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## SECTION B - CONTINUATION OF SF 1449 BLOCKS

### B.1 CONTRACT ADMINISTRATION DATA

#### 1.1 CONTRACT ADMINISTRATION

1.1.1 The Strategic Acquisition Center (SAC) Contracting Officer (CO) is responsible for providing overall scope oversight, maintaining communication between contractors and the United States Department of Veterans Affairs (VA), ensuring contract compliance, administering base contract and modifications, and ensuring that annual performance evaluations are completed at the base contract level. Nevertheless, any CO assigned to the SAC and acting within his/her warrant authority may take formal action on this contract when a contract action needs to be taken and the primary CO is unavailable. The CO reserves the right to designate a Contracting Officer's Representative (COR) at the Indefinite Delivery Indefinite Quantity (IDIQ) contract level. The CO shall issue a designation letter to the COR and the contractor to ensure that all parties understand the limited authority of the COR.

1.1.2 The IDIQ contract may only be modified by written modification, executed by a SAC warranted CO. The contractor shall not provide products that are not expressly stated in the contract or order. A COR does not have the authority or means to obligate the Government or change the terms and conditions of the IDIQ contract.

1.1.3 All contract administration matters shall be handled by the following individuals:

a. CONTRACTOR:	TBD
b. GOVERNMENT:	Contracting Officer 36C10G U.S. Department of Veterans Affairs Strategic Acquisition Center 10300 Spotsylvania Ave   STE 400 Fredericksburg VA 22408

1.2 CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor will be made in accordance with Federal Acquisition Regulation (FAR):

[X] 52.232-34, Payment by Electronic Funds Transfer—Other than  
System For Award Management, or

[X] 52.232-36, Payment by Third Party

1.3 INVOICES: Invoices shall be submitted in arrears:

a. Quarterly ☐

b. Semi-Annually[]

c. Other [x] (As specified per order)

1.4. GOVERNMENT INVOICE ADDRESS: All Invoices from the contractor shall be submitted electronically in accordance with Veterans Affairs Acquisition Regulation (VAAR) clause 852.232-72 Electronic Submission of Payment Requests.

1.4.1 Submission of a proper invoice – The following data must be included in invoice for it to constitute a proper invoice:

- Name and address of the contractor
- Invoice date and number
- VA Facility Name & Address
- Purchase Order No.
- Contract No.
- Item number, description, quantity, unit of measure, price, extended price and a total of supplies delivered or services performed.
- Date of Surgery
- Implant Device Serial/Lot Number
- Patient Unique Identifier
- Cumulative billing (per line item and total)
- Proof of supplies delivered or services performed MUST also be provided
- Signature, printed name and title of Government receiving official and date of delivery or performance period must be included or accompany with invoice.

1.4.2 Invoice inquiries - If you have questions about the payment status of submitted invoice. Complete the Attachment 1 – Invoice Inquiry Format and submit to order Point of Contact (POC). All inquiries containing patient information (PII, PHI) must be transmitted via facsimile or encrypted email by using “Virtru Pro”. Contractor would need to purchase “Virtru Pro” licenses, at contractor expense without reimbursement by the Government, in order to initiate encrypted emails to the VA. Transmission by any other method is unacceptable, unless authorized in writing by the SAC CO and approved by the VA Information Security Officer and Privacy Officer.

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

AMENDMENT NO	DATE
0001	May 3, 2018

## 1.6 CONTRACT MINIMUM AND MAXIMUM DOLLAR VALUES

The minimum guaranteed amount for contracts awarded under this solicitation is \$10,000 per awardee which shall be obligated at the time of IDIQ award. Orders beyond the minimum shall be determined by department needs. The Government has no obligation to award orders beyond the minimum guaranteed amount. In accordance with FAR 16.504(a)(4)(ii), the maximum aggregate value for all orders awarded under the contracts award under this solicitation shall not exceed \$2,103,393,326.64. The Government's obligation for the minimum guarantee amount applies only to the base period of the contract

## 1.7 CONTRACTOR PERFORMANCE

1.7.1 Attachment 2 - Contractor Discrepancy Report (CDR), may be issued by a CO or COR to document less than acceptable performance by the contractor at any point during the period of performance. It should be noted that issuance of a CDR should not be the first form of communication or plan of resolution unless the seriousness of the situation warrants such formal documentation from onset. The CO, COR and contractor shall maintain open and effective communications to avoid the issuance of CDRs to the maximum extent practicable. All parties acknowledge that a finalized CDR will become part of the official file and will be used to report on annual performance under the IDIQ.

1.7.2 If use of a CDR is warranted, the CO/COR shall complete the CDR, citing the IDIQ and/or Delivery Order (DO) number and the specific IDIQ and/or DO section or clause related to the performance issue. The CO/COR shall provide a detailed and descriptive narrative of the background and issue. Upon receipt of the CDR, the contractor shall provide a timely and detailed response by the contractor. The contractor's response shall include any important or relevant information or justification for the performance issue and a proposed resolution. The CO/COR will review the response from the contractor and the CO will issue a final recommendation or plan of action. The CO, COR, and contractor will maintain communication to ensure that the recommendation or plan of action is carried out.

1.7.3 The contractor's performance on the IDIQ will be reported to the Contractor Performance Assessment Reporting System (CPARS) on an annual basis. The CO and COR will make use of information from CDRs, as well as any additional knowledge and information available to them with respect to the contractor's performance, to complete the CPARS. Contractors shall familiarize themselves with the CPARS process and be prepared to respond to reports entered by the CO and COR.

1.7.4 The Performance Metrics, Section [B.5.11](#) (Performance Metrics), is a listing of the metrics that will be monitored during the contract term. The Performance Metrics provides the minimum standard of acceptable performance as well as the minimum acceptable quality level of the standard.

## **B.2 SUBCONTRACTING-- MONITORING AND COMPLIANCE**

2.1 This solicitation includes Small Business Subcontracting Plan, VAAR 852.219-9. Accordingly, any IDIQ contract resulting from this solicitation will include this clause. The contractor is advised in performing IDIQ 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.

2.2 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 PRODUCT DESCRIPTION

### 3.1 INTRODUCTION

3.1.1 The Department of Veterans Affairs (VA) Prosthetics Sensory Aid Service (PSAS) requires the acquisition biologics and biological Implants. VHA manages the United States' largest integrated healthcare system. Veterans' healthcare is separated geographically into 21 Veterans Integrated Services Networks (VISNs) with approximately 168 VA Medical Centers (VAMCs), 1,053 outpatient sites , and various other Federal facilities to include Community Living Centers (CLCs), Vet Centers and Domiciliary. Together these health care facilities, and the more than 53,000 independent licensed health care practitioners who work within them, provide comprehensive care to about 9.3 million enrolled Veterans.

3.1.2 VHA PSAS have a need for biologics and biological implants. The objective of this procurement is to ensure availability and consistency of products for nationwide usage and to obtain volume-based, standardized pricing by establishing enterprise-wide IDIQ contracts. The Government desires to continue the practice of reducing costs by standardizing the ordering of products and sources of supply while, simultaneously, balancing clinician considerations for obtaining quality products.

3.1.3 The commodities to be acquired are various types of biologics and biological implants, which include any human cell, tissue, or cellular or tissue-based product or animal product inserted or grafted into the body for prosthetic, therapeutic purposes. The goal is for the implant to restore or replace a body function, or restore appearance.

3.1.4 These biologics and biological implants are to be used in various surgeries, treatments, and medical procedures to treat, prevent, or diagnose diseases. Biologics and biologic implants will consist of allograft and xenograft tissue. Allografts are bone and soft tissue grafts taken from human cadavers of genetically non-identical member of the same species. Most human tissue and organ transplants are allografts. Xenografts are bone and soft-tissue grafts taken from animals, typically pigs and cows. [This requirement does NOT include organs for transplant, virus, therapeutic serums, toxins, antitoxins, or vaccines.](#)

3.1.5 All allograft products shall be Food and Drug Administration (FDA) approved and labeled in accordance with the International Standard for Blood and Transplant (ISBT) 128, which is the global standard for the identification, labeling, and information transfer of human allograft medical products. Xenograft products may use any of the standards [\(GS1 and HIBCC\)](#) currently FDA approved Unique Device Identifiers (UDI). Biological implants must be tracked from human donor or animal source at each step of distribution to implantation so that all patients who receive biological implants by the VA can be notified of a recall subject to the evaluation by appropriate medical personnel.



