referred by the Department of Veterans Affairs; and shall form the basis for termination of this task order for breach.

2.1.8.4. This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

2.1.8.5. The Contractor agrees to obtain a similar certification from its subcontractors.

2.1.9. Annual Office of Inspector General (OIG) Statement: In accordance with HIPAA and the Balanced Budget Act (BBA) of 1977, the Department of Health and Human Services (HHS) Office of Inspector General (OIG) has established a list of parties and entities excluded from Federal health care programs. Specifically, the listed parties and entities may not receive Federal Health Care program payments due to fraud and/or abuse of the Medicare and Medicaid programs.

2.1.9.1. Therefore, Contractor shall review the HHS OIG List of Excluded Individuals/Entities on the HHS OIG web site at <http://oig.hhs.gov/exclusions/index.asp> to ensure that the proposed contract staff is not listed. Contractor should note that any excluded individual or entity that submits a claim for reimbursement to a Federal health care program, or causes such a claim to be submitted, may be subject to a Civil Monetary Penalty (CMP) for each item or service furnished during a period that the person was excluded and may also be subject to treble damages for the amount claimed for each item or service. CMP's may also be imposed against the Contractor that employ or enter into contracts with excluded individuals to provide items or services to Federal program beneficiaries.

2.1.9.2. By submitting their proposal, the Contractor certifies that the HHS OIG List of Excluded Individuals/Entities has been reviewed and that the Contractors are and/or firm is not listed as of the date the offer/bid was signed.

2.2. Clinical/Professional Direction: The qualifications of Contractor NPs are subject to review by VA Medical Center COS or his/her clinical designee and approval by the Medical Center Director as provided in VHA Handbook 1100.19. Clinical/Professional direction of all clinical personnel covered by this contract or task order will be provided by the SFVAHCS COS and/or the Chief of the Service or his designee. A clinical COR may be appointed, however, only the CO is authorized to consider any contract or task order modification request and/or make changes to the contract or task order during the administration of the resultant contract or task order. The ADPCS/NE shall review, along with human resources, all licensure and qualifications for nurses, NPs, and sitters.

2.3. Non Personal Healthcare Services: The parties agree that the Contractor and all contract staff shall not be considered VA employees for any purpose.

- 2.4. Inherent Government Functions: Contractor and Contract staff shall not perform inherently governmental functions. This includes, but is not limited to, determination of agency policy, determination of Federal program priorities for budget requests, direction and control of government employees (outside a clinical context), selection or non-selection of individuals for Federal Government employment including the interviewing of individuals for employment, approval of position descriptions and performance standards for Federal employees, approving any contractual documents, approval of Federal licensing actions and inspections, and/or determination of budget policy, guidance, and strategy.
- 2.5. No Employee status: The Contractor shall be responsible for protecting Contract staff furnishing services. To carry out this responsibility, the Contractor shall provide or certify that the following is provided for all their staff providing services under the resultant task order:
- 2.5.1.1. Workers' compensation
 - 2.5.1.2. Professional liability insurance
 - 2.5.1.3. Health examinations
 - 2.5.1.4. Income tax withholding, and
 - 2.5.1.5. Social security payments.
- 2.6. Tort Liability: The Federal Tort Claims Act does not cover Contractor or contract staff. When a Contractor or contract staff has been identified as a provider in a tort claim, the Contractor shall be responsible for notifying their legal counsel and/or insurance carrier. Any settlement or judgment arising from a Contractor's (or contract staff) action or non-action shall be the responsibility of the Contractor and/or insurance carrier.
- 2.7. Key Personnel:
- 2.7.1. This being an IDIQ contract, the key personnel may vary; the offeror should be able to provide three (3) qualified personnel for each CLIN.
 - 2.7.2. For all qualifications listed, certification of the above shall be provided by the Contractor for *every* nurse and sitter who will provide care in accordance with this contract to the Associate Director Patient Care Services/Nurse Executive, Sioux Falls VA Health Care System, at the beginning of each contract year. All qualifications are subject to review by the Nurse Executive. The Contracting Officer will be notified prior to any changes in personnel. VA reserves the right to approve the assignment of individual personnel furnished by the Contractor to perform the functions specified in the contract.
 - 2.7.3. It is essential that continuity of services is maintained to the maximum degree possible, hence, substitution of contractor provided Staff shall be limited to urgent/emergent absences of approved, assigned providers. The Contractor shall be responsible for providing coverage to the VA during periods of vacancies of the Contractor's personnel due to sick leave, personal leave, vacations and additional coverage as required. In the event a scheduled staff is unable to complete an assigned shift, the contractor shall provide replacement staff coverage and notify the Contracting Officer Representative (COR) immediately of the schedule change.

2.8. Personnel Substitutions: During the first thirty (30) calendar days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death or termination of employment. The Contractor shall notify the CO, in writing, within fifteen (15) calendar days after the occurrence of any of these events and provide the information required below. After 90 days, the Contractor shall submit the information required below to the CO at least fifteen (15) calendar days prior to making any permanent substitutions.

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

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

2.8.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. Should the VA COS or designee show documented clinical problems or continual unprofessional behavior/actions with any contract staff, she/he may request, without cause, immediate replacement of said contract staff.

2.8.4. The CO and COR shall deal with issues raised concerning Contract staff conduct. The final arbiter on questions of acceptability is the CO.

2.9. Contingency Plan: Because continuity of care is an essential part of the Sioux Falls VAHCS medical services, the Contractor shall have a contingency plan in place to be utilized if the contract staff leaves Contractor's employment or is unable to continue performance in accordance with the terms and conditions of the resulting contract or task order.

3. HOURS OF OPERATION

3.1. VA Business Hours: The VAHCS is open 24 hours a day, seven (7) days a week, including holidays.

3.2. Work Schedule: Shift tours and hours will vary. Contracted staff will be required to work days, nights, evenings, weekends, and holidays on rotating shifts. Shifts are various hours and durations.

3.3. Cancellations: The VA shall give the contractor advanced notice for discontinuance of assignment for tour within eight (8) hours of the intended tour without penalty.

3.4. Unless a state of emergency has been declared or clinics are otherwise cancelled by the Sioux Falls VAHCS, the Contractor shall be responsible for providing services.

3.5. Federal Holidays: The following holidays are observed by the Department of Veterans Affairs:

- New Year's Day
- President's Day
- Martin Luther King's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving
- Christmas
- Any day specifically declared by the President of the United States to be a national holiday.

4. CONTRACTOR RESPONSIBILITIES

4.1. Clinical Personnel Required: The Contractor shall provide contract staff that are competent, qualified per this performance work statement and adequately trained to perform assigned duties.

4.1.1.1. Contract staff shall be responsible for signing in and out when in attendance. Time sheets will be used by the COR to confirm hours/day and services provided against the contractor's invoices.

4.1.1.2. The Contractor is responsible for providing back up coverage for any unplanned leave.

4.1.1.3. The contractor shall provide an evaluation tool to be completed by VA personnel regarding the contracted staff's performance and conduct. Should performance or conduct be deemed inappropriate, the contracted staff will be exempt from returning to the VA.

4.2. Standards of Care: The contract staff care shall cover the range of Nursing service as would be provided in a state-of-the-art health care treatment facility and the standard of care shall be of a quality, meeting or exceeding currently recognized national standards as established by:

4.2.1.1. Association of perioperative Registered Nurses: AORN:
<https://docs.askives.com/aorn-standards-of-practice.html>

- 4.2.1.2. VA Standards: VHA Directive 2006-041 “Veterans’ Health Care Service Standards” (expired but still in effect pending revision)
https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1443
 - 4.2.1.3. The professional standards of The Joint Commission (TJC)
http://www.jointcommission.org/emergency_department/
 - 4.2.1.4. The standards of the American Hospital Association (AHA)
<http://www.hpoe.org/resources?show=100&type=8> and;
 - 4.2.1.5. The requirements contained in this PWS.
- 4.3. **PATIENT CARE DOCUMENTATION:** Contract staff shall be responsible for complying with documentation and ensuring that all notes and encounters are completed and signed and shall appropriately document medical records in accordance with VA standards, equivalent to TJC compliance guidelines, standard commercial practice and guidelines established by SFVAHCS. Timeliness standards for encounters are closure within 7 days. Timeliness for signing of notes is within 10 days. Discharge summaries to be completed within 24 hours. All visit or shift documentation must be completed prior to the contracted staff leaving the VA premises.

