

**Description:** This is a combined synopsis/solicitation for commercial items prepared in accordance with the format in Subpart 12.6, in conjunction with Far Part 13 as supplemented with additional information included in this notice. This announcement constitutes the only solicitation; proposals are being requested and a written solicitation will not be issued. The commercial items procedures of FAR Part 12 will be used. **Solicitation# RFP VA256-17-R-0729.** This solicitation is issued as request for proposal (RFP).

Solicitation document and incorporated provisions and clauses are those in effect through Federal Acquisition Circular 2005-94 & 2005-95 (effective 01/20/17) Rev 2 (05/08/17).

This is a total set-aside for Small Businesses (SB) only.

NAICS code is 541620, size standard is \$15 MILLION.

Place of Performance:

Michael E. DeBakey VA Medical Center

2002 Holcombe BLVD

Houston, TX 77030

**SITE VISIT (RECOMMENDED)**

Michael E. DeBakey VA Medical Center

2002 Holcombe Blvd. Houston, TX 77030

Building 100 Rm. 4B-300

Wednesday, June 7, 2017 9a.m. CST

Anticipated Performance Period: June 14, 2017 to June 13, 2018 plus one 12 Month Option period at the discretion of the government to exercise.

All questions pertaining to this solicitation shall be submitted by 10:00a.m. CST June 8, 2017. Send all questions electronically to Darnell.Rias@va.gov.

Only electronic offers will be accepted. Offers shall be submitted to Darnell.Rias@va.gov.

NO LATER THAN June 12, 2017 by 8:00a.m. CST.

**A.1 APPLICABLE Provisions and Clauses**

The provision at 52.212-1 Introduction to Offerors – Commercial, applies to this acquisition.

The provision at 52.212-2 EVALUATION – COMMERCIAL ITEMS (JAN 1999) applies to this acquisition.

All offers shall include a completed copy of the provision at 52.212-3, Offeror Representations and Certifications –Commercial Items.

The clause at 52.212-4, Contract Terms and Conditions – Commercial Items, applies to this acquisition and a statement. The addendum to FAR 52.212-4 also applies to this acquisition.

The clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items, applies to this acquisition and all additional FAR clauses cited in the clause are applicable to the acquisition.

Addendum to FAR 52.212-4 Show FAR clauses followed by VAAR clauses in numeric order.

Solicitation contains a list of all clauses incorporated by reference in numeric order under 52.252-2 (see below), starting first with FAR and followed by VAAR.

## SECTION B

### B.1 CONTRACT ADMINISTRATION DATA

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

a. CONTRACTOR:

b. GOVERNMENT: Contracting Officer 36C256

Department of Veterans Affairs

NCO 16 & Division III Services Team B

Michael E. DeBakey VA Medical Center

2002 Holcombe BLVD

Houston TX 77030 4298

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

- 52.232-33 Payment by Electronic Funds Transfer--System For Award Management, in accordance with Lightning Bolt 17-06 dated 02/17/2017, 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 Service Center  
PO Box 149971  
Austin TX 78714-9971

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

AMENDMENT NO	DATE

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

This solicitation includes FAR 52.219-6. Small Business registration will be verified in System Award Management (SAM), and Small Business Administration (SBA). Proposals will be considered nonresponsive and rejected if the Contracting Officer is not able to verify and view contractor registrations. 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 REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT SYSTEM (CPARS)**

a. As prescribed in Federal Acquisition Regulation (FAR) Part 42.1502 and 42.1503, the Department of Veterans Affairs (VA) evaluates contractor past performance on all contracts that exceed \$150,000. 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, Contractor Performance Assessment System (CPARS), which is maintained by the Naval Sea Logistics Center in Portsmouth, Virginia. CPARS has connectivity with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. PPIRS is the system used to collect and retrieve performance assessment reports used in source selection determinations and completed CPARS report cards transferred to PPIRS. CPARS also includes access to the Federal Awardee Performance and

Integrity Information System (FAPIS). FAPIS is a web-enabled application accessed via CPARS for contractor responsibility determination information.

b. The Contractor will have an opportunity to review their ratings/comments, under the step “Contractor Comments” in CPARS. You will be notified via email by the CPARS system to review the report and provide comments. Each contractor whose contract award is estimated to exceed \$150,000 may register with CPARS database at the following web address: [www.cpars.gov](http://www.cpars.gov) in order to review the past performance evaluations. Help in registering can be obtained by contacting Customer Support Desk @ DSN: 684-1690 or COMM: 207- 438-1690. Registration should occur no later than thirty days after contract award, and must be kept current should there be any change to the Contractor's registered representative.