### 3.2 SCOPE OF WORK

3.2.1 The contractor shall provide an uninterrupted supply of products and delivery of biologics and biological Implants as specified in the contract. The contractor shall delivery products in accordance with Normal”, Expedited, “Just-In-Time (JIT)” and Consignment delivery methods as outlined in section B.5.6 (delivery requirements). The contractor shall conduct business operations that adhere to all applicable Federal, State, local laws and regulations.

3.2.2 Purchases by the Government of products established under the resulting IDIQs shall be decentralized. The orders shall indicate the specific items ordered, item quantities, and all necessary delivery and payment procedures.

3.2.3 The contractor shall responsible for providing a VA specific product catalog that will allow streamlined ordering for the PSAS, local VA Contracting Officers and/or appointed Ordering Officers (when authorized by VA policy for Prosthetic purchases).

3.2.4 All VA issued orders shall comply with FAR 52.225-5 Trade Agreements.

3.2.5 The allograft products shall be FDA and labeled in accordance with ISBT for human allograft medical products. The contractor shall be in compliance for allograft ISBT standard by the first anniversary date of the effective award date of the IDIQ contract award. The xenograft products shall be FDA and labeled using any of the standards (GS1 and HIBCC) currently FDA approved UDI. Failure to meet labeling requirement by first anniversary date of effective award date of IDIQ contract award shall be removed from the Attachment 3 Amendment 000002 – Excel Price/Cost Schedule in the resulting award or terminated.

### 3.3 GENERAL INFORMATION

3.3.1 Orders issued under this contract shall be firm fixed price.

3.3.2 The ordering period is performance is 60 months.

### 3.4 DESCRIPTION OF SUPPLIES

PRODUCT LINE	PRODUCT DESCRIPTION
Biologics and Biological Implants	Allografts and Xenografts

### 3.5 INFORMATION SECURITY CONSIDERATIONS



3.5.1 The Certification and Accreditation (C&A) requirements do not apply and a Security Accreditation Package is not required.

3.5.2 The contractor shall safeguard Protected Health Information (PHI) and Personally Identifiable Information (PII). The Department of Veteran defines personally identifiable information as: "information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."

3.5.3 Protected Health Information - Protected Health Information (PHI) is a subset of Health Information, including demographic information collected from an individual, that: (1) is created or received by a health care provider, health plan, or health care clearinghouse (e.g., a HIPAA-covered entity, such as VHA); (2) relates to the past, present, or future physical or mental condition of an individual, or provision of or payment for health care to an individual; and, (3) identifies the individual or where a reasonable basis exists to believe the information can be used to identify the individual. NOTE: VHA uses the term PHI to define information covered by the Privacy Act and the Title 38 confidentiality statutes in addition to HIPAA.

3.5.4 Personally Identifiable Information - Personally Identifiable Information (PII) is any information pertaining to an individual that is retrieved by the individual's name or other unique identifier, as well as PHI regardless of how it is retrieved. PII is a subset of personally identifiable information and is protected by the Privacy Act.

3.5.5 The HIPAA Privacy Rule defines Protected Health Information as PII transmitted or maintained in any form or medium by a covered entity, such as VHA. NOTE: VHA uses the term protected health information to define information that is covered by HIPAA but, unlike PII, may or may not be covered by the Privacy Act or Title 38 confidentiality statutes. In addition, PHI excludes employment records held by VHA in its role as an employer.

3.5.6 If invoice follow up is required with ordering activity. Then transmission will be done by fax or encrypted mail. Contractor shall encrypt mail by purchasing licenses of Virtru Pro to initiate encrypted emails to VA. Government will not reimburse contractor for purchases of Virtru Pro licenses.

3.5.7 Reserved

3.5.7.1 Reserved

**B.4 PRICE/COST SCHEDULE**

The negotiated pricing will apply through the life of the contract unless modify by the SAC CO.

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<b>0000</b>	See <a href="#">Attachment 3 Amendment 00002</a> – Excel Price/Cost Schedule for details				
GRAND TOTAL					_____

## **B.5 IDIQ TERMS AND CONDITIONS**

### **5.1 PRODUCT REMOVAL OR RECALL**

5.1.1 For any product awarded under this contract removed or recalled by the manufacturer due to defects in the product or potential dangers to patients, or if any required removal or recall is suggested or mandated by a regulatory or official agency, the manufacturer or distributor shall take the following steps immediately:

5.1.2 Notify the CO at the SAC in writing, by the most expeditious manner possible.

5.1.3 Provide copies of the notification to CO, Contracting Specialist, Contracting Officer Representative, and Manager at Product Recall Office, all Agencies and VA Facilities who purchased the product, which include, but not be limited to the following:

- (1) Complete item description and/or identification, order numbers from customers and the contract number assigned as a result of an issuance on the solicitation;
- (2) Reasons for modifications, removal or recall; and
- (3) Necessary instructions for return for credit, replacement or corrective action.

5.1.4 A copy of the notification will be provided to:

Manager, Product Recall Office  
National Center for Patient Safety  
Veterans Health Administration  
24 Frank Lloyd Wright Drive, Lobby M  
Ann Arbor, MI 48106

### **5.2 TECHNOLOGY REFRESH, ITEM ADDITION, PRICE ADJUSTMENTS AND DELETION**

5.2.1 The contractor shall provide improved items within the awarded product line as appropriate new industry technologies emerge and/or products become obsolete during the term of the contract. A revised product listing and documentation identified below shall be submitted in writing to the CO, CS and COR.

5.2.2 Further, the contractor shall ensure that all biological products offered are state-of-the-art. "State-of-the-art" is defined as the most recently designed components approved by the FDA and are announced for marketing purposes. All improved, enhanced, or replacement products shall contain the manufacturer's commercial warranty.

5.2.3 The contractor shall ensure that all upgraded improved/replaced products meet American with Disabilities Act (ADA) and Health Information Portability and Accountability Act (HIPAA) Federal requirements. The contractor shall ensure that all new products are approved in accordance with the pre-market notification under the Food and Drug Administration (FDA) 510K process, [if applicable](#), and labeled appropriately for biologic Implants. Any Medical Products of Human Origin (e.g. allografts) shall be labeled in accordance with ISBT 128. Xenograft products may use any of the [two \(GS1 and HIBCC\)](#) currently FDA approved Unique Device Identifiers (UDI).

5.2.4 The contractor shall provide the following information to the CO, CS and COR for review and approval:

- (1) A complete modification request form that includes a list of specific awarded item(s) to be updated or/and added in the [Attachment 3 Amendment 00002](#) - Excel Price/Cost Schedule;
- (2) Product literature for the item(s);
- (3) A detailed description of the differences or benefits of products refreshed as compared to the item(s) being discontinued or added;
- (4) Proper identification of any product requirements and/or procedures related to those product(s) proposed;
- (5) FDA approval (if applicable);
- (6) Provide historical sales to VA by item(s) (if applicable), if applicable; and
- 7) Copy of commercial warranty.

5.2.5 If approved, FDA new items may be added to the contract via bilateral modification to contract and negotiation of pricing so long as items are within scope and pricing is determined fair and reasonable.

**5.2.5.1 Item Additions:** In addition to the items that are included in the initial award, the Government may add items to the contract that meet the scope outlined in the Product Description and which are determined to have a fair and reasonable price. New additions will not be accepted during the 1<sup>st</sup> twelve months after contract award. The Contractor may request addition of new items as outlined by the Contracting Officer.