4.4. MEDICAL RECORDS

- 4.4.1. **Authorities:** Contract staff providing healthcare services to VA patients shall be considered as part of the Department Healthcare Activity and shall comply with the U.S.C.551a (Privacy Act), 38 U.S.C. 5701 (Confidentiality of claimants records), 5 U.S.C. 552 (FOIA), 38 U.S.C. 5705 (Confidentiality of Medical Quality Assurance Records) 38 U.S.C. 7332 (Confidentiality of certain medical records), Title 5 U.S.C. § 522a (Records Maintained on Individuals) as well as 45 C.F.R. Parts 160, 162, and 164 (HIPAA).
- 4.4.2. This order and its requirements meet exception in 45 CFR 164.502(e), and do not require a BAA in order for Covered Entity to disclose Protected Health Information to: a health care provider for treatment. Based on this exception, a BAA is not required for this task order. Treatment and administrative patient records generated by this task order or provided to the Contractors by the VA are covered by the VA system of records entitled ‘Patient Medical Records-VA’ (24VA19). Contractor generated VA Patient records are the property of the VA and shall not be accessed, released, transferred, or destroyed except in accordance with applicable laws and regulations. Contractor shall ensure that all records pertaining to medical care and services are available for immediate transmission when requested by the VA. Records identified for review, audit, or evaluation by VA representatives and authorized federal and state officials, shall be accessed on-site during normal business hours or mailed by the Contractor at his expense. Contractor shall deliver all final patient records, correspondence, and notes to the VA within twenty-one (21) calendar days after the task order expiration date.
- 4.4.3. **Disclosure:** Contract staff may have access to patient medical records: however, Contractor shall obtain permission from the VA before disclosing any patient information. Subject to applicable federal confidentiality or privacy laws, the Contractor, or their designated representatives, and designated representatives of federal regulatory agencies having jurisdiction over Contractor, may have access to VA’s records, at VA’s place of business on request during normal business hours, to

inspect and review and make copies of such records. The VA will provide the Contractor with a copy of VHA Handbook 1907.1, Health Information management and Health Records and VHA Handbook 1605.1, Privacy and Release of Information. The penalties and liabilities for the unauthorized disclosure of VA patient information mandated by the statutes and regulations mentioned above, apply to the Contractor.

- 4.4.4. Standards for Documenting Care: Care shall be appropriately documented in the electronic medical records in accordance with standard commercial practice and guidelines established by VHA Handbook 1907.01 *Health Information Management and Health Records*:
http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=1423 and all guidelines provided by the SFVAHCS.

- 4.4.5. Release of Information: The VA shall maintain control of releasing any patient medical information and will follow policies and standards as defined, but not limited to Privacy Act requirements. In the case of the VA authorizing the Contractor to release patient information, the Contractor in compliance with VA regulations, and at his/her own expense, shall use VA Form 3288, Request for and Consent to Release of Information from Individual's Records, to process "Release of Information Requests." In addition, the Contractor shall be responsible for locating and forwarding records not kept at their facility. The VA's Release of Information Section shall provide the Contractor with assistance in completing forms. Additionally, the Contractor shall use VA Form 10-5345, Request for and Authorization to Release Medical Records or Health Information, when releasing records protected by 38 U.S.C. 7332. Treatment and release records shall include the patient's consent form. Completed Release of Information requests will be forwarded to the VA Privacy Officer at the following address:

AARON CORK (aaron.cork@va.gov)
 Privacy Officer, FOIA, Records Management
 Building 16
 2205 West 22nd Street, Sioux Falls, SD 57105
 Phone: 605-336-3230 Ext 9-6784

- 4.5. Direct Patient Care: 90% of the time involved in direct patient care. Per the qualification section of this PWS, the Contractor shall provide the following staff with the scope of care including the unit description, qualifications, required skills and work hours:

4.5.1. Medical Surgical Nursing

- 4.5.1.1. Unit Description: The medical surgical unit is located on two floors in the medical center. There are 8 beds on each floor with an anticipated opening of additional beds in 2017. Services include telemetry, orthopedics, medicine and general surgery
- 4.5.1.2. Scope: RN to work on an acute care medical/surgical unit. RN will be responsible for patient assessments, medication administration, IV therapy, interdisciplinary team coordination, telemetry monitoring, admissions, and discharges, internal and external transfers, delegating to

assistive personnel, electronic medical record documentation, patient transport, and emergency response procedures. ACLS is required.

- 4.5.1.3. Work Shift: Twelve (12) hour shifts; including days, nights, weekdays, weekends and holidays.

4.5.2. Emergency Department Nursing

- 4.5.2.1. Unit Description: The emergency department (ED) is a three (3) bed unit (with the capacity of six (6) beds). Ambulances are accepted at the discretion of the attending physician. STEMI's, surgical vascular patients, maternal and extensive trauma patients are diverted due to services being unavailable in-house. The most frequent diagnosis seen in the ED in FY2010 (according to coded encounters) include: lumbago, URI's, limb pain, and COPD.

- 4.5.2.2. Scope: RN will be responsible for: patient assessments, medication administration, IV therapy, telemetry monitoring, discharges, external transfers, delegating to assistive personnel, electronic medical record documentation, patient transport, and emergency response procedures. ER/Critical care experience, ability to function independently in stressful environment, knowledge of ESI triage scale. ACLS is required.

- 4.5.2.3. Work Shift: Twelve (12) hour shifts; including weekdays, nights, weekends, and holidays.

4.5.3. Intensive Care Unit (ICU) Nursing

- 4.5.3.1. Unit Description: The ICU is a 6 bed mixed unit for surgical and medical patients, direct human and constant electronic monitoring of patients who require continuous care. The ICU team will also be sensitive to the spiritual and emotional needs of the patient and families of the patient. The ICU will also serve as a teaching and learning environment for interdisciplinary staff. The ICU may also be used if bed space allows for: 1) off hours surgical recovery and post-procedure recoveries, 2) cardio versions, 3) and invasive procedures in non-ICU patients.

- 4.5.3.2. Scope: Medical and surgical care is provided to patients in ICU. The scope of care includes patient who are critically ill or whose conditions require the intensive monitoring services of ICU and are at risk of needing immediate intensive treatment. Treatment/procedures provided in the ICU include, but are not limited to: arterial line monitoring, hemodynamic monitoring, central line monitoring, mechanical ventilation, ECG monitoring and interpretation, gastric lavage, pulse oximetry, pacemaker monitoring, administration of vaso-active intravenous medication, thrombolytic therapy, elective cardioversion, hemodialysis and post anesthesia recovery as needed. ACLS is required.

- 4.5.3.3. Work Shift: Twelve (12) hour shifts; including weekdays, nights, weekends and holidays.

4.5.4. Outpatient Clinic Nursing.

- 4.5.4.1. Unit Description: The Primary Care Outpatient Clinic department in Sioux Falls operates under the Patient Aligned Care Team (PACT) model of care. We see approximately 130-140 patients per day. We see patients for all types of primary care services including nursing walk-in appointments and procedures such as paracentesis, thoracentesis and joint injections.
- 4.5.4.2. Scope: Ability to utilize the nursing process and evidence-based practice to collaborate with a Patient Aligned Care team (Patient, Primary Care Provider, and Clinical Support Technician) and larger teams (family/caregiver, internal and community-based services involved in providing care to the patient) in developing patient-driven holistic care plan for life. Collaborate with patients to assess and identify needs, issues, care goals, and resources in critical factors for achieving desired outcomes for discharge, post hospital recovery, and health maintenance/wellness, promote patient and family health education with a focus on self-management, prevention, and wellness based on patient's goals. Collaborate with services internal and external to the VA to facilitate care transition in order to effectively meet the patient's needs.
- 4.5.4.3. Work Shift: 7:30 AM to 4:00 PM, Monday through Friday.