## **B.4 STATEMENT OF WORK (SOW)**

### **STATEMENT OF WORK**

#### **Scaffold Intake Structure**

A. The Michael E. DeBakey VA Medical Center (MEDVAMC) has experienced significant indoor air quality (IAQ) issues in a portion of the building and has determined that the source is fumes from vehicles passing near the air handler intake serving the affected area. MEDVAMC further determined that the IAQ issue was resolved by construction of a plenum outside the air handler intake, which forces fresh air to be drawn in from approximately thirty feet above the ground instead of at ground level.

B. The contractor shall install a temporary external air intake plenum utilizing an engineered scaffolding system and exterior plywood sheathing to abate the IAQ issues while design, fabrication and installation of a permanent plenum is accomplished. This contract will be for a base year with an option year to be used at the discretion of the government.

C. The contractor shall provide and install an engineered temporary scaffolding structure over a weekend so as not to disrupt daily hospital traffic flow. The contractor will have access to the site starting at 6 pm on a Friday until 6 am the following Monday.

D. The structure shall act as a new air intake plenum for Area L at MEDVAMC.

Specifications to the structure shall be the following:

1. Structure shall be designed by a Professional Engineer experienced in scaffold design and meet the requirements listed.
2. Structure shall be an enclosed scaffold system approximately 32 feet high. The enclosed area shall include the basement air intakes. Reference attached drawing SKA1 for approximate dimensions.
3. The scaffold system shall be wrapped with exterior plywood sheathing held securely to the scaffold structure using U-bolts or other attachment so as not to pose any hazard to passersby.
4. The system shall include a 3'-0" X 7'-0" access door for access and inspections. Door shall include a lock set compatible with the facility and have a 7 pin IC core keyed to the facility.
5. Exterior sheathing shall be primed and painted. The color will be selected by VA.
6. All joints between plywood sheets shall use 20ga plywood attachment clips and shall be sealed using caulking to create an airtight chase from ground level up to the top of the structure. The sheathing shall also be sealed with caulking along the ground and where it meets the wall of the building.
7. The structure shall be designed to support itself and withstand wind and weather. The structure can be attached to the building or building steel structure in a manner that does not damage the existing finishes or can use counterweights or other means of support. Contractor shall repair any damage to the building associated with the scaffolding attachment points.

8. The contractor shall provide installation drawings and design to the VA for approval prior to starting any work on site.
9. A sketch provided SKA1 of the air handler intake area is included. Structure shall span the Basement, 1<sup>st</sup> floor and 2<sup>nd</sup> floor intakes. Access shall be provided to the basement intakes

E. Using the attached form (Attachment 2), the Contractor shall complete and document weekly inspections of the structure to ensure its integrity and shall be available within one workday to perform repairs should the seal be compromised between inspections.

F. The structure shall remain in place for one year with an option for an additional year for a total of two years. All scaffolding materials will remain the property of the contractor. **NOTE:** If a tropical system of sufficient size has the potential to affect the southwest Texas region, a determination will be made in consultation with the COR whether to disassemble the scaffold or leave it in place. The time frame for making this decision will be based on the estimated time to disassemble the system. If the system is removed, MEDVAMC understands that there may be additional assembly and disassembly fees associated.

G. Security Procedures:

1. Contractor's employees shall not enter the building without appropriate badge. They shall also be subject to inspection of their personal effects when entering or leaving the building. All contractor personnel shall be subject the MEDVAMC policies and procedures regarding employee safety and security.
2. Photography of VA premises is allowed only with written permission of the Contracting Officer Representative (COR).

H. **PERIOD OF PERFORMANCE:** The new scaffolding structure shall be in place within **14 days** after receipt of order (ARO). This contract is for 12 months with an option to exercise an additional at the discretion of the government.