**5.2.5.2 Administration of Additions:** Any requested additions must be approved by the Contracting Officer and PSAS before they may be offered under the contract. In order to be considered, any addition request must include a completed spreadsheet using [Attachment 3 Amendment 00002 - Excel/Price Cost Schedule](#) with all required information completed. Additionally, other than cost or pricing data must be provided that supports the offered pricing. The items requested will go through the same evaluation procedures as items under the initial proposal evaluation. Approval of addition requests shall be implemented by issuance of a contract modification along with the updated [Attachment 3 Amendment 00002 - Excel/Price Cost Schedule](#)

incorporating all additions. [The Government reserves the right to not accept new additions.](#)

**5.2.5.3 Item Price Adjustments:** At any time during the performance of this contract, the Contractor may request changes to the price of an item already on the contract. In order to be considered, any change request must include a completed spreadsheet using the Attachment 3 with all required information completed. An acceptable explanation of why the change is required shall be submitted to support the request. [Upward price adjustments will on be considered in accordance with FAR 52.216-2. No price increase will be considered in year one of the contract. Contractors](#) will be notified of approval of any change requests through issuance of a contract modification and an updated contract price book.

**5.2.5.4 Item Deletions:** At any time during the performance of this contract, the Government may elect to delete any item or items at no cost to the Government. Also, at any point during contract performance the Contractor may submit a request to delete items from the contract based on the items being obsolete, unavailable, out of production or superseded. All deletions from the contract shall be at no cost to the Government. Vendors will be notified of approval of any deletion requests through issuance of a contract modification and an updated Attachment 3.

### **5.3 NOTIFICATION OF SUBSTITUTED AND BACK-ORDERED ITEMS**

5.3.1 The contractor shall notify the authorized purchaser point of contact within one (1) business day for non-emergency orders and within four (4) hours of an emergency order if any parts/materials cannot be delivered in accordance with the individual delivery order requirements. To ensure that the correct items are shipped, the contractor shall not substitute items without prior approval by order point of contact. Instances where the contractor cannot meet the Government's requirement(s), the contractor shall notify the order point of contact of the shortest delivery period available. If the contractor's shortest delivery period is not acceptable to the Government, the Government reserves the right to procure the item(s) from other sources.

### **5.4 ORDERING**

5.4.1 The resultant IDIQ will be decentralized. Orders below \$3,500.00 will be placed by Prosthetics. Orders over micro-purchase threshold shall be placed by warranted CO. Orders exceeding the micro-purchase threshold may be placed against this IDIQ via Electronic Data Interchange (EDI), via facsimile or in writing. No verbal/oral orders can be placed or accepted on this IDIQ.

5.4.2 "Government wide commercial purchase card" means a uniquely numbered credit card issued by a contractor under GSA's Government wide Contract for Fleet, Travel, and Purchase Card Services to named individual Government employees or entities to pay for official Government purchases.

5.4.3 The contractor shall not process a transaction for payment through the purchase card clearinghouse until the purchased supplies have been accepted. Purchase card transactions shall be included in the quarterly sales reporting.

5.4.4 Orders shall be made via one of the following methods:

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To be identified by the contractor in response to the solicitation (i.e. fax, email etc.) The contractor shall acknowledge receipt of a government purchase order and make every effort to confirm receipt back to the VA ordering official within the same business day of receipt but no later than the following business day.

5.4.5 At a minimum order shall contain the following information

- Date of order
- Contract number and order number
- For supplies and services, line item number, subline item number (if applicable), description, quantity, and unit price or estimated cost inclusive of Service Level Agreement fee (as applicable). The corresponding line item number and subline item number from the base contract shall also be included.
- Delivery or performance schedule
- Place of delivery or performance (including consignee)
- Any packaging, packing, and shipping instructions
- Accounting and appropriation data
- Method of payment and payment office, if not specified in the contract

5.4.6 Authorized to Purchase - Any individual at VHA who has ordering/contracting authority, on behalf of VHA, to place orders, may use the IDIQ. Other Governmental Agencies will require an interagency agreement with the Department of Veterans Affairs to place orders against this IDIQ.

5.4.7 One or more delivery orders will be issued during the performance period of the contract. It is the expectation that the field will comply with regulatory guidance provided in FAR when executing orders. The Government does not guarantee any equality of orders placed. Orders are placed based upon a physician's determination of medical necessity for use during medical or surgical services and/or procedures. As a result of the consultation between the physician and patient, a determination is made as to the implant required for favorable medical outcome of the patient.

## 5.5 REPORTS

5.5.1 In order to track compliance, VA requires the contractor to submit the quarterly sale report (QSR). The QSR shall include part number, quantity sold, unit cost, and station location. Format to be developed by the contractor and submitted to Government for review upon award. The QSR shall be submitted on Government fiscal calendar year. See below:

QUARTER	PERIOD OF SALES	SUBMISSION DUE DATE
1 <sup>st</sup>	October – December	Due last day in February
2 <sup>nd</sup>	January – March	May 31 <sup>st</sup>
3 <sup>rd</sup>	April – June	August 31 <sup>st</sup>
4 <sup>th</sup>	July – September	November 30 <sup>th</sup>

5.5.2 The contractor agrees that they shall adhere to this requirement. The contractor shall provide a QSR, after the end of each fiscal quarter ending December, March, June, and September and no later than the submission due date. Reports shall be sent electronically to the SAC IDIQ Government points of contact, Contract Specialist and Contracting Officer identified in B.1, and VA Program Advisory Services (PAS) at [VA003B1DEmp@va.gov](mailto:VA003B1DEmp@va.gov); until the contractor is notified, in writing, of different point of contact. The contractor shall identify the remittance amount and submit the QSR to CO and CS for review prior to remitting SLA fee in pay.gov. The SLA fee remitted in pay.gov shall match the SLA reported on the QSR.

5.5.3 A closeout report shall cover all sales not shown in the QSR and reconcile all errors and credits. If the contractor reported all contract sales and reconciled all errors and credits on the QSR, then a closeout report is not required. All closeout reports shall be submitted by December 31<sup>st</sup> (if required).

5.5.4 The Government reserves the right to inspect without further notice such records of the Contractor as they pertain to sales under this contract. Willful failure or refusal to furnish the required reports, or falsification thereof, may be cause for Government contractual remedies under FAR 52.212-4 Contract Terms and Conditions – Commercial Items.

## 5.6 DELIVERY REQUIREMENTS

5.6.1 Delivery shall be in accordance with Normal”, Expedited, “Just-In-Time (JIT)” and Consignment delivery methods.



5.6.2 Delivery shall be made Free On Board (FOB) destination in accordance with FAR 52.247-34 to any VAMC (which may include outpatient facilities) within the Continental United States (CONUS) and U.S. Territories to include delivery to Philippines and Puerto Rico. All orders to Philippines will contain an identified transshipment point location at the time of order by the ordering activity. Delivery is defined by each order placed against the contract during the specific period of performance. Each order will contain the chosen delivery method.

5.6.3 Normal - Facilities shall contact contractors at a minimum five (5) days prior to the anticipated date of surgery. The required biologics and biological implants shall be delivered in the manner to comply with any sterilization and storage requirement, if necessary.

5.6.4 Expedited - This delivery method allows biologics and biological implant products to be delivered to facilities the same day of the surgery that when contractor is notified no later than 2:00 PM local time the day before the surgery. Implants shall arrive pre-packaged, pre-sterilized (ready to be implanted). The Government will pay the difference between normal delivery (five days) and expedited freight charges. The charge will be identified in the order and pre-approved. In emergency situations, the contractor must be capable of delivering within a few hours on the same day. The contractor must have the ability to receive and deliver the required products seven days per week.

5.6.5 Just-In-Time - The VAMC will call the sales representative when surgery is scheduled to discuss the case, make a product selection from contractor's VA specific product catalog (outlined in the Attachment 3 - excel Price/Cost Schedule) and inform the sales representative of the surgery date and time. The sales representative will transport the biologics and biological implants necessary for surgery to the designated site at the scheduled time upon receipt of order.