4.5.5. Community Living Center (CLC)

- 4.5.5.1. Unit Description: The Community Living Center (CLC) is a 58 bed unit which provides transitional and/or intermediate care for Veterans ages 20-100 with a variety of clinically and psychosocially complex needs. The majority of patients are over age 50. Many conditions are chronic including CHF, COPD, OM, SCI, ALS, stroke, or MS. Chronic and significant pressure ulcers are treated. Oncology patients are housed during treatments or for hospice care. Post-surgical hips, knees, spine, amputation and heart surgery are rehabilitated. Cognitive disorders and /or dementia are evaluated, treated and have difficult discharge planning needs met. Also offer respite care for a number of functionally dependent Veterans who are usually cared for at home. The nurse is required to be able to pass medications, use Omni cell and BCMA system and CPRS and VISTA documentation.
- 4.5.5.2. Scope: RN assigned to work on community living center will be responsible for patient assessments, medication administration, IV therapy, interdisciplinary team coordination, admissions, discharges, internal and external transfers, delegating to assistive personnel, electronic medical record documentation, patient transport, and emergency response procedures. LPN assigned to CLC will be responsible for medication administration, IV therapy, daily cares of veteran, electronic medical records and patient transport.

- 4.5.5.3. Work Shift: Twelve (12) hour shifts; including days, nights, weekdays, weekends and holidays.
- 4.5.6. Community Based Outpatient Clinic (CBOC).
 - 4.5.6.1. Unit Description: Community Based Outpatient Clinic (CBOC) RN performs nursing duties in a clinic setting. The clinics are located in Aberdeen, SD; Sioux City, IA; Spirit Lake, IA; Wagner, SD; and Watertown, SD.
 - 4.5.6.2. Scope: Ability to utilize the nursing process and evidence-based practice to collaborate with a Patient Aligned Care team (Patient, Primary Care Provider, and Clinical Support Technician) and larger teams (family/caregiver, internal and community-based services involved in providing care to the patient) in developing patient-driven holistic care plan for life. Collaborate with patients to assess and identify needs, issues, care goals, and resources in critical factors for achieving desired outcomes for discharge, post hospital recovery, and health maintenance/wellness, promote patient and family health education with a focus on self-management, prevention, and wellness based on patient's goals. Collaborate with services internal and external to the VA to facilitate care transition in order to effectively meet the patient's needs. RN will be responsible for patient assessments, medication administration, delegating to assistive personnel, electronic medical record documentation, draw labs, process specimens for transfer to Sioux Falls, and phone triage.
 - 4.5.6.3. Work Shift: 8:00 AM to 4:30 PM, Monday through Friday.
- 4.5.7. Sitter Services
 - 4.5.7.1. Unit Description: Services to be provided on the medical surgical unit and the community living centers.
 - 4.5.7.2. Scope: Patients assessed and identified by a Registered Nurse (RN) as requiring a sitter and confirmed by a provider order, will be provided one for the duration of the patients' need. This service is not intended for the suicidal patient. The sitters' role would be providing 1:1 patient observation, but they would not be expected to provide nursing care or documentation. Some basic assistance such as assisting nurses with transferring a patient from bed to chair, setting up a patient for a meal, verbal interaction and redirecting the patient as needed might be expected.
 - 4.5.7.3. Hours: Hours will vary; 8 hour tours or 12 hours tour as needed by requesting department. This may include weekends and holidays.
- 4.5.8. Inpatient Mental Health Nursing
 - 4.5.8.1. Unit Description: The Inpatient Mental Health Unit (MH-2) is a 6 bed locked psychiatric unit which provides safe, secure, therapeutic environment where Veterans can be hospitalized for acute psychiatric

problems. The intensive care setting offers thorough, comprehensive, psychiatric evaluation, diagnosis and treatment in an inpatient setting for those who cannot be treated at a lesser level of care.

4.5.8.2. Scope: RN assigned to work on MH-2 will be responsible for patient assessments, medication administration interdisciplinary team coordination, admissions, discharges, internal and external transfers, electronic medical record documentation, recovery-based therapeutic programming, delegating to assistive personnel and emergency response procedures. LPN assigned to MH-2 will be responsible for medication administration, daily cares of Veterans, electronic medical record documentation and recovery-based therapeutic programming.

4.5.8.3. Work Shift: Twelve (12) hour shifts; including days, nights, weekdays, weekends and holidays

4.5.9. Surgical Specialty Care Clinics.

4.5.9.1. Unit Description: The Surgical Specialty Care Clinics are located on the 4th floor of the hospital and include the Surgery Clinics (General Surgery, Orthopedics, Podiatry, Urology, Vascular Surgery, Plastic Surgery, ENT), the Surgical and Procedure Center, Minor Surgery (General Surgery, ENT and Urology Minor Surgery), and Endoscopy.

4.5.9.2. Scope: RNs assigned to the Surgical Specialty Clinics are responsible for completing patient assessments, medication reconciliation and administration, performing treatments and procedures appropriate to assigned duties, utilizes equipment in accordance with the manufacturer's instructions and SOPs designated for reusable medical equipment, administering IV therapy, completing electronic medical record documentation, and patient transport. LPNs are responsible for completing medication reconciliation and administration, performing treatments and procedures appropriate to assigned duties, utilizes equipment in accordance with the manufacturer's instructions and SOPs designated for reusable medical equipment, administering IV therapy, completing electronic medical record documentation, and patient transport.

4.5.9.3. Work Shift: Eight hour shifts: 7:00 AM to 3:30 PM, Monday through Friday.

4.5.10. Surgical Nurse.

4.5.10.1. Unit Description: SFVAHCS presently has 3 surgical suites and anticipating the opening of new surgical suites which will total 4 suites in 2017.

4.5.10.2. Scope: Understands the requirements of specific surgical procedures to properly prepare the operating room with equipment and instruments as needed for surgical cases. Cases include: Ortho, Urology, ENT, Podiatry, Vascular, and General Surgery. The following are NOT a requirement:

Open Heart, Robotic, Neuro and Spine cases. Must have knowledge of aseptic technique, including sterility of instruments, prepping, draping of patient and maintaining sterile field. Needs understanding and practices AORN recommendations and The Joint Commission requirements to provide care consistent with standards of practice. Has knowledge to keep patient free of injuries related to equipment, positioning and various chemicals. Must have knowledge of Malignant Hyperthermia protocol. Must have the ability to collect data and document in an electronic medical record. Demonstrates communication skills to provide complete handoff to next level of care. Must collect preoperative data as it pertains to the needs of the patient and surgical case to provide safe care. RN must provide and document OR specific care consistent with standards of practice. Must demonstrate knowledge and skills in OR specific functions. Principles of Aseptic technique must be maintained to keep patient free of signs and symptoms of infection, including sterility of instruments, equipment and sterile technique. Must maintain knowledge to keep patient free of signs and symptoms of injury related to equipment, positioning and chemicals. Understands the requirements of surgical cases to properly prepare for the procedures. Must demonstrate knowledge in the use and implementation of malignant hyperthermia protocol. Must properly transfer patients to PAC/ICU with complete hand-off information.

4.5.10.3. Work Shift: Hours are 7:00 AM to 3:30 PM, Monday through Friday.

4.6. Administrative: 10% of time not involved in direct patient care

4.6.1. Staff Meetings. The contract staff shall attend unit meetings as scheduled by the unit director.

4.6.2. Process Improvement (PI) documentation: The contract staff shall complete the appropriate QM/PI documentation pertaining to all procedures, complications and outcome of examinations.

4.6.2.1. Specialized CPRS Documentation Procedures: Patient documentation is completed using the Computerized Patient Record System (CPRS).

4.6.2.2. Contract staff shall document care given and select appropriate Evaluation and Management (E&M) procedure codes in CPRS. Documentation must be sufficient to support both the E&M and procedure codes. Documentation and coding functions must be completed by the end of each patient care encounter.

4.6.3. Patient Safety Compliance and Reporting: Contract staff shall follow all established patient safety and infection control standards of care. Contract staff shall make every effort to prevent medication errors, falls, and patient injury caused by acts of commission or omission in the delivery of care. All events related to patient injury, medication errors, and other breeches of patient safety shall be reported to the Nurse Manager or designee as soon as possible, but not later than the end of the shift. Additionally, Contractors shall notify the COR (within 24 hours) of the incident and

submit to the COR the Patient Safety Report, following up with COR as required or requested.

- 4.6.4. Customer Service: Contract staff shall refer all patient/customer service issues to the Department Supervisor Physician and/or Department Nurse Manager or designee.