I. **LICENSES AND/OR PERMITS:** The Contractor shall obtain all necessary licenses and/or permits required to perform the work under this contract. All costs associated with obtaining necessary licenses and/or permits shall be Contractor's responsibility.

J. **SUPERVISION:** The Contractor shall provide experienced supervision of the contract work. The Contractor or his on-site supervisors shall be on site always when the contract work is in progress to receive notices, reports, or request from the Contracting Officer or the COR.

K. **SAFETY COMPLIANCE:** The Contractor shall adhere to all OSHA, EPA, NFPA Life Safety Codes, and all other regulatory requirements.

- In performance of this contract, the Contractor shall follow MEDVAMC safety policy and standard for safe work practices, and take such safety precautions as the Safety Officer or designee may determine to be reasonably necessary to protect the lives and health of occupants of the building. The Contractor shall comply with MEDVAMC smoking policy, which designates all interior space as non-smoking areas and allows smoking only in designated shelters.
- Patient, employee, visitor and contractor personnel safety shall be maintained at all times. The contractor is responsible for the occupational safety and health of his/her employees. The Contractor shall comply with all applicable OSHA safety and health standards. The Contractor

shall replace all safety guards, equipment, devices, etc. removed to service or make repairs immediately after completion of work or when leaving the job unattended.

- The Contractor shall submit to the COR, prior to the start of the contract, the Safety Data Sheets (SDS) for all potentially hazardous materials (lubricants, cleaners, working fluids, etc.) to be used in in performance of the contract, and shall not use such materials which have not been so cleared in advance with MEDVAMC. SDS for new chemicals shall be furnished concurrently with arrival of the chemical on site. The Contractor shall maintain a copy of all SDS in a location accessible to MEDVAMC personnel to assure compliance with all laws and requirements regarding the “Right to Know” law.
  
- The Contractor shall identify, provide and maintain all personal protective equipment (PPE) required to perform the duties outlined in the contract. In addition, the contractor is responsible for identifying and providing all applicable safety programs (i.e. lockout/tag out, confined space entry, universal precautions, etc.) required for performance the work. Training on required safety programs and the proper use of PPE shall be provided, and documentation maintained by the contractor.
  
- The Contractor shall obtain a Hot Work Permit from the Safety Office whenever soldering, welding, using a cutting torch, or other open flame, spark, or heat producing equipment. The contractor is required to follow ALL requirements outlined for the issuance of the Hot Work Permit.
  
- The Contractor shall be notified of any non-compliance with the pervious provisions. The contractor shall, after receipt of such notice, immediately correct the condition and notify the contracting officer in writing that the condition has been corrected. If, in the opinion of the Safety Officer or designee the condition is life threatening he/she shall instruct the contractor to stop work until the condition has been corrected. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue and order halting of all or any part of the work, and Contractor may be held in default. The Contractor shall bear all costs of stop work time and correcting safety hazards.

L. **INJURY OR ACCIDENT:** Contractor shall submit a written report to MEDVAMC within one workday of any incident of a major malfunction, accident or injury involving the project. The report shall state the cause, what and when repairs and tests were or are to be made to correct the cause of the incident.

M. **PERFORMANCE PARAMETER CHART:** The performance parameter chart (PPC) below lists the contract’s primary service requirements, the associated performance standards, the acceptable quality levels (AQL), and the methods of government surveillance.

PPC #	Performance Parameters	AQL	Method of Surveillance
1	Completion of all tasks in accordance with Statement of Work	100% completion of all tasks in accordance with the statement of work	Observance and performance of completed structure.
2	Maintenance of structure	Weekly inspections and response within one	Documentation of inspections and responses.