5.6.6 Consignment Agreement – Under this contract consignment Agreements will be used as an ordering method only. Incorporated in each consignment shall be a statement that VAMCs shall pay only for the "biologics and biologic implants" that are used. Consignment agreements shall only be established if proper storage is available at the VAMCs as specified in VA Acquisition Manual VHA PM Part 801.102 paragraph 3 definitions, a Consignment Agreement is an agreement for a specified period of time under which a vendor provides an item to the Department of Veterans Affairs, reimbursement for which is made only if and when use of the item is made by the Department of Veteran Affairs. Unused items are returned to the vendor at the end of the effective period of the agreement without reimbursement or other expense to the Government. Contractor can invoice for materials used in a surgery after receipt of a purchase (delivery) order. [If a Consignment Agreement is identified as the most appropriate method of delivery to meet clinical demands the items to be consigned and par levels will be established at the order level by a warranted CO. The terms and](#)

conditions in the awarded contract are applicable to all consignment agreements established.

5.6.6.1 Title for the consigned items shall remain with the contractor until such items are used. The contractor agrees to furnish and maintain an inventory per facility directions of implants, FDA regulations and related supplies at the VAMC on consignment basis in accordance with the terms and conditions of the contract. Items will be placed in the VAMC at no additional expense to the Government upon request by each VAMC. The contractor agrees to provide biologics and biological implants at each facility receiving the consignment. The designated vendor representative assigned to the facility to initiate and oversee the consignment will update the consignment inventory based on volume/utilization/delivery times determined by the facility. A complete listing of part numbers will be provided to the field level COR upon delivery of the initial inventory.

5.6.6.2 Actual initial inventory will be determined by each individual VAMC. Initial consignment inventory shall be placed in the VAMC within ten calendar days after notification that a VAMC will be using the consignment option of the contract. Consignment inventory will be placed in a location designated by the VAMC staff. The VAMC will provide adequate space/shelving and storage for biologics and biological implants.

5.6.6.3 The Government assumes no liability for any items assigned to the VAMC on a consignment basis until such time as a requirement for the item exists and a purchase (delivery) order is placed against the consignment agreement. An exception to contractor liability is loss or damage of any consignment item by VA.

5.6.6.4 After each procedure, the VAMC will provide a list of items used and the contractor will provide replacements within 48 hours. Replacements will be shipped/delivered FOB Destination. The contractor will ship products directly to VAMC at no additional charge. The contractor shall re-sterilize and/or replace, at no additional charge, any item(s) that are handled but not implanted. The contractor shall pick-up or have handled items shipped back to the sterilization facility at no additional expense to the Government.

5.6.6.5 All consignment inventories shall be coordinated with COR. The contractor shall remove or replace inventory as necessary. Inventory having less than 90 days storage/sterility/expiration date must be removed and replaced. A list of all products having an expiration date of less than 90 days will be provided to the COR at the individual VAMC. These services will be completed at no additional cost to the Government. The VA is not liable for devices that are allowed to expire.

5.6.6.7 Defective implants will be replaced by Contractor at no charge to the Government, unless the Government has misused or lost the implant.

5.6.6.7 Contractor's personnel will periodically (no less than once per quarter) conduct a physical inventory of the consignment inventory, with copy of inventory furnished to the order level CO and COR. Unused items will be returned to the vendor at the end of the term of this contract without reimbursement or other expense to the Government.

5.6.7 Schedule for Deliverables - The following provisions apply to all shipments:

Inspection: Destination

Acceptance: Destination

5.6.8 Ship To and Mark For - Deliveries shall be marked and shipped to various VHA locations nationwide which will be identified under each order placed against the IDIQ

## **5.7. INSPECTION AND ACCEPTANCE**

5.7.1 The acceptance paragraph in FAR 52.212-4(a) is based upon the assumption that the Government will rely on the contractor's assurances that the commercial item tendered for acceptance conforms to the IDIQ requirements. The Government's inspection of commercial items will not prejudice its other rights under the acceptance paragraph.

## **5.8 REPLACEMENT WITH ALTERNATE SUPPLIES**

5.8.1 The contractor agrees to supply established item(s) to satisfy the Government's requirement when an order is placed under the contract during the duration of the effective period of the contract. If, however, contractor determines to terminate production or supply of the selected item and contemplates replacement with alternative item, the Government reserves the right to evaluate the potential replacement item(s). There is no guarantee that the Government will evaluate any replacement item(s) favorably. If the Government determines the replacement item(s) as unacceptable, the individual item(s) may be cancelled.

## **5.9 FOOD AND DRUG ADMINISTRATION (FDA)**

5.9.1 The contractor shall not have any outstanding actions from the FDA or other regulatory agencies or unresolved FDA warning letters on the manufacturing processes or quality control issues involving the products covered by this contract within the last three years. VA will require proof from the contractors that the FDA issues have been resolved. A letter to the contractor from the regulatory agency will meet this requirement. Items involved in a recall cannot be added into this contract via modification until the recall is resolved. A distributor shall obtain FDA warning and resolution letters from manufacture, as applicable.

## 5.10 CUSTOMER SERVICE AND TRAINING

5.10.1 Access to contractor support within one hour via telephone/fax/e-mail during ordinary business hours in event of an emergency. Access to vendor support consultant within three working days for non-emergent needs.

5.10.2 A designated contractor representatives shall be assigned to each facility to oversee the consignment process. This contractor representative shall work directly with the assigned VA COR. Upon award, contractor shall inform CORs of appropriate contacts and provide phone numbers.

5.10.3 Designated contractor representatives shall make periodic site visits for in-service presentations on new techniques, instrumentation, and parameters.

5.10.4 Contractor shall provide on-site, in-service demonstration to Prosthetic personnel, the same as what is provided to commercial customers. Distributor shall have manufacture authorized representative provide demonstration as necessary.

## 5.11 PERFORMANCE METRICS

5.11.1 The performance requirement summary below defines the performance standards and acceptable performance levels associated with this IDIQ contract and resulting orders. The contractor's performance shall be evaluated based on standards in table below.

5.11.2 The contractor shall monitor performance against the terms and conditions outlined in the contract. Contractor performance will be monitored and measured using a Quality Assurance Surveillance Plan (QASP).

PERFORMANCE OBJECTIVE	PERFORMANCE STANDARDS	PWS REFERENCE	ASSESSMENT	REMEDIES
Product Modification, Removal or Recall	Provide notification of as outlined in B.5.1 immediately.  No more than 2 occurrences of unreported known product modification, removal recall	Section B.5.1	Random Inspection and Customer Feedback	Document performance in CPARS

Submission of Quarterly Sales Report.	Submission no later than 60 days after end of each calendar quarter ending March, June, September, December. All Quarterly Sales Reports are submitted within 60 days.	Section B.5.5	100% Inspection	Document performance in CPARS
Delivery	<p>5.6.3 Normal delivery shall be delivered in manner to comply with the 72 hour sterilization requirement (if applicable)</p> <p>5.6.4 Expedited - These prosthetics shall be delivered after receiving notification no later than 2:00 PM local time the day before surgery and the contractor shall supply the items prior to the surgery.</p> <p>5.6.5 JIT - The VAMC will call the sales representative when surgery is</p>	Section B.5.6	Random Inspection and Customer Feedback	Document performance in CPARS

	<p>scheduled to discuss the case, make a product selection from Contractor's product line and inform the sales representative of the surgery date and time.</p> <p>No more than 5 missed deliveries within a quarter</p>			
Replacement with Alternate Supplies	Maintain continuous source of supply. No more than 3 occurrences of supply unavailability per option year	Section B.5.8	Random Inspection and Customer Feedback	Document performance in CPARS

## **SECTION C - CONTRACT CLAUSES**

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

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 52.216-18 ORDERING (OCT 1995)**

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

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

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

(End of Clause)

### **C.3 52.216-19 ORDER LIMITATIONS (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$100, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$150,000.00;

(2) Any order for a combination of items in excess of \$500,000; or

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

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



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

(End of Clause)

#### **C.4 52.216-22 INDEFINITE QUANTITY (OCT 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after TBD .

(End of Clause)

#### **C.5 RESERVED**

#### **C.6 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> (FAR) and <http://www.va.gov/oal/library/vaar/index.asp> (VAAR).