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

- 4.7.1. Quality Management/Quality Assurance Surveillance: Contract personnel shall be subject to Quality Management measures, such as patient satisfaction surveys, timely completion of medical records, and Peer Reviews. Methods of Surveillance: Focused Provider Practice Evaluation (FPPE) and Ongoing Provider Practice Evaluation (OPPE). Contractor performance will be monitored by the government using the standards as outlined in this Performance Work Statement (PWS) and methods of surveillance detailed in the Quality Assurance Surveillance Plan (QASP). The QASP shall be attached to the resultant task order and shall define the methods and frequency of surveillance conducted.

- 4.7.1.1.1. The contractor's staff is expected to actively participate in the facility's performance improvement activities as part of the contracted service time. Performance Improvement Activities may include the following:

- Surgical Case Review
- Surgical Risk Assessment Program
- External Peer/case Review Program Reporting
- Infection Control
- Blood Usage Review
- Hospital Safety
- Outpatient Qualitative and Quantitative Review
- Medical Record Review
- Drug Usage
- Internal Peer Review
- Patient Incident
- Utilization

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

- 4.7.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to

designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. The CO and COR shall deal with issues raised concerning Contractor's conduct. The final arbiter on questions of acceptability is the CO.

4.8. Performance Standards

4.8.1. Measure: Qualifications of Key Personnel

- 4.8.1.1. Performance Requirement: All contract staff shall be currently licensed and certified in accordance with the PWS.
- 4.8.1.2. Standard: All (100%) staff is licensed and licenses are current.
- 4.8.1.3. Acceptable Quality Level: 100% meet Standards
- 4.8.1.4. Surveillance Method: Verification from contractor.
- 4.8.1.5. Frequency: Annually

4.8.2. Measure: Scope of Practice/Privileging (Nurse Practitioners)

- 4.8.2.1. Performance Requirement: Contract staff shall perform within their individual scopes of practice/privileging.
- 4.8.2.2. Standard: All (100%) contract staff shall perform within their scope of practice/privileges 100% of the time.
- 4.8.2.3. Acceptable Quality Level: All (100%) contract staff shall perform within their scope of practice/privileges 100% of the time. No deviations accepted.
- 4.8.2.4. Surveillance Method: Random Inspection of records.
- 4.8.2.5. Frequency: Upon contract award and as needed when new staff is added to the contract or task order.

4.8.3. Measure: Computerized Patient Record System (CPRS)

- 4.8.3.1. Performance Requirement: Contract staff shall be responsible for ensuring documentation is complete, accurate, and timely and entered into the computerized medical record.
- 4.8.3.2. Standard: All (100%) accuracy and completion.
- 4.8.3.3. Acceptable Quality Level: 90%
- 4.8.3.4. Surveillance Method: Random Inspection of records with audits by HIMs using reports from the dictation system and VISTA. Medical Service to alert COR of any staff who is non-compliant with these requirements.
- 4.8.3.5. Frequency: Quarterly

4.8.4. Measure: Contractor's Ability to Fill Positions Timely

- 4.8.4.1. Performance Requirement: The contractor is required to have a qualified pool of available staff at all times. Upon request, the contractor is required to submit a list of qualified candidates within 3 working days of request.
- 4.8.4.2. Standard: All (100%)
- 4.8.4.3. Acceptable Quality Level: 90%
- 4.8.4.4. Surveillance Method: Periodic Inspection
- 4.8.4.5. Frequency: Quarterly

4.8.5. Measure: Maintains licensing, registration, and certification

- 4.8.5.1. Performance Requirement: Updated Licensing, registration and certification shall be provided as they are renewed. Licensing and registration information kept current.
- 4.8.5.2. Standard: All (100%) licensing, registration(s) and certification(s) for contract staff shall be provided as they are renewed. Licensing and registration information kept current.
- 4.8.5.3. Acceptable Quality Level: All (100%) licensing, registration(s) and certification(s) for contract staff shall be provided as they are renewed. Licensing and registration information kept current. No acceptable deviation.
- 4.8.5.4. Surveillance Method: Verification and/or documentation provided by contractor
- 4.8.5.5. Frequency: Upon of award of contract/task order, when new staff is added, and yearly hereafter

- 4.8.6. Measure: Mandatory Training
 - 4.8.6.1. Performance Requirement: Contractor shall complete all required training on time per SFVAHCS policy.
 - 4.8.6.2. Standard: All (100%) of required training is complete on time by contract staff.
 - 4.8.6.3. Acceptable Quality Level: 100% completions, no deviations.
 - 4.8.6.4. Surveillance Method: Periodic Sampling
 - 4.8.6.5. Frequency: Quarterly

- 4.8.7. Measure: Privacy, Confidentiality and HIPAA
 - 4.8.7.1. Performance Requirement: Contractor is aware of all laws, regulations, policies and procedures relating to Privacy, Confidentiality and HIPAA and complies with all standards Zero breaches of privacy or confidentiality
 - 4.8.7.2. Standard: All (100%) contractor staff comply with all laws, regulations, policies and procedures relating to Privacy, Confidentiality and HIPAA
 - 4.8.7.3. Acceptable Quality Level: 100% compliance; no deviations.
 - 4.8.7.4. Surveillance Method: Periodic Sampling; Contractor shall provide evidence of annual training required by the Sioux Falls VAHCS, reports violations per VA Directive 6500.6.
 - 4.8.7.5. Frequency: Quarterly

- 4.8.8. Measure: Patient care documentation
 - 4.8.8.1. Performance Requirement: Contractor is aware of documentation compliance and contract staff shall be responsible for complying with documentation timeliness standards and insuring that all notes and encounters are completed and signed and shall appropriately document in the medical records in accordance with VA standards, equivalent to TJC compliance guidelines, standard commercial practice and guidelines established by Sioux Falls VAHCS. Timeliness standards for encounters are closure within 7 days. Timeliness standards for signing of notes are within 10 days. Discharge summaries to be completed within 24 hours. Nursing documentation must be completed prior to the end of the shift.
 - 4.8.8.2. Standard: All (100%) contractor staff shall comply with VA standards, equivalent to TJC compliance guidelines, standard commercial practice and guidelines established by SFVAHCS and shall be responsible for complying

with documentation and insuring that all notes and encounters are completed and signed and shall appropriately document medical records

- 4.8.8.3. Acceptable Quality Level: 90%
- 4.8.8.4. Surveillance Method: Periodic Sampling
- 4.8.8.5. Frequency: Quarterly

4.9. Registration with Contractor Performance Assessment Reporting System

4.9.1. As prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates Contractor past performance on all contracts that exceed \$150,000, and shares those evaluations with other Federal Government contract specialists and procurement officials. The FAR requires that the Contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement VA uses an online database, CPARS, which is maintained by the Naval Seal Logistics Center in Portsmouth, New Hampshire. CPARS has connectivity with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. PPIRS is the system used to collect and retrieve performance assessment reports used in source selection determinations and completed CPARS report cards transferred to PPIRS. CPARS also includes access to the federal awardee performance and integrity information system (FAPIIS). FAPIIS is a web-enabled application accessed via CPARS for Contractor responsibility determination information.

4.9.2. Each Contractor whose contract award is estimated to exceed \$150,000 requires a CPARS evaluation. A government Focal Point will register your task order within thirty days after task order award and, at that time, you will receive an email message with a User ID (to be used when reviewing evaluations). Additional information regarding the evaluation process can be found at www.cpars.gov or if you have any questions, you may contact the Customer Support Desk @ DSN: 684-1690 or COMM: 207-438-1690.

4.9.3. For task orders with a period of one year or less, the contracting officer will perform a single evaluation when the task order is complete. For task orders exceeding one year, the contracting officer will evaluate the Contractor's performance annually. Interim reports will be filed each year until the last year of the task order, when the final report will be completed. The report shall be assigned in CPARS to the Contractor's designated representative for comment. The Contractor representative will have sixty (60) days to submit any comments and re-assign the report to the CO.

4.9.4. Failure for the Contractor's representative to respond to the evaluation within those sixty (60) days, will result in the Government's evaluation being placed on file in the database with a statement that the Contractor failed to respond; the Contractor's representative will be "locked out" of the evaluation and may no longer send comments.