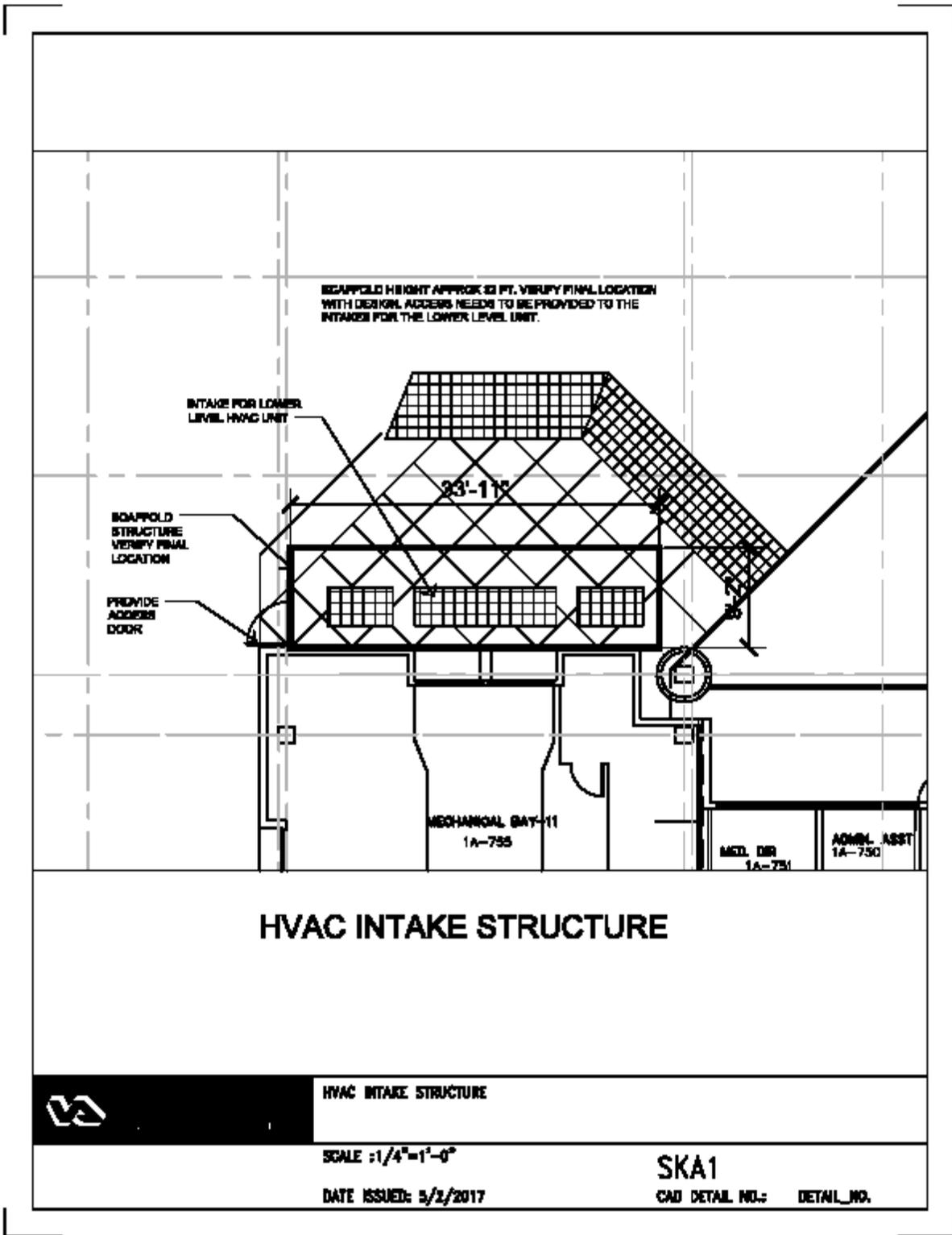
		workday between inspections.	
--	--	------------------------------	--

N. EMERGENCY TELEPHONE NUMBERS: The Contractor shall provide the COR with pertinent emergency telephone numbers, to summon assistance in case an emergency develops. At least one of the emergency telephone numbers shall be manned twenty-four (24) hours per day. This information shall be provided in writing to the COR, prior to the contract start date.

Attachment 1: Sketch of Air Handler Intake Area SKA1

Attachment 2: Weekly Inspection Form

Attachment 1: Sketch of Air Handler Intake Area SKA1



## Scaffold Intake Structure Weekly Inspection

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Inspection Item	Yes	No	Corrective Action
<b>Perform external inspection.</b>			
1. Are there any loose or curling plywood sheets?			
2. Is there any evidence of leaning or separation from the building?			
3. Are all caulk joints sealed?			
a. Between plywood sheets?			
b. At the building walls?			
c. At the ground?			
4. Is area around scaffold clear with adequate housekeeping?			
<b>Perform internal inspection.</b>			
1. Are base plates and/or screw jacks in firm contact with ground?			
2. Is scaffold plumb and level?			
3. Is there any evidence of loose plywood sheets?			
4. Are all caulk joints sealed?			
5. Are the plywood sheets held firmly to the structure?			
6a. If attached to the building, are the attachment points secure with no evidence of weakness?			
6b. If counterweights or other means are used for stability, is the system secure with no evidence of weakness?			
7. Is inside area clear with adequate housekeeping?			