(End of Clause)

<b><u>FAR NUMBER</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>
52.202-1	DEFINITIONS	NOV 2013
52.203-16	PREVENTING PERSONAL CONFLICTS OF INTEREST CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENTS TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	DEC 2011
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014
52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS	JAN 2017
52.204-4	PRINTED ON COPIED DOUBLE SIDED ON POST CONSUMER FIBER CONTENT PAPER	MAY 2011
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS	NOV 2015
52.212-4	CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS	JAN 2017
52.232-35	DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFEREE INFORMATION	JUL 2013
52.232-37	MULTIPLE PAYMENT ARRANGEMENTS	MAY 1999
52.232-39	UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS	JUN 2013
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013
52.242-13	BANKRUPTCY	JUL 1995
52.247-32	F.o.b. DESTINATION	NOV 1991

### **C.7 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.8 VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)**

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

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

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

### **C.9 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 contractors 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.10 VAAR 852.246-70 GUARANTEE (JAN 2008)**

The contractor guarantees the equipment against defective material, workmanship and performance for a period of 12 months, said guarantee to run from date of acceptance of the equipment by the Government. The contractor agrees to furnish, without cost to the Government, replacement of all parts and material that are found to be defective during the guarantee period. Replacement of material and parts will be furnished to the Government at the point of installation, if installation is within the continental United States, or f.o.b destination the continental U.S. port to be designated

by the contracting officer if installation is outside of the continental United States. Cost of installation of replacement material and parts shall be borne by the contractor.

(End of Clause)

**C.11 VAAR 852.246-71 INSPECTION (JAN 2008)**

Rejected goods will be held subject to contractors order for not more than 15 days, after which the rejected merchandise will be returned to the contractor's address at his/her risk and expense. Expenses incident to the examination and testing of materials or supplies that have been rejected will be charged to the contractor's account.

(End of Clause)

**C.12 SAC 16-01 – SAC SERVICE LEVEL AGREEMENT FEE AND SUBMISSION OF QUARTERLY SALES REPORTS; OPEN MARKET (JANUARY 2016)**

**a. Service Level Agreement Fee.**

The Service Level Agreement (SLA) fee is established by the Supply Fund Board and is provided as a means of reimbursement for customary acquisition-related services necessary to obtain contractor services and/or supplies as required. The SLA is reimbursed to the SAC based on rates established by the supply fund board and are recouped based on a percentage of total quarterly sales. The Supply Fund Board may change the percentage at any time, but typically not more than once per year. Upon a change in the SLA, the Contracting Officer (CO) shall issue a unilateral modification to apply the change to CLIN prices based upon the SLA rate change. The SAC will provide reasonable notice prior to the effective date of the change.

In order to facilitate SLA reimbursement, offerors must include (imbed) the SLA fee into their prices; therefore, the fee will be reflected in the total amount charged and transparent to ordering activities.

**The current SLA which applies to this contract action is 3.0%.** This SLA Fee shall be imbedded in the awarded contract/agreement price(s), and offers submitted in response to this solicitation shall include this SLA Fee in the price of every line item offered.

**b. Quarterly Sales Reports.**

The Contractor shall report all contract sales under this contract and submit collected SLAs as follows:

(1)The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales made under this contract by calendar quarter (October 1–December 31 (1<sup>st</sup> Qtr.), January 1–March 31 (2<sup>nd</sup> Qtr.), April 1–June 30 (3<sup>rd</sup> Qtr.), and July 1–September 30 (4<sup>th</sup> Qtr.), and). Reported sales must

include all sales made to all authorized contract or agreement users, whether shipped directly to the users or through Prime Vendor contractors. The report shall reflect sales by contract line item and shall segment sales by the Department of Veterans Affairs (VA) and Other Government Agencies (OGA). The reported contract sales shall include the SLA Fee and each quarterly report shall show the total SLA Fee amount collected on the reported sales. The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The Contractor shall consistently use only one of the following acceptable points at which sales may be reported—

- i. Receipt of order;
- ii. Shipment or delivery, as applicable;
- iii. Issuance of an invoice; or
- iv. Payment.

(2) Sales under this contract/agreement shall be reported to the SAC within submission dates identified in Section B.5.6 following the completion of fiscal quarter. The Contractor shall continue to furnish quarterly reports, including "zero" sales, through physical completion of the last outstanding order of the contract/agreement.

(3) The sales report signed by an authorized representative of the contractor shall be emailed to the appropriate individual(s) listed in the terms and conditions of the contract or agreement.

#### **c. SLA Remittance**

The Contractor shall remit the SLA fee to the SAC in U.S. dollars within 60 calendar days after the end of the reporting quarter and final payment shall be remitted within 60 days after physical completion of the last outstanding task order or delivery order of the contract.

The SLA Fee amount collected and due shall be paid electronically. To ensure that the payment is credited properly, the contractor shall electronically transmit the SLA fee at [www.pay.gov](http://www.pay.gov) (VA Strategic Acquisition Center (SAC)); specific in Attachment 4 – Pay.gov Vendor Submittal Instructions shall be provided when the contract action resulting from this solicitation is awarded (i.e. post-award/BPA issuance conference and/or post-award letter when used in lieu of a conference).

The Government reserves the right to inspect, without further notice, such records of the Contractor as pertinent to sales under any contract or agreements resulting from this solicitation. Failure to remit the full amount of the SLA within 60 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of Federal Acquisition Regulation (FAR) Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the SLA, the Government shall have, in addition to the

rights and remedies described in this clause, all other rights and remedies permitted by Federal law and statutes.

(End of Clause)

### **C.13 MANDATORY WRITTEN DISCLOSURES**

Mandatory written disclosures required by FAR clause 52.203-13 to the Department of Veterans Affairs, Office of Inspector General (OIG) must be made electronically through the VA OIG Hotline at <http://www.va.gov/oig/contacts/hotline.asp> and clicking on "FAR clause 52.203-13 Reporting." If you experience difficulty accessing the website, call the Hotline at 1-800-488-8244 for further instructions.

(End of Addendum to 52.212-4)

### **C.14 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JAN 2018)**

(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:

[Contracting Officer check as appropriate.]

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

  X   (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 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

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

\_\_\_ (5) [Reserved].

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

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

\_X\_ (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101 note).

\_X\_ (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

\_\_\_ (10) [Reserved].

\_\_\_ (11)(i) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) ([15 U.S.C. 657a](#)).

\_\_\_ (ii) Alternate I (Nov 2011) of [52.219-3](#).

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

\_\_\_ (ii) Alternate I (JAN 2011) of [52.219-4](#).

\_\_\_ (13) [Reserved]

\_\_\_ (14)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2011) ([15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (Nov 2011).

\_\_\_ (iii) Alternate II (Nov 2011).

\_\_\_ (15)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (June 2003) ([15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (Oct 1995) of [52.219-7](#).

- \_\_\_ (iii) Alternate II (Mar 2004) of [52.219-7](#).
- X\_\_\_ (16) [52.219-8](#), Utilization of Small Business Concerns (Nov 2016) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- X\_\_\_ (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](#).
- X\_\_\_ (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\(r\)](#)).
- X\_\_\_ (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. 657 f](#)).
- X\_\_\_ (22) [52.219-28](#), Post Award Small Business Program Re-representation (Jul 2013) ([15 U.S.C. 632\(a\)\(2\)](#)).
- \_\_\_ (23) [52.219-29](#), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- \_\_\_ (24) [52.219-30](#), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) ([15 U.S.C. 637\(m\)](#)).
- X\_\_\_ (25) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- X\_\_\_ (26) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Jan 2018) (E.O. 13126).
- X\_\_\_ (27) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).
- X\_\_\_ (28) [52.222-26](#), Equal Opportunity (Sept 2016) (E.O. 11246).
- X\_\_\_ (29) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015)([38 U.S.C. 4212](#)).
- X\_\_\_ (30) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).

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

\_X\_ (32) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

\_X\_ (33)(i) [52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627).

\_\_\_ (ii) Alternate I (Mar 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).

\_\_\_ (34) [52.222-54](#), Employment Eligibility Verification (OCT 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)

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

\_\_\_ (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.)

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

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

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

\_\_\_ (ii) Alternate I (Oct 2015) of [52.223-13](#).

\_\_\_ (39)(i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

\_\_\_ (ii) Alternate I (Jun 2014) of [52.223-14](#).