5. GOVERNMENT RESPONSIBILITIES

5.1. Contract/Task Order Administration/Performance Monitoring: After award of task order, all inquiries and correspondence relative to the administration of the task order shall be addressed to the Contracting Officer's Representative.

5.1.1. CO RESPONSIBILITIES:

Network Contracting Officer (NCO23)
Department of Veterans Affairs
708 S 3rd St, Suite 200 E
Minneapolis, MN 55415

- 5.1.1.1. The Contracting Officer is the only person authorized to approve changes or modify any of the requirements of this task order. The Contractor shall communicate with the Contracting Officer on all matters pertaining to task order administration. Only the Contracting Officer is authorized to make commitments or issue any modification to include (but not limited to) terms affecting price, quantity or quality of performance of this task order.
- 5.1.1.2. The Contracting Officer shall resolve complaints concerning Contractor relations with the Government employees or patients. The Contracting Officer is final authority on validating complaints. In the event the Contractor effects any such change at the direction of any person other than the Contracting Officer without authority, no adjustment shall be made in the task order price to cover an increase in costs incurred as a result thereof.
- 5.1.1.3. In the event that contracted services do not meet quality and/or safety expectations, the best remedy will be implemented, to include but not limited to a targeted and time limited performance improvement plan; increased monitoring of the contracted services; consultation or training for Contractor personnel to be provided by the VA; replacement of the contract personnel and/or renegotiation of the task order terms or termination of the task order. The VA reserves the right to refuse service from contract employees due to performance or conduct issues.

5.1.2. Contracting Officer's Representative (COR)

Sioux Falls VA Health Care System (VAHCS)
Medical COR Liaison
2501 West 22nd Street
Sioux Falls, SD 57105

- 5.1.2.1. The COR shall be the VA official responsible for verifying task order ended by the monitoring procedures shall be forwarded immediately to the Contracting Officer compliance. After task order award, any incidents of Contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.
- 5.1.2.2. The COR will be responsible for monitoring the Contractor's performance to ensure all specifications and requirements are fulfilled. Quality Improvement data that will be collected for ongoing monitoring includes but is not limited to: enter data that may be collected.

5.1.2.3. The COR will maintain a record-keeping system of services by periodic inspection, verification and /or documentation provided by contractor and invoices. The COR will review this data monthly when invoices are received and certify all invoices for payment by comparing the hours documented on the VA record-keeping system and those on the invoices. Any evidence of the Contractor's non-compliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.

5.1.2.4. The COR will review and certify monthly invoices for payment. If in the event the Contractor fails to provide the services in this task order, payments will be adjusted to compensate the Government for the difference.

5.1.2.5. All task order administration functions will be retained by the VA.

6. SPECIAL CONTRACT REQUIREMENTS

6.1. Reports/Deliverables: The Contractor shall be responsible for complying with all reporting requirements established by the task order. Contractor shall be responsible for assuring the accuracy and completeness of all reports and other documents as well as the timely submission of each. Contractor shall comply with task order requirements regarding the appropriate reporting formats, instructions, submission timetables, and technical assistance as required.

6.1.1. The following are brief descriptions of required documents that must be submitted by Contractor: upon award; weekly; monthly; quarterly; annually, etc. identified throughout the PWS and is provided here as a guide for Contractor convenience. If an item is within the PWS and not listed here, the Contractor remains responsible for the delivery of the item.

What	Submit as noted	Submit To
Quality Control Plan: Description and reporting reflecting the contractor's plan for meeting of task order requirements and performance standards	Upon proposal and as frequently as indicated in the performance standards.	Contracting Officer
Copies of any and all licenses, board certifications, NPI, to include primary source verification of all licensed and certified staff	Upon proposal and upon renewal of licenses and upon renewal of option periods or change of key personnel.	Contracting Officer
Certification that staff list have been compared to OIG list	Upon proposal and upon new hires.	Contracting Officer
Proof of Indemnification and Medical Liability Insurance	Upon proposal and upon renewals.	Contracting Officer
Certificates of Completion for Cyber Security and Patient Privacy Training Courses	Before receiving an account on VA Network and annual training and new hires.	Contracting Officer
ACLS/BLS Certification (as required)	Upon award and every two years after award.	COR

Contingency plan	Upon proposal and as updated	COR
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7. BILLING:

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

- Name and Address of Contractor
- Invoice Date and Invoice Number
- Contract/Task Order Number
- Date of Service
- Contract Staff (Name of Contractor’s employee performing service)
- Hourly Rate
- Quantity of hours worked
- Total price

7.2. Vendor Electronic Invoice Submission Methods

7.2.1. 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:

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

7.2.3. 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>).

7.2.4. The Contractor may contact FSC at the phone number or email address listed below with any questions about the e-invoicing program or Tungsten Network (<http://www.tungsten-network.com/customer-campaigns/veterans-affairs/>):

- Tungsten Client Services: 1-877-752-0900
- Tungsten email: va.registration@tungsten-network.com
- VA Financial Service Center (FSC): 1-877-353-9791
- VA Financial Service Center (FSC) email: vafscshd@va.gov

7.3. Payment Adjustments:

7.3.1. Invoices will be prorated for partial days/hours worked. The contractor shall be paid only for actual work performed. In the event that the Task Order provider works a

portion of an hour, the government may adjust payments by 15 minute increments. Task Order providers shall be responsible for reporting time worked accurately. The Contract shall be paid for actual hours performed.

- 7.4. Payments in full/no billing VA beneficiaries: The Contractor shall accept payment for services rendered under this task order as payment in full. VA beneficiaries shall not under any circumstances be charged nor their insurance companies charged for services rendered by the Contractor, even if VA does not pay for those services. This provision shall survive the termination or ending of the task order.

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

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

8. CONTRACTOR Security Requirements (Handbook 6500.6) 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.

8.1. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

8.1.1. 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.

8.1.2. 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* (https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1568, and http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1569%20%20). The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.

8.1.3. 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.

- 8.1.4. 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.
- 8.1.5. 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.

8.2. VA INFORMATION CUSTODIAL LANGUAGE

- 8.2.1. 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).
- 8.2.2. VA information should not be co-mingled, if possible, with any other data on the contractors/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on-site inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.
- 8.2.3. 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&FTYPE=2) and its Handbook 6300.1 *Records Management Procedures* (http://www.va.gov/vapubs/viewPublication.asp?Pub_ID=475&FTYPE=2) applicable VA Records Control Schedules, and VA Handbook 6500.1, *Electronic Media Sanitization* (http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=416&FTYPE=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.

- 8.2.4. 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.
- 8.2.5. 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.
- 8.2.6. 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.
- 8.2.7. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.01, *Business Associate Agreements*. Absent an agreement to use or disclose protected health information, there is no business associate relationship.
- 8.2.8. 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.
- 8.2.9. 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.
- 8.2.10. 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.
- 8.2.11. 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.

- 8.2.12. 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.

8.3. SECURITY INCIDENT INVESTIGATION

- 8.3.1. 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.

- 8.3.2. 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.

- 8.3.3. 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.

- 8.3.4. 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.

8.4. LIQUIDATED DAMAGES FOR DATA BREACH

- 8.5. 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.

8.6. 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.

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

8.7.1. Nature of the event (loss, theft, unauthorized access);

8.7.2. Description of the event, including:

8.7.2.1. Date of occurrence;

8.7.2.2. Data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;

8.7.2.3. Number of individuals affected or potentially affected;

8.7.2.4. Names of individuals or groups affected or potentially affected;

8.7.2.5. 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;

8.7.2.6. Amount of time the data has been out of VA control;

8.7.2.7. The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);

8.7.2.8. Known misuses of data containing sensitive personal information, if any;

8.7.2.9. Assessment of the potential harm to the affected individuals;

8.7.2.10. Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and

8.7.2.11. 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.

8.7.3. 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:

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

8.7.4. SECURITY CONTROLS COMPLIANCE TESTING

8.7.4.1. *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.*

8.7.5. TRAINING

8.7.5.1. 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:

- 8.7.5.1.1. Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior*, Appendix D (see Attachment #4 Contractor Rules of Behavior) relating to access to VA information and information systems;
- 8.7.5.1.2. Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;
- 8.7.5.1.3. Successfully complete the appropriate VA privacy training and annually complete required privacy training; and
- 8.7.5.1.4. 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.]

8.7.5.2. 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.