O. INVOICES & METHOD OF PAYMENTS

All invoices shall be submitted in arrears, properly prepared in accordance with FAR 52.212-4, contain sufficient details, and match with the service tickets for the work rendered.

a. Monthly Invoices

Invoices for fixed monthly fee shall be properly prepared and sent via OB10. Contractor shall register and submit invoices electronically via OB10. The website address for registering: [WWW.OB10.COM](http://WWW.OB10.COM).

Notes: On the right side of the screen, click on the (orange button that reads, REGISTER NOW)

THE PROMO CODE SO VENDOR DON'T GET CHARGED FOR INVOICES: VAPC7Y18

THE VA's BUYER ID NUMBER: AAA544240062.

Help Desk Number: 1-800-353-9791 or email: [vafscshd@va.gov](mailto:vafscshd@va.gov)

More information on OB10 invoicing is located <http://www.ob10.com/us/en/veterans-affairs/>. These invoices shall be sent in arrears at the beginning of each month following the month in which the PM services were rendered and billed for. At a minimum, all invoices shall include the following details:

- Description of the services rendered
- Billing period in which the services were rendered
- Correct purchase order number which will be issued by the Contracting Officer after the contract is awarded. Invoices without correct purchase order number shall be rejected and returned to the Contractor.
- Invoice number and date

Payments will be made in accordance with the prompt payment act out of the Government annual appropriated funds obligated in a purchase order which will be issued after the contract is awarded.

b. Invoices for Emergency/Callback Repair Services

Invoices for emergency/callback repair services shall be properly prepared, contain sufficient details, and include a copy of the repair tickets issued by the mechanic who provided the repair services. Invoices for emergency/callback repair services shall be submitted in arrears and sent to the COR at:

The Michael E. DeBakey VA Medical Center  
Attention: (Name of COR)  
2002 Holcombe Boulevard  
Houston, Texas 77030

The VA reserves the right to pay for the emergency/callback repair services either by the government Visa purchase card administered through Citibank Bank, or by a separate purchase order at its own discretion. The contractor shall be able to participate and accept the Government Visa card. Contractor shall use VISA Level II access, which will provide the Purchase Order Number to Citibank when sending the transactions.

End of Statement of Work

## B.5 PRICE/COST SCHEDULE

### ITEM INFORMATION

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1001	The contractor shall provide and install an engineered temporary scaffolding structure at the Michael E. DeBakey VA Medical Center Contract Period: 14 Days After Receipt of Order (ARO)	1.00	JB		
1002	The contractor shall provide complete and document weekly inspections of the structure. The contractor shall also provide any maintenance necessary to ensure structure is safe and secure. Contract Period: Base POP Begin: 06-14-2017 POP End: 06-13-2018	12.00	MO		
2001	The contractor shall provide complete and document weekly inspections of the structure. The contractor shall also provide any maintenance necessary to ensure structure is safe and secure. Contract Period: Option 1 POP Begin: 06-14-2018 POP End: 06-13-2019	12.00	MO		

**GRAND TOTAL** \_\_\_\_\_

The Government will evaluate offers for award purposes by adding the total price for the option to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option price is mathematically and materially unbalanced. Evaluation of the option shall not obligate the Government to exercise the option. As part of the price evaluation, the Government will evaluate its option to extend services (See FAR Clause 52.217-8) by adding one-half of the offer's final option period prices to the offeror's total price. Thus, the offeror's total price for the purpose of evaluation will include

a base period, 1<sup>st</sup> option, and ½ of the 1<sup>st</sup> option. As indicated in FAR 52.217-8 the Government will have the option provision to extend the performance of the contract up to an additional 6 months when the contractor is provided written notice. Thus, providing separate pricing for the optional six-month is not required.

