

Attachment 1: Gray Market Prevention Language

(a) Gray market items are Original Equipment Manufacturer's (OEM) goods sold through unauthorized channels in direct competition with authorized distributors. This procurement is for new OEM medical supplies, medical equipment and/or services contracts for maintenance of medical equipment (i.e. replacement parts) for VA Medical Centers. No remanufactures or gray market items will be acceptable.

(b) Vendor shall be an OEM, authorized dealer, authorized distributor or authorized reseller for the proposed medical supplies, medical equipment and/or services contracts for maintenance of medical equipment (i.e. replacement parts), verified by an authorization letter or other documents from the OEM, such that the OEM's warranty and service are provided and maintained by the OEM. All software licensing, warranty and service associated with the medical supplies, medical equipment and/or services contracts for maintenance of medical equipment shall be in accordance with the OEM terms and conditions.

(c) The delivery of gray market items to the VA in the fulfillment of an order/award constitutes a breach of contract. Accordingly, the VA reserves the right to enforce any of its contractual remedies. This includes termination of the contract or, solely at the VA's election, allowing the Vendor to replace, at no cost to the Government, any remanufactured or gray market item(s) delivered to a VA medical facility upon discovery of such items.