8.7.5.3. 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.

8.7.6.CONTRACTOR SECURITY INVESTIGATION REQUIREMENTS

8.7.6.1. All Contractor employees and/or agents who access the Department of Veterans Affairs computer systems or VA sensitive information in order to perform the Contract will be the subject of background investigations. Each Contractor employee and/or agent must receive a favorable adjudication from the VA Law Enforcement Training Center/SIC prior to performing any part of the Contract. If the investigation is not completed prior to the start of the Contract, the Contractor will be responsible for the actions of those individuals they provide to perform work.

8.7.6.2. Position Sensitivity - The position sensitivity has been designated as **Low Risk** by the COR

8.7.6.3. Background Investigation - The level of background investigation commensurate with the required level of access is National Agency Check with written Inquiries (NACI)

8.7.6.4. Contractor Responsibilities:

8.7.6.4.1. The contractor shall bear the expense of obtaining background investigations. If the Office of Personnel Management (OPM) conducts the investigation, the contractor shall reimburse VA within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month's invoice(s) for services rendered.

8.7.6.4.2. It is imperative for the contractor to provide, at the request of VA, a listing of contractor personnel performing services under the contract in order for the background investigation process to commence. This list will include name (first, middle, last) social security number; date of birth; city, state, and country of birth.

8.7.6.4.3. The contractor or their employees shall submit a complete background investigation packet. Additional guidance and information in completing

the required forms, and examples of the forms, can be found at:
<https://vaww.visn16.portal.va.gov/sites/lit/vasic/default.aspx>

8.7.6.4.4. The following required forms must be submitted to the VA Office of Security and Law Enforcement **before** contract performance begins:

8.7.6.4.4.1. Standard Form 85, Questionnaire for Non-Sensitive Positions

8.7.6.4.4.2. Optional Form 306, Declaration for Federal Employment

8.7.6.4.4.3. Standard Form 86A (EG), Continuation Sheet for Questionnaire

8.7.6.4.4.4. Electronic Fingerprint Form

8.7.6.4.5. Fingerprinting is required with the background investigation. Fingerprinting can be done at the local VA Facility. The Electronic Fingerprint Verification Form must be submitted with the above required forms.

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

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

8.7.6.4.8. The contractor may utilize a private investigating agency if such agency possesses an OPM and Defense Security Service certification. A Cage Code number must be provided to the VA Office of Security and Law Enforcement. VA Office of Security and Law Enforcement will verify the information and advise the contracting officer whether contractor's access to the computer systems can be authorized.

8.7.6.4.9. All contractor employees and subcontractors are required to complete VA's Privacy training annually. All Contractor employees and subcontractors requiring access to VA computer network are required to complete Cyber Security training courses annually either on-line or hard copy. Documented proof must be provided to the Contracting Officer.

8.7.6.4.10. The contractor will notify the COR immediately when their employee(s) no longer require access to VA computer systems.

8.7.6.5. Government Responsibilities

8.7.6.5.1. The contracting officer will request the contractor employee's background investigation by the Office of Security and Law Enforcement.

8.7.6.5.2. The Office of Security and Law Enforcement will notify the contractor with instructions for the contractor's employees, coordinate the background investigations, and notify the contracting officer and contractor of the results of the investigations.

8.7.6.5.3. The VA facility will pay for requested investigations in advance. A bill for collection will be sent to the contractor to reimburse the VA facility. The contractor will reimburse the VA facility within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month's invoice(s) for services rendered.

8.7.6.6. The current fees associated with background investigations are \$381.00 each for low level investigation, \$1,632.00 each for medium level investigation, and \$3,984.00 each for high level investigation.

8.7.7. As VA routinely reviews and updates policies and procedures covering contractor computer access, security requirements may change during the term of this contract and new policies and procedures may be implemented unilaterally during the term of this agreement.

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 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (MAY 2011)

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

"Postconsumer fiber" means— (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

(b) The Contractor is required to submit paper documents, such as offers, letters, or reports that are printed or copied double-sided on paper containing at least 30 percent postconsumer fiber, whenever practicable, when not using electronic commerce methods to submit information or data to the Government.

(End of Clause)

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

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

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

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

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

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

(End of Clause)

C.4 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 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.5 52.216-20 DEFINITE QUANTITY (OCT 1995)

(a) This is a definite-quantity, indefinite-delivery contract for the supplies or services specified, and effective for the period stated, in the Schedule.

(b) The Government shall order the quantity of supplies or services specified in the Schedule, and the Contractor shall furnish them when ordered. Delivery or performance shall be at locations designated in orders issued in accordance with the Ordering clause and the Schedule.

(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 time 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 end of the period of performance for this contract.

(End of Clause)

C.6 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 \$250.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$1,400,000.00;

(2) Any order for a combination of items in excess of \$1,400,000.00; or

(3) A series of orders from the same ordering office within 10 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 10 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.

CONTRACT MINIMUM AND MAXIMUM DOLLAR VALUE

In accordance with FAR 16.504(a) (4) (ii) the maximum dollar value is \$1,400,000.00 inclusive of any exercised options for an award.

The contract minimum dollar value for the base period is \$35,000.00. For option periods one through four, if exercised, the minimum guarantee is \$35,000.00.

(End of Clause)

C.7 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 end date listed on the issued task order, during the POP.

(End of Clause)

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

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

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

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

(End of Clause)

C.9 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

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

(End of Clause)

C.10 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.11 SUPPLEMENTAL INSURANCE REQUIREMENTS

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

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

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

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

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

(End of Clause)

C.12 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)

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

(End of Clause)

C.13 VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)

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

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

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

(End of Clause)

C.14 VAAR 852.219-10 VA NOTICE OF TOTAL SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (JUL 2016)(DEVIATION)

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

(1) Means a small business concern:

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans or eligible surviving spouses (see VAAR 802.201 Surviving Spouse definition);

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

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

(iv) The business has been verified for ownership and control pursuant to 38 CFR 74 and is so listed in the Vendor Information Pages database, (<https://www.vip.vetbiz.gov>); and

(v) The business will comply with subcontracting limitations in 13 CFR 125.6, as applicable

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

(b) *General.*

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

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

(c) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, the concern will comply with the limitation on subcontracting requirements in 13 CFR §125.6.

(d) A joint venture may be considered a service-disabled veteran owned small business concern if the joint venture complies with the requirements in 13 CFR 125.15, provided that any reference therein to SDVO SBC is to be construed to apply to a VA verified SDVOSB as appropriate.

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

(End of Clause)

C.15 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.16 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)

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

* Amounts are listed below:

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

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

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and

endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

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

* Amounts from paragraph (a) above:

\$1,000,000.00

(End of Clause)

C.17 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)

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

(End of Clause)

C.18 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>
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	JUL 2016
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-35	DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION	JUL 2013

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS DEC 2013
(End of Addendum to 52.212-4)

C.19 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JAN 2017)

(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:

[X] (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.)

[X] (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2016) (Pub. L. 109-282) (31 U.S.C. 6101 note).

[] (5) [Reserved]

[] (6) 52.204-14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

[X] (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

[X] (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).

[X] (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.

[X] (16) 52.219-8, Utilization of Small Business Concerns (NOV 2016) (15 U.S.C. 637(d)(2) and (3)).

□ (17)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2017) (15 U.S.C. 637(d)(4)).

□ (ii) Alternate I (NOV 2016) of 52.219-9.

□ (iii) Alternate II (NOV 2016) of 52.219-9.

□ (iv) Alternate III (NOV 2016) of 52.219-9.

□ (v) Alternate IV (NOV 2016) 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).

[X] (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)).

[X] (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

□ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (OCT 2016) (E.O. 13126).

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

[X] (28) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).

[X] (29) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212).

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

[X] (31) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

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

[X] (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).

[X] (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) 52.222-59, Compliance with Labor Laws (Executive Order 13673) (OCT 2016). (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).

Note to paragraph (b)(35): By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

[X] (36) 52.222-60, Paycheck Transparency (Executive Order 13673) (OCT 2016).

□ (37)(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.)

□ (38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

□ (39) 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.)

□ (40)(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.

□ (41)(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.

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

□ (43)(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.

[X] (44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

□ (45) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

□ (46) 52.223-21, Foams (JUN 2016) (E.O. 13693).