## SECTION C - CONTRACT CLAUSES

### C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (JAN 2017)

(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, 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 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 52.252-2 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 Number</u>	<u>Title</u>	<u>Date</u>
52.203-16	PREVENTING PERSONAL CONFLICTS OF INTEREST	DEC 2011
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
52.228-5	INSURANCE—WORK ON A GOVERNMENT INSTALLATION	JAN 1997
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013
52.237-3	CONTINUITY OF SERVICES	JAN 1991

### **C.3 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

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

(End of Clause)

#### **C.4 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days of contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days of contract expiration 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 24 Months.

(End of Clause)

#### **C.5 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.6 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.7 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.8 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.9 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 Texas. 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.10 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)

END OF ADDENDUM TO 52.212-4

### **C.11 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) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

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

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

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

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

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (41 U.S.C. 3509).

(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 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).

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

(8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (OCT 2015) (31 U.S.C. 6101 note).

(9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

(10) [Reserved]

(11)(i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).

(ii) Alternate I (NOV 2011) of 52.219-3.

(12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(ii) Alternate I (JAN 2011) of 52.219-4.

(13) [Reserved]

(14)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).

(ii) Alternate I (NOV 2011).

(iii) Alternate II (NOV 2011).

- (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-7.
- (iii) Alternate II (Mar 2004) of 52.219-7.
- (16) 52.219-8, Utilization of Small Business Concerns (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 (JAN 2017) (15 U.S.C. 637(a)(14)).
- (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).
- (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (DEC 2015) (15 U.S.C. 637(m)).
- (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (DEC 2015) (15 U.S.C. 637(m)).
- (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (26) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (OCT 2016) (E.O. 13126).
- (27) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
- (28) 52.222–26, Equal Opportunity (SEP 2016) (E.O. 11246).
- (29) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212).
- (30) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).
- (31) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).
- (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

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

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

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

(35) 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.

(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.

(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).
- (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 (JAN 2017) (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).
- (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).

(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) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 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.

(iv) 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.

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

(vi) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).

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

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

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

(x) 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.

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

(xii)(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).

(xiii) 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).

(xiv) 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).

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

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

(xvii) 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)(xvii):** 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.

(xviii) 52.222-60, Paycheck Transparency (Executive Order 13673) (OCT 2016)).

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

(xx)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(B) Alternate I (JAN 2017) of 52.224-3.

(xxi) 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).

(xxii) 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.

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

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

(End of Clause)

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

### **D.1 List of Attachments**

See attached document: S02 Past Performance Questionnaire. Attachment A.

See attached document: S02 Corporate Experience Form. Attachment B.

See attached document: S02 Wage Determination Attachment C.

## SECTION E - SOLICITATION PROVISIONS

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.212-1	INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS	JAN 2017
	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.

**Award will be made on the basis of the Lowest Price Technically Acceptable (LPTA) of quotes meeting or exceeding the acceptability standards for non-cost factors.**

**Each technical sub factor will be given a rating of Pass or Fail.**

(a) General Instructions:

1. The Government plans to make an award without discussions. Therefore, each initial offer should contain the offeror's best terms from a price and technical standpoint. The Government reserves the right to conduct discussions if it is determined to be necessary.
2. Price proposal and technical proposals of each offeror will be evaluated independently. Offerors shall separately bind each. All copies shall therefore be labeled with the offerors name, business address, and VA Solicitation Number.
3. The response shall consist of two (2) separate parts; Part I - Price Proposal, Part II – Technical Proposal.

(b) Specific Instructions:

1. PART I - Price Proposal – Submit one (01) original
  - a. Completed and signed by the signatory any Amendments.
  - b. Government is seeking **DISCOUNTS**. Contractor shall communicate in price proposal discounts being offered to the government.

2. PART II - Technical Proposal - Submit one (01) original.

- a. The Offeror, shall submit one (01) original detailed technical proposal in a format that clearly addresses the technical evaluation factors below.
- b. Each response shall address each factor in the sequence listed and clearly identify which factor is being addressed.
- c. There shall be no mention of costs in the Technical Proposal.

3. Proposal shall be submitted via email to [Darnell.Rias@va.gov](mailto:Darnell.Rias@va.gov) on or before the set forth due date: June 12, 2017 at 8a.m. CST.