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

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

\_\_\_ (ii) Alternate I (Jun 2014) of [52.223-16](#).

\_X\_ (42) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

\_\_\_ (43) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693).

\_\_\_ (44) [52.223-21](#), Foams (JUN 2016) (E.O. 13693).

\_X\_ (45)(i) [52.224-3](#), Privacy Training (JAN 2017) (5 U.S.C. 552a).

\_\_\_ (ii) Alternate I (JAN 2017) of [52.224-3](#).

\_\_\_ (46) [52.225-1](#), Buy American—Supplies (May 2014) ([41 U.S.C. chapter 83](#)).

\_\_\_ (47)(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](#).

\_X\_ (48) [52.225-5](#), Trade Agreements (OCT 2016) ([19 U.S.C. 2501](#), et seq., [19 U.S.C. 3301](#) note).

\_X\_ (49) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_\_ (50) [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](#)).

\_\_\_ (51) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](#)).

\_\_\_ (52) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](#)).

\_\_\_ (53) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

\_\_\_ (54) [52.232-30](#), Installment Payments for Commercial Items (Jan 2017) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

\_\_\_ (55) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).

\_X\_ (56) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) ([31 U.S.C. 3332](#)).

\_X\_ (57) [52.232-36](#), Payment by Third Party (May 2014) ([31 U.S.C. 3332](#)).

X\_\_ (58) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).

\_X\_ (59) [52.242-5](#), Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(12)).

\_\_ (60)(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:

[Contracting Officer check as appropriate.]

\_\_ (1) [52.222-17](#), Non-displacement 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 (Sept 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. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000

(\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(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 (Sept 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)

[52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627). 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) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xviii)(A) [52.224-3](#), Privacy Training (JAN 2017) (5 U.S.C. 552a).

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



(xix) [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](#)).

(xx) [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](#).

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

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

(End of clause)

#### **C.15 52.216-2 ECONOMIC PRICE ADJUSTMENT -- STANDARD SUPPLIES (JAN 1997)**

(a) The Contractor warrants that the unit price(s) stated in [Attachment 3 Amendment 00002](#) - Schedule for Supplies is not in excess of the Contractor's applicable established price(s) in effect on the contract date for like quantities of the same item. The term "unit price" excludes any part of the price directly resulting from requirements for preservation, packaging, or packing beyond standard commercial practice. The term "established price" means a price that --

- (1) Is an established catalog or market price for a commercial item sold in substantial quantities to the general public; and
- (2) Is the net price after applying any standard trade discounts offered by the Contractor.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price shall be increased, upon the Contractor's written request to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

- (1) [No price increase will be considered in year one of the contract.](#)
- (2) The aggregate of the increases in any contract unit price under this clause shall not exceed 10 percent of the original contract unit price.
- (3) The increased contract unit price shall be effective --



- (i) On the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter; or
    - (ii) If the written request is received later, on the date the Contracting Officer receives the request.
  - (4) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.
  - (5) No modification increasing a contract unit price shall be executed under this paragraph (c) until the Contracting Officer verifies the increase in the applicable established price.
  - (6) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.
- (d) During the time allowed for the cancellation provided for in subparagraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at the contract unit price, increased to the extent provided by paragraph (c) of this clause.

(End of Clause)

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

D.1 ATTACHMENT 1 – INVOICE INQUIRY FORMAT

D.2 ATTACHMENT 2 – CONTRACTOR DISCREPANCY REPORT

[D.3 ATTACHMENT 3 AMENDMENT 00002 – EXCEL PRICE/COST SCHEDULE](#)

D.4 ATTACHMENT 4 – PAY.GOV VENDOR SUBMITTAL INSTRUCTIONS

D.5 ATTACHMENT 5 – QUESTION SUBMISSION FORMAT

[D.6 ATTACHMENT 6 AMENDMENT 00002 – TECHNICAL ACCEPTABILITY  
WORKSHEET](#)

D.7 ATTACHMENT 7 – LETTER OF COMMITMENT

## **SECTION E - SOLICITATION PROVISIONS**

### **E.1 52.204-5 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (OCT 2014)**

(a) Definition. "Women-owned business concern," as used in this provision, means a concern 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) Representation. [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (c)(1) of FAR .] The offeror represents that it ☐ is a women-owned business concern.

(End of provision)

### **E.2 52.209-2 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS, REPRESENTATION (NOV 2015)**

(a) Definitions. "Inverted domestic corporation" and "subsidiary" have the meaning given in the clause of this contract entitled Prohibition on Contracting with Inverted Domestic Corporations ([52.209-10](#)).

(b) 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](#).

(c) Representation. The Offeror represents that.

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

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

(End of provision)

### **E.3 52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (OCT 2015)**

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

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

(B) 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 public (Federal, State, or local) 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 (if offeror checks "have," the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are [ ] are not [ ] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) 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.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *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.

(ii) *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.

(2) *Examples.*

(i) 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.

(ii) 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.

(iii) 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.

(iv) 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).

(ii) The Offeror has [ ] has not [ ], within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

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

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) 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 certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of Provision)

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

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

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

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

(1) The total value of all current, active contracts and grants, including all priced options; and

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

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

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

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

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

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

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

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

(End of Provision)

**E.5 52.209-11 REPRESENTATION BY CORPORATIONS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (FEB 2016)**

(a) 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—

(1) 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

(2) 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.

(b) The Offeror represents that—

(1) 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

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

(End of Provision)



## **E.6 52.216-1 TYPE OF CONTRACT (APR 1984)**

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

(End of Provision)

## **E.7 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (NOV 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) website located at <https://www.sam.gov/portal>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (u) of this provision.

(a) Definitions. As used in this provision.

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

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

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

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

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

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;

- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

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

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

“Sensitive technology”.

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

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

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

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

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

(1) Means a small business concern.

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

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

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

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

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

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

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

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

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

“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.

“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.

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

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

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

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

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

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

(2) The offeror has completed the annual representations and certifications electronically via the SAM website accessed 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 \_\_\_\_\_.

[Offeror to identify the applicable paragraphs at (c) through (t) of this provision that the offeror has completed for the purposes of this solicitation only, if any.

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]

(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 changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☐ is not a HUBZone 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 each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone 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.**

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[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**

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[List as necessary]

(4) Buy American.Free Trade Agreements.Israeli Trade Act Certificate, Alternate III. If Alternate III to the clause at [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**

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[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
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[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. §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. §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. §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). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at .]

(1) Listed end products.

**Listed End Product    Listed Countries of Origin**

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

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

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

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

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

(2) ☐ Outside the United States.

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

subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

☐ (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 e-mail 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) [Reserved].

(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 website 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 website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website 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 website(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)

**E.8 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:

Hand-Carried Address:

U.S. Department of Veterans Affairs  
Strategic Acquisition Center  
10300 Spotsylvania Ave  
Fredericksburg VA 22408

Mailing Address:

U.S. Department of Veterans Affairs  
Strategic Acquisition Center  
10300 Spotsylvania Ave  
Fredericksburg VA 22408

(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.9 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): [www.acquisition.gov](http://www.acquisition.gov)

(End of Provision)

<b><u>FAR NUMBER</u></b>	<b><u>TITLE</u></b>	<b><u>DATE</u></b>
52.203-18	PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS—REPRESENTATION	JAN 2017
52.212-1	INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS	JAN 2017
52.216-27	SINGLE OR MULTIPLE AWARDS	OCT 1995

#### **E.10 VAAR 852.211-72 TECHNICAL INDUSTRY STANDARDS (JAN 2008)**

The supplies or equipment required by this invitation for bid or request for proposal must conform to the standards of the allograft products shall be FDA and labeled in accordance with ISBT. The contractor shall be in compliance for allograft ISBT standard by the first anniversary date of the effective date of the IDIQ contract award. The xenograft products shall be FDA and labeled using any of the standards (GS1 and HIBCC) currently FDA approved Unique Device Identifiers (UDI). The successful bidder or offeror will be required to submit proof that the item(s) he/she furnishes conforms to this requirement. This proof may be in the form of a label or seal affixed to the equipment or supplies, warranting that they have been tested in accordance with and conform to the specified standards. Proof may also be furnished in the form of a certificate from one of the above listed organizations certifying that the item(s) furnished have been tested in accordance with and conform to the specified standards.