□ (47) (i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

□ (ii) Alternate I (JAN 2017) of 52.224-3.

□ (48) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

□ (49)(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.

□ (50) 52.225-5, Trade Agreements (OCT 2016) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

[X] (51) 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).

□ (52) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

□ (53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

□ (54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

□ (55) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

□ (56) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

□ (57) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

[X] (58) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

□ (59) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

□ (60) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

□ (61) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(12)).

☐ (62)(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) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

☐ (10) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792).

☐ (11) 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 (NOV 2016) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further 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 (SEP 2016) (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) 52.222-59, Compliance with Labor Laws (Executive Order 13673) (OCT 2016) (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).
- Note to paragraph (e)(1)(xvi):** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.
- (xvii) 52.222-60, Paycheck Transparency (Executive Order 13673) (OCT 2016)).
- (xviii) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).
- (xix)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).
- (B) Alternate I (JAN 2017) of 52.224-3.
- (xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
- (xxi) 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.
- (xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(End of Clause)

C.20 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)

C.21 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)

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

(End of Provision)

C.22 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)

SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

SECTION E - SOLICITATION PROVISIONS

E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (OCT 2016)

(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) *Unique entity identifier.* (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 "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see subpart 32.11) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at www.sam.gov for establishing the unique entity identifier.

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

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

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of Provision)

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

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

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

This section provides general guidance for preparing RFP VA263-17-R-0352. The Offeror's RFP 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. 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. Offerors are required to meet all solicitation requirements, including terms and conditions, representations and certifications, and technical requirements.

SOLICITATION QUESTIONS: Questions concerning the solicitation will be accepted from the solicitation posting date until 11:00 pm CST May 8th, 2017. Questions will only be accepted by email at **charles.morin@va.gov**. All questions must be submitted by 11:00 PM CST on May 8th, 2017.

RFP SUBMISSIONS: RFPs must be submitted by 4:00 PM CST on May 12th, 2017, to charles.morin@va.gov or by mail.

Charles Morin
Department of Veterans Affairs NCO 23
708 South Third Street, Suite 200E
Minneapolis, MN 55415

Specific Instructions:

1. **PART I – PRICE PROPOSAL** – Submit one copy.
 - (a) Complete blocks 17a and 30a through c of the RFP, page 1, Standard Form (SF) 1449, and all fill-ins in the Contract Administration Data section of the solicitation. In doing so, the offeror accedes to the contract terms and conditions as written in the solicitation in its entirety.
 - (b) Insert proposed unit prices for each Contract Line Item Number (CLIN). All prices must be submitted using the Schedule of Services on pg. 5 through pg.10 of the RFP. The proposal must be submitted for the base period.

- (c) Return any solicitation amendments to the original solicitation documents, signed by the same official authorized to sign the SF 1449.

2. PART II – TECHNICAL QUOTE

- (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.

- (c) **Section 3 Evaluation Factors**

Offers will be evaluated on the basis of their **(1) Technical Excellence, (2) Past Performance, and (3) Price/Cost.**

FACTOR 1 - TECHNICAL EXCELLENCE

Offerors will be evaluated on the following sub-factors:

Technical and past performance when combined, are significantly more important than price.

Sub Factors 1-4 are of equal importance

Assessment: The offeror's proposal shall, as a minimum, address each of the technical proposal criteria as they apply to the PWS. During evaluations of each proposal, the Government will evaluate the technical proposal based on the evaluation criteria described below, which are tailored to specific principal tasks in the PWS, and listed in descending order of importance. The Government will infer from the offeror's responses to these specified evaluation criteria the offeror's capability to perform to the requirements of the entire PWS.

- 1) Emphasis placed on pre-screened/pre-qualified candidates. Proposal Offeror will describe process to pre-screen and pre-qualify candidates. Offeror will provide detailed strategy to recruit and fill requirements with local talent to the greatest extent possible. The offerors that demonstrate their ability to provide consistent availability of candidates will be viewed more favorably.

Additionally, the offeror shall demonstrate their ability to fill the following positions, when given a four (4) week lead time (after the initial on-boarding/background check)

Positions include:

- Outpatient RNs and LPNs
- Inpatient RNs and LPNs
- ACLS certified RNs

- Mental Health RNs and LPNs
 - Sitters
 - RNs for CBOC locations Aberdeen SD and Watertown SD
 - RNs for CBOC locations Wagner SD, Sioux City IA, and Spirit Lake IA
- 2) Offeror will submit a “mock” employee submission, with a sample cover sheet including, but not limited to: Name, references, experience (both VA and non-VA), qualifications, certifications, Licensure, VA Systems knowledge, and other training required. The cover sheet will be included with each employee submitted working under this contract.
 - 3) Offeror will describe contingency plan to mitigate gaps in coverage, to be utilized in the event personnel leave Contractor’s employment or are unable to continue performance in accordance with the terms and conditions of the resulting contract.
 - 4) Offeror must demonstrate that they can provide consistent nursing and sitter services on short notice. Additionally, the VA seeks an offeror that can provide nursing and sitter candidates upon the award of this contract so the VA can begin the backgrounding and credentialing process for nurses or sitters that may work on this IDIQ. (in order to reduce delay when an order is placed on this IDIQ)

FACTOR 2 - PAST PERFORMANCE

1. Past performance and quality of services offered. “Past performance evaluations will be conducted using information provided with the offer, information obtained from references, information obtained from the CPS or PPIRS, and information from any other sources deemed appropriate. When evaluating past performance the government may consider the currency and relevancy of the information, the source of the information, the context of the data provided, and the general trends in the contractor’s performance. The government may take into account past performance information regarding predecessor companies, key personnel who have relevant experience and/or subcontractors that will perform major or critical aspects of the requirement. An offeror that has no available relevant past performance history will not be evaluated favorably or unfavorably. Offeror is to provide the following:
 - a. Identify the type and scope of practice for up to (3) years addressing professional background, experience and level of professional competence.
 - b. Provide a list of three references including name, address and contract personal and telephone number.
 - c. Provide documentation of any past/pending malpractice/tort claims for all candidates submitted.

FACTOR 3 - PRICE: See schedule

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

Technical and past performance when combined is more significantly important than price.

***Please note that credentialing can take approximately 60 days to complete after key personnel are selected.

The following are brief descriptions of required documents that must be submitted by contractor: upon award; weekly; monthly; quarterly; annually, etc. identified throughout the PWS and is provided here as a guide for Contractor convenience. If an item is within the PWS and not listed here, the contractor remains responsible for the delivery of the item.

What	Submit as noted	Submit To
Quality Control Plan: Description and reporting reflecting the contractor's plan for meeting of contract requirements and performance standards.	Upon proposal and as frequently as indicated in the performance standards.	Contracting Officer
Copy of Sub Contracting Plan (as required) Copy of Contractor Certification Statement if non-subcontracting possibilities exist.	Upon proposal and as updated	Contracting Officer
Copies of any and all licenses, certifications to include primary source verification of all licensed and certified staff.	Upon proposal and upon renewal of licenses and upon renewal of option periods or change of key personnel.	COR
Certification that staff list have been compared to OIG list.	Upon proposal and upon new hires.	Contracting Officer
Proof of Indemnification and Medical Liability Insurance.	Upon proposal and upon renewals.	COR
Certificates of Completion for Cyber Security and Patient Privacy Training Courses.	Before receiving an account on VA Network and annual training and new hires.	COR
BLS Certification	Upon award and every two years after award.	COR
Contingency plan for replacing key personnel to maintain services as required under the terms of the contract.	Upon proposal and as updated	COR

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

(a) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (Pub. L. 113-235), Government agencies are not permitted to use funds appropriated (or otherwise made available) under that or any other Act for contracts with an entity that requires employees or subcontractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or 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.3 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)

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

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

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

(b) The Offeror represents that—

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

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

(End of Provision)

E.4 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)

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

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

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

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

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

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

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

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

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

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

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

(End of Provision)

E.5 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.6 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:

Charles Hurry

Hand-Carried Address:
Department of Veterans Affairs

NCO 23 - Minneapolis

708 S. Third St., Suite 200E
Minneapolis MN 55415
Mailing Address:
Department of Veterans Affairs

NCO 23 - Minneapolis

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

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

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

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

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

(End of Provision)

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

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

(End of Provision)

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.9 52.217-3 EVALUATION EXCLUSIVE OF OPTIONS (APR 1984)

The Government will evaluate offers for award purposes by including only the price for the basic requirement; i.e., options will not be included in the evaluation for award purposes.