4. This Solicitation is a Small Business Set-Aside. Small Business registration will be verified, at the time of offer and time of award, in System Award Management (SAM), and Small Business Administration (SBA) with Data Universal Number (DUN). Offer shall ensure the company data is able to be viewed publicly in all systems. Proposals will be considered non-responsive and rejected if the Contracting Officer is not able to verify and view contractor's registrations.

NO FAXED COPIES SHALL BE ACCEPTED. Proposals shall be submitted via email to [Darnell.Rias@va.gov](mailto:Darnell.Rias@va.gov).

4. Offer's business size certification and status will be verified in the System Award Management (SAM) and Small Business Administration (SBA), with Data Universal Number (DUN). Offer shall ensure the company data can be viewed publicly in all systems. Proposals shall be considered non-responsive if Contracting Officer is not able to verify data in SAM's and SBA.

All questions shall be submitted no later than June 8, 2017 at 10a.m.CST. to [Darnell.Rias@va.gov](mailto:Darnell.Rias@va.gov).

5. EVALUATION FACTORS FOR AWARD

a) The Government will award a contract based on the lowest priced technically acceptable Proposal meeting or exceeding the acceptable standards for non-cost factors.

The following factors shall be used to evaluate offers:

Factor 1 Technical

Factor 2 Past Performance

Factor 3 Price

Evaluation Rating

Go: Offeror has identified and submitted documents to illustrate processes, methods, plans, personnel, licenses, permits and other resources as necessary that together demonstrate an adequate technical approach that will satisfy the requirements. Offer submitted all required documents communicated in the solicitation. There are significant strengths and no weaknesses, or there are some strength and no weaknesses.

No-Go: Offeror has failed to identify, or submitted documents to illustrate processes, methods, plans, personnel, licenses, permits and other resources as necessary that together demonstrate an adequate technical approach that will satisfy the requirements. Offer did not submit required documents communicated in the Solicitation. There are no strengths and many weaknesses, or some significant weaknesses.

Since this solicitation is Lowest Priced Technically Acceptable (LPTA) the source selection evaluation board will begin by reviewing the lowest priced proposal. If the board determines that this proposal is technically acceptable no other proposals will be reviewed. This proposal will have been deemed technically acceptable with the lowest price, so for this reason the award will be made based on FAR guidance.

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

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.acquisition.gov/far/index.html>  
<http://www.va.gov/oal/library/vaar/>

(End of Provision)

<b><u>FAR</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
<b><u>Number</u></b> 52.204-22	ALTERNATIVE LINE ITEM PROPOSAL	JAN 2017

## **E.2 52.216-1 TYPE OF CONTRACT (APR 1984)**

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

(End of Provision)

## **E.3 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:

Darnell Rias

Contract Officer  
Hand-Carried Address:

Department of Veterans Affairs

Purchasing & Contracting  
Michael E. DeBakey VA Medical Center  
2002 Holcombe BLVD  
Houston TX 77030 4298  
Mailing Address:

Department of Veterans Affairs

Purchasing & Contracting  
Michael E. DeBakey VA Medical Center  
2002 Holcombe BLVD  
Houston TX 77030 4298

(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.4 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.5 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)**

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

(End of Provision)

### **E.6 VAAR 852.252-70 SOLICITATION PROVISIONS OR CLAUSES INCORPORATED BY REFERENCE (JAN 2008)**

The following provisions or clauses incorporated by reference in this solicitation must be completed by the offeror or prospective contractor and submitted with the quotation or offer. Copies of these provisions or clauses are available on the Internet at the Web sites provided in the provision at FAR 52.252-1, Solicitation Provisions Incorporated by Reference, or the clause at FAR 52.252-2, Clauses Incorporated by Reference. Copies may also be obtained from the contracting officer.

[Contracting officer shall list all FAR and 48 CFR Chapter 8 (VAAR) provisions and clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer.]

(End of Provision)

### **E.7 52.212-2 EVALUATION—COMMERCIAL ITEMS (OCT 2014)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. Since this solicitation is Lowest Priced Technically Acceptable (LPTA) the source selection evaluation board will begin by reviewing the lowest priced proposal. If the board determines that this proposal is technically acceptable no other proposals will be reviewed. This proposal will have been deemed technically acceptable with the lowest price, so for this reason the award will be made based on FAR guidance.