(End of Provision)

#### **E.11 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.12 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.13 ADDENDUM TO FAR 52.212-1 INSTRUCTIONS TO OFFERORS— COMMERCIAL ITEMS (JAN 2017)**

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

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

#### **E.14 BASIS OF AWARD**

The Department of Veterans Affairs (VA), Strategic Acquisition Center, Fredericksburg is issuing this Request for Proposal (RFP) for establishing multiple Indefinite Delivery Indefinite Quantity (IDIQ) contracts for biologics and biological implants. The Government may make up to 30 awards resulting from this solicitation. However, the Government reserves the right to establish as many or as few awards as determined appropriate based on the result of this competition.

A proposal will be considered technically acceptable when it has satisfactorily met the requirements of the solicitation and the vendor has not taken exception to any terms or conditions. This includes providing all required information; providing a signed and completed copy of the solicitation, any amendments, certifications and attachments. This includes satisfactorily completing all certifications under FAR 52.212-3. All Offerors shall provide a written certification that they shall fully comply with all solicitation requirements and are not taking exception to any terms or conditions.

#### **E.15 QUESTIONS**

Questions relating to this solicitation shall be emailed to CS at [Lawrence.Toperoff@va.gov](mailto:Lawrence.Toperoff@va.gov) and CO at [LeShanna.Calahan@va.gov](mailto:LeShanna.Calahan@va.gov) Only written questions submitted using Attachment 5 - RFP Questions (one document per Offeror

shall be accepted via email). All questions are due by **NOON April 16, 2018**. No additional questions will be accepted after this time.

## **E.16 PROPOSAL SUBMISSION INSTRUCTIONS**

Your proposal must stipulate that it is predicated upon all the terms and conditions of this RFP and signed by an official authorized to bind your organization. In addition, it must contain a statement to the effect that it is firm for a period of at least 120 days from the date of receipt by the Government.

The Government shall evaluate your proposal in accordance with the evaluation criteria set forth within this solicitation.

This RFP does not commit the Government to pay any of the costs associated with the preparation and submission of your proposal by submitting a proposal in response to this solicitation, it is understood that your proposal shall become a part of the official contract file.

Any resultant contract shall include all applicable clauses to the type of contract awarded. Copies of clauses may be obtained by contacting the CO. Any additional clauses required by public law, executive order, or acquisition regulations, in effect at the time of execution of the proposed contract, shall be included.

The selected awardee(s) shall be required to complete the HIPAA Business Associate Agreement at time of IDIQ award.

The solicitation will remain open and continuous. If there is a reasonable expectation that the number of awards will be made by offerors received in the first submission. The solicitation will be amended and closed. The proposal shall be emailed to the CS at [Lawrence.Toperoff@va.gov](mailto:Lawrence.Toperoff@va.gov) , copy to [Michelle.Bailey@va.gov](mailto:Michelle.Bailey@va.gov) , and CO [LeShanna.Calahan@va.gov](mailto:LeShanna.Calahan@va.gov).

<b>SUBMISSION</b>	<b>DATE</b>	<b>TIME</b>
1 <sup>st</sup> submission	May 21, 2018	NOON EST
2 <sup>nd</sup> submission	August 15, 2018	NOON EST

The Government is not responsible for confirming receipt. An offer received late will be unresponsive and shall receive no further consideration.

In accordance with FAR 52.212-1(f), offerors are responsible for submitting proposal to reach the Government office designated in the solicitation by the date and time specified in the solicitation. These e-mail inboxes are the Government office designated in the solicitation as defined in FAR 52.212-1(f)(1) for timely receipt of proposals. This does not include the initial point of entry to the Government infrastructure. Exceptions for late receipt of electronic submissions are specifically outlined in FAR 52.212-1(f)(2). Offerors are encouraged to familiarize themselves with this section and submit



proposals no later than 5:00 PM one working day prior to the date specified for receipt due to the anticipated number of submissions that will enter the Government infrastructure. The CO and CS cannot guarantee a confirmation of receipt. Proposals received after the closing date and time may not be accepted. Finally, due to VA email file size restrictions (6 MB), contractors may need to logically separate their proposals into separate emails. If this is necessary, contractors shall attempt to contain complete volume within single email transmissions (and not split volumes).

1. PROPOSAL FILES. Offerors responses shall be submitted in accordance with the following instructions:

a. Format. The submission shall be clearly indexed and logically assembled. Each volume shall be clearly identified and shall begin at the top of a page. All pages of each volume shall be appropriately numbered and identified by the complete company name, date and solicitation number in the header and/or footer. Proposal page limitations are applicable to this procurement. The table below indicates the maximum page count (when applicable) for each volume of the offerors submission.

All files will be submitted as either a Microsoft Excel (.XLS) file or an Acrobat (PDF) file or compatible as indicated in the table. Page size shall be no greater than 8 1/2" x 11" with printing on one side, only. The top, bottom, left and right margins shall be a minimum of one inch (1") each. Font size shall be no smaller than 12-point. Arial or Times New Roman fonts are required. Characters shall be set at no less than normal spacing and 100% scale. Tables and illustrations may use a reduced font size not less than 8-point and may be landscape. Line spacing shall be set at no less than single space. Each paragraph shall be separated by at least one blank line. Page numbers, company logos, and headers and footers may be within the page margins ONLY, and are not bound by the 12-point font requirement. All proprietary information shall be clearly and properly marked. Footnotes to text shall not be used. **Additionally, contractors may use hyperlinks or embedded files only for descriptive product literature.** If included, these may be reviewed or evaluated and must be capable of opening on a VA computer. If the contractor submits annexes, documentation, attachments or the like, not specifically required by this solicitation, such will count against the offerors page limitations unless otherwise indicated in the specific volume instructions below. Pages in violation of these instructions, either by exceeding the margin, font or spacing restrictions or by exceeding the total page limit for a volume, may not be evaluated. Pages not evaluated due to violation of the margin, font or spacing restrictions will not count against the page limitations. The page count will be determined by counting the pages in the order they come up in the print layout view.

b. File Packaging. **Do not compress (zip) proposal files.** VA Network Security Operations Center (NSOC) has temporarily blocked email attachments with the ".zip" extension as a mitigation measure against the ongoing world-wide ransomware event impacting many organizations. During this time, **.zip file extensions will be**

**permanently stripped from email traffic, and will not be recoverable.** Due to VA email file size restrictions, offerors are encourage to logically separate their proposal into separate emails. If this is necessary, offerors shall attempt to contain complete volume within single email transmissions (and not split volumes). Offerors are encouraged to review and ensure that sufficient bandwidth is available on their end of the transmission.

c. Content Requirements. All information shall be confined to the appropriate file. The contractor shall confine submissions to essential matters, sufficient to define the proposal and provide an adequate basis for evaluation. Offerors are responsible for including sufficient details, in a concise manner, to permit a complete and accurate evaluation of each proposal.

The titles and page limits requirements for each file are shown in the table below:

#### VOLUME, TITLE, AND PAGE LIMITATIONS

Volume Number	Factor	File Name	Page Limitations
Volume I	Solicitation Requirements	[Contractor Name]SolReq.pdf	None
Volume II	Price	[Contractor Name] Price .xls/.xlsx	None
Volume III	Small Business Subcontracting Plan (Applicable to Large Businesses Only)	[Contractor Name ] SBSCP.pdf	None
Volume IV	SF1449, Amendments & Other Documents	[Contractor Name] Other.pdf	None

A cover page, table of contents and/or a glossary of abbreviations or acronyms will not be included in the page count of any volume. However, be advised that any and all information contained within any table of contents and/or glossary of abbreviations or acronyms submitted with a offerors response will not be evaluated by the Government.