(End of Provision)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	JUL 2016

E.10 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>
52.232-38	SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER	JUL 2013

(End of Addendum to 52.212-1)

E.11 VAAR 852.273-73 EVALUATION - HEALTH-CARE RESOURCES (JAN 2003)

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

Technical
Past Performance
Price

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

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

(End of Provision)

E.12 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (DEC 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) Web site 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 (t) of this provision.

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

Administrative merits determination means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. An administrative merits determination may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

Arbitral award or decision means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes an award or decision that is not final or is subject to being confirmed, modified, or vacated by a court, and includes an award or decision resulting from private or confidential proceedings. To determine whether a particular award or decision is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

Civil judgment means—

(1) In paragraph (h) of this provision: A judgment or finding of a civil offense by any court of competent jurisdiction.

(2) In paragraph (s) of this provision: Any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular judgment or order is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

DOL Guidance means the Department of Labor (DOL) Guidance entitled: “Guidance for Executive Order 13673, ‘Fair Pay and Safe Workplaces’ “. The DOL Guidance, dated August 25, 2016, can be obtained from www.dol.gov/fairpayandsafeworkplaces.

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.

Enforcement agency means any agency granted authority to enforce the Federal labor laws. It includes the enforcement components of DOL (Wage and Hour Division, Office of Federal Contract Compliance Programs, and Occupational Safety and Health Administration), the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It also means a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, conduct investigations of potential labor law violations. The enforcement agencies associated with each labor law under E.O. 13673 are—

- (1) Department of Labor Wage and Hour Division (WHD) for—
 - (i) The Fair Labor Standards Act;
 - (ii) The Migrant and Seasonal Agricultural Worker Protection Act;
 - (iii) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act;
 - (iv) 41 U.S.C. chapter 67, formerly known as the Service Contract Act;
 - (v) The Family and Medical Leave Act; and
 - (vi) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors);
- (2) Department of Labor Occupational Safety and Health Administration (OSHA) for—
 - (i) The Occupational Safety and Health Act of 1970; and
 - (ii) OSHA-approved State Plans;
- (3) Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for—
 - (i) Section 503 of the Rehabilitation Act of 1973;
 - (ii) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974; and
 - (iii) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity);
- (4) National Labor Relations Board (NLRB) for the National Labor Relations Act; and
- (5) Equal Employment Opportunity Commission (EEOC) for—
 - (i) Title VII of the Civil Rights Act of 1964;
 - (ii) The Americans with Disabilities Act of 1990;
 - (iii) The Age Discrimination in Employment Act of 1967; and
 - (iv) Section 6(d) of the Fair Labor Standards Act (Equal Pay Act).

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).

Labor compliance agreement means an agreement entered into between a contractor or subcontractor and an enforcement agency to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

Labor laws means the following labor laws and E.O.s:

- (1) The Fair Labor Standards Act.
- (2) The Occupational Safety and Health Act (OSHA) of 1970.
- (3) The Migrant and Seasonal Agricultural Worker Protection Act.
- (4) The National Labor Relations Act.
- (5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.
- (6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.
- (7) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).
- (8) Section 503 of the Rehabilitation Act of 1973.
- (9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.
- (10) The Family and Medical Leave Act.
- (11) Title VII of the Civil Rights Act of 1964.
- (12) The Americans with Disabilities Act of 1990.
- (13) The Age Discrimination in Employment Act of 1967.
- (14) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).
- (15) Equivalent State laws as defined in the DOL Guidance. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans, which can be found at www.osha.gov/dcsp/osp/approved_state_plans.html).

Labor law decision means an administrative merits determination, arbitral award or decision, or civil judgment, which resulted from a violation of one or more of the laws listed in the definition of "labor laws".

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.

Note to paragraph (a): By a court order issued on October 24, 2016, the following definitions in this paragraph (a) are enjoined indefinitely as of the date of the order: “Administrative merits determination”, “Arbitral award or decision”, paragraph (2) of “Civil judgment”, “DOL Guidance”, “Enforcement agency”, “Labor compliance agreement”, “Labor laws”, and “Labor law decision”. The enjoined definitions will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the

name or names of the HUBZone small business concern or concerns that are participating in the joint venture:_____]. Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

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

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

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

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

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

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

(2) Foreign End Products:

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

[List as necessary]

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

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or

manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

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

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

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

[List as necessary]

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

Other Foreign End Products:

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

[List as necessary]

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

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

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

Canadian End Products:

Line Item No.

[List as necessary]

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

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

Canadian or Israeli End Products:

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

_____	_____
_____	_____
_____	_____

[List as necessary]

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

(g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

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

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

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

_____	_____
_____	_____
_____	_____

[List as necessary]

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

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

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

Other End Products:

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

_____	_____
_____	_____
_____	_____

[List as necessary]

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

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

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

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

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

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

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

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

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

(ii) *Examples.*

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

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

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

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

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

(1) *Listed end products.*

Listed End Product Listed Countries of Origin

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

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

☐ (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this

contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

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

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

(2) ☐ Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting

requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

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

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

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because:

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

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

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

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

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

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(5) *Common parent.*

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

☐ Name and TIN of common parent:

Name _____.

TIN _____.

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

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

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

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

(i) It ☐ is, ☐ is not an inverted domestic corporation; and

(ii) It ☐ is, ☐ is not a subsidiary of an inverted domestic corporation.

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

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

(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 unique entity identifier 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).

(s) *Representation regarding compliance with labor laws (Executive Order 13673).* If the offeror is a joint venture that is not itself a separate legal entity, each concern participating in the joint venture shall separately comply with the requirements of this provision.

(1)(i) For solicitations issued on or after October 25, 2016 through April 24, 2017: The Offeror ☐ does ☐ does not anticipate submitting an offer with an estimated contract value of greater than \$50 million.

(ii) For solicitations issued after April 24, 2017: The Offeror ☐ does ☐ does not anticipate submitting an offer with an estimated contract value of greater than \$500,000.

(2) If the Offeror checked “does” in paragraph (s)(1)(i) or (ii) of this provision, the Offeror represents to the best of the Offeror's knowledge and belief [Offeror to check appropriate block]:

☐ (i) There has been no administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the offeror (see definitions in paragraph (a) of this section) during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; or

☐ (ii) There has been an administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter.

(3)(i) If the box at paragraph (s)(2)(ii) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide--

(A) The following information for each disclosed labor law decision in the System for Award Management (SAM) at www.sam.gov, unless the information is already current, accurate, and complete in SAM. This information will be publicly available in the Federal Awardee Performance and Integrity Information System (FAPIS):

(1) The labor law violated.

(2) The case number, inspection number, charge number, docket number, or other unique identification number.

(3) The date rendered.

(4) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision;

(B) The administrative merits determination, arbitral award or decision, or civil judgment document, to the Contracting Officer, if the Contracting Officer requires it;

(C) In SAM, such additional information as the Offeror deems necessary to demonstrate its responsibility, including mitigating factors and remedial measures such as offeror actions taken to address the violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws. Offerors may provide explanatory text and upload documents. This information will

not be made public unless the contractor determines that it wants the information to be made public; and

(D) The information in paragraphs (s)(3)(i)(A) and (s)(3)(i)(C) of this provision to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR 4.1102(a)).

(ii)(A) The Contracting Officer will consider all information provided under (s)(3)(i) of this provision as part of making a responsibility determination.

(B) A representation that any labor law decision(s) were rendered against the Offeror will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsive.

(C) The representation in paragraph (s)(2) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in FAR 12.403.

(4) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation at paragraph (s)(2) of this provision is no longer accurate.

(5) The representation in paragraph (s)(2) of this provision will be public information in the Federal Awardee Performance and Integrity Information System (FAPIS).

Note to paragraph (s): By a court order issued on October 24, 2016, this paragraph (s) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the **Federal Register** advising the public of the termination of the injunction.

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (52.212-1(k)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner) ☐ does, ☐ does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) ☐ does, ☐ does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly accessible Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible Web site includes the Offeror's own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked "does" in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported:_____.

(End of Provision)