The following factors shall be used to evaluate offers:

**Award will be made on the basis of the Lowest Price Technically Acceptable (LPTA) of quotes meeting or exceeding the acceptability standards for non-cost factors.**

**Each technical sub factor will be given a rating of Pass or Fail.**

### **Technical**

**Technical Sub Factor 1:** Technical/ Management plan- The Contractor shall demonstrate the following, relevant to the subject procurement:

(a) Contractor shall submit with proposal a detailed technical and management plan describing their proposed capability and methods to manage the performance of all work and requirements in SOW. The plan shall be organized, specific and complete in detail, realistic, and provide a straightforward delineation of the proposed management system. The plan shall contain all proposed management policies and organization charts proposed to implement the plan.

(b) Contractor shall submit with proposal names and resumes of employees and prospective employees who are known to the Contractor that are anticipated to fulfill the services of this SOW should be submitted as part of the vendor's technical proposal. Prospective employees may provide letter of commitments in writing.

(c) Contractor shall submit with proposal detail prior experience in providing services similar to those required by this solicitation. Emphasis shall be placed upon prior contractual experience that is the same as or equivalent to that required by this solicitation. The offerors description of prior contractual experience shall include a description of the type of work performed. Offerors may provide copies of the contract technical requirements to illustrate the type of work.

### **Technical Sub Factor 2:** Corporate Experience

(a) The Contractor shall have completed at least two projects within the last **three years**, of Government/ Corporate experience (submitted on the form provided with the solicitation). Failure to provide evidence of experience in the proposal submission shall result in a rejection of the proposal.

(b) Offeror shall have provided these types of services to either a Government or Commercial entity within the last three years. At a minimum, your narrative shall include the following:

(i) Organizations number of years of corporate experience in providing similar services of similar size and complexity.

(ii) Organizations size, experience in the field, and resources available to enable the Contractor to fulfill requirements of the size anticipated under any resultant contract;

(iii) Brief history of the organizations activities contributing to the development of expertise and capabilities related to this requirement;

(iv) Information that demonstrates the contractor organizational and accounting controls and manpower presently in-house or the ability to acquire the type and kinds of personnel proposed to become in-house staff.

No substitution for Corporate Experience will be considered. Contractor will be considered non-responsive, and proposal rejected, if corporate experience form is not submitted.

**Factor 2: Past Performance** of at least three years (submitted on the form provided with the solicitation).

(a) In this factor, Past Performance will be evaluated for responsibility purpose only. The contractor shall demonstrate past performance of work of a similar nature and relevance to this procurement within the past three years. The contractor shall utilize the attached Past Performance Questionnaire. Contact persons provided may be contacted by the Evaluation Panel.

(b) The Contractor shall send out the attached past performance questionnaire to each of their references listed under Technical Sub Factor 2 Corporate Experience above. The Government will evaluate the quality and extent of Contractor's performance deemed relevant to the requirements of this solicitation. The references shall return the past performance questionnaire directly to the Government Contract Officer listed on the past performance questionnaire via email. The government will use information submitted by the Contractor's and other sources such as other Federal government offices and commercial sources to assess performance.

(c) Contractor's should follow-up and encourage references to return the questionnaires to the Contracting Officer in a timely manner.

The government will review available past performance data in PPIRS. However, the government reserves the right to obtain past performance information from any available sources and may contact customer other than those identified by the offer when evaluating past performance.

Note: Contractor's with no relevant past performance history will not be evaluated favorably or unfavorably on past performance.

**Factor 3: Price**

(a) The Government will review each total price quote for fairness and reasonableness.

(b) Since this solicitation is Lowest Priced Technically Acceptable (LPTA) the source selection evaluation board will begin by reviewing the lowest priced proposal. If the board determines that this proposal is technically acceptable no other proposals will be reviewed. This proposal will have been deemed technically acceptable with the lowest price, so for this reason the award will be made based on FAR guidance.

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

(d) 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.8 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (JAN 2017)**

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 (u) 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](http://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](http://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](mailto:CISADA106@state.gov).

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

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

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

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

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

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

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

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a 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](http://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 nonresponsible.

(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:\_\_\_\_\_.

(u)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, 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.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) Representation. By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(End of Provision)