#### **VOLUME I – SOLICITATION REQUIREMENTS**

Under no circumstances shall any pricing be included in the Technical volume. Samples are not required. Proposal shall at a minimum address the following (if you are a distributor then information should be supplied by the manufacturer and submitted with offer):

- a. Literature Review: The offeror shall provide descriptive product literature (prefer hyperlink to access contractor's web site. "Descriptive literature," as used in this provision, means information (e.g., cuts, illustrations, drawings, and brochures) that is submitted as part of an offer. Descriptive literature is required to establish, for the purpose of evaluation and award, details of the product offered that are specified elsewhere in the solicitation and pertain to significant elements such as: (1) materials; (2) components; and (3) performance characteristics. The literature will be used to evaluate the depth & breadth of the offerors product line. Product Line (Provide product literature that demonstrates the breadth and depth of each product line, including but not limited to: size options, materiel options, preferable to be available with access on the contractor's web site and must be capable of opening on a VA computer).
- b. Technical Acceptability Worksheet: The offeror shall provide a completed [Attachment 6 Amendment 00002 - Technically Acceptability Worksheet](#) to ensure each technical item has been addressed. If response is a "No" the comments shall include a justification/rationale. Failure to provide justification or rationale will deem proposal unacceptable and will not be considered further.
- c. Geographical Coverage: Provide a response if national and/or VISN geographical coverage is available and provide a listing to display location(s) of vendor representatives and demonstrate how national and/or VISN Geographical coverage will be provided to VA, if applicable. Demonstrate how the representatives will provide timely delivery for just-in-time or consignment to individual facilities; reps availability for consultations during surgery and provide other implant support needed as determined by physician. Award may be made under either type of coverage.
- d. Qualifications and Certification of Representatives: The offeror shall address company's requirements for representatives to provide support in the hospital and operating room. Narrative shall affirmatively state that the reps are technically qualified and experienced to provide product demonstrations to VA Operation Room staff. The narrative shall outline specific training and continuing education available. If distributors will the manufacture provide representatives for this support and provide letter from manufacture attesting to this support on behalf of distributor.
- e. Training: The contractor shall describe the commercial training available on the products. Ability and commitment to demonstrate to operating room and hospital personnel (Outline a proposed on-going demonstration program over life of the contract for hospital OR personnel and the frequency of such a program. The program shall include product features and surgical procedure demonstration to support the surgeon.

- f. Notification of Safety Recalls: Trends of Failure (Describe the procedures and policies on tracking Trends of Failure on products offered to VA and how that information is communicated to VA).
- g. Certifications: The offeror shall provide documentation (i.e., certificate, letter, etc.) that verifies registration as required by the Food and Drug Administration (FDA) under subpart B of part 1271 of title 21, Code of Federal Regulations, or any successor regulation. If a distributor then the information should be supplied from your manufacture and submitted with offer.
1. The offeror must provide a copy of the Centers for Medicare and Medicaid Services (CMS) Clinical Laboratory Improvement Amendment (CLIA) certificate for the facility that will be performing FDA required testing for allografts and xenografts during the contract period. (If Applicable). If you are a distributor then the information should be supplied from your manufacture and submitted with offer.
  2. The offeror shall submit a copy of the FDA 3356: Establishment Registration and Listing for Human Cells, Tissues, and Cellular and Tissue Based Products (HCT/PS) for their supplier facility. If you are a distributor then the information should be supplied from your manufacture and submitted with offer.
  3. The offeror shall submit a copy of their Biological License, if manufacture of product intended for introduction into interstate commerce as defined by 21 CFR 601.2. If you are a distributor then the information should be supplied from your manufacture and submitted with offer
  4. The offeror shall submit a verification statement that they agree to meet Industry labeling requirement ISBT 128 of Human allograft medical products. Xenograft products may use any of the (GS1 and HIBCC) currently FDA approved Unique Device Identifiers (UDI). (Offeror shall be in compliance by the first anniversary date of the effective date of the IDIQ Contract Award). If you are a distributor then the information should be supplied from the manufacture. . Failure to meet labeling requirement by first anniversary date of effective award date of IDIQ contract award shall be removed from the Attachment 3 Amendment 00002 – Excel Price/Cost Schedule in the award resulting from this solicitation or terminated.
- h. Supply Availability Assurance: (Only for Non-Manufacturers such as Dealers and Authorized Distributors). If other than the Original Equipment Manufacturer (OEM), the offeror shall be responsible for meeting all contract terms and conditions along with the product description requirements, not the OEM. The non-manufacturer offeror shall provide a written certification that they understand

and shall comply with all solicitation requirements and the product description along with providing a letter of commitment from the manufacturer. If other than the manufacturer, the offeror shall submit with its proposal a letter of commitment from the manufacturer which will assure the offeror is authorized government distributor of the manufacturer's source items and satisfy the Government's requirements for the life of the contract period, including options if exercised. The letter must provide assurance that offered pricing will be fixed for the life of the contract, including options if exercised. The letter of commitment shall be on the manufacturer letterhead and contain signature of an authorized official of the manufacturer.

**An acceptable Letter of Commitment shall contain the following: (See Attachment 7 – Sample Letter of Commitment):**

1. Be on manufacturer's letterhead and addressed to the offeror.
  2. Be dated within 60 days of the date the SF1449 was signed by the company
  3. Be signed by an **officer** of the company.
  4. Reference the solicitation number
  5. Contain the phrase that the "manufacturer is certifying that company is Authorized Government Distributor of sourced items for the duration of the contract period, including options, if applicable and if exercised".
  6. Statement that proposed pricing will be fixed for the life of the contract. Specifically list each category of product and/or brand name(s) to which the letter applies.
  7. Contain the statement that end products are Trade Agreement Act (TAA) compliant
  8. Identify the state or state(s) authorized to distribute.
- i. **Litigation**: Do you have any legal proceedings and claims that have arisen in the ordinary course of business and that have not been fully adjudicated, within the past five years related to biologic or biological implant business (allograft and xenograft)? If so, what is the status of that litigation? If the offeror has no pending ligations, the offeror shall provide an affirmative statement.

**VOLUME II – PRICE**

**IDIQ PRICING PRICE/COST/ SCHEDULE:** The offeror shall complete [Attachment 3 Amendment 00002 – Excel Price/Cost Schedule](#) columns (B-F, H-V) and TAB – MSPV Participation. If a contract line item is being offered at no cost the offeror must indicate in excel price/cost schedule (as no charge "NC").

The offeror shall provide Most Favored Customer (MFC) price, Most Favored Government (MFG) price, commercial catalog price, proposed price without SLA, SLA fee, and proposed price with SLA. The MFC/MFG is the commercial/Government customer who receives the best net price regardless of terms and conditions. Definitions are contained in [Attachment 3 Amendment 00002 – Excel Price/Cost Schedule](#). All offered pricing is to be inclusive of shipping charges per clause 52.247-34 FOB Destination.

**PRICE SUPPORT DATA AND VETERANS AFFAIRS INSPECTOR GENERAL AUDIT:**

The offeror will be asked to provide other than cost or pricing data in the form of random sample of invoices to support the reasonableness of the offered items, in the form of commercial invoices, if a VA IG audit is not required. A random sample of invoices will be requested after proposal submission, as part of discussions.

All offerors with estimated sales that exceed \$10 million may be subject to a commercial pricing audit conducted by the VA Office of Inspector General, in order to be eligible for award. The Contracting Officer may require audits for contractors with sales below \$10 million. Offerors including those below the \$10 million threshold shall provide written agreement that they will fully comply with the VA IG audit, if invoked by the Government.

Additional instructions for completing column K in [Attachment 3 Amendment 00002 – Excel Price/Cost Schedule](#) shall be completed for all offered items. Items that are not being offered for individual ordering, but are part of a TAA compliant higher level end item shall be identified by placing “COMPONENT” in the Commercial Catalog Price, Column S field and the country-of-origin for the item in the TAA Country of Origin, Column L field.

**COMMERCIAL PRICE LIST** Offeror shall provide one copy of its current published (dated or otherwise identified) commercial pricelist for all items offered in the proposal. This includes price list catalogs or other documentation setting from the prices charged to the general public and/or from which the discounts are be offered.

Offeror shall provide information that supports discounts offered.

Price Rounding Issue - The Government requires contractors to propose unit prices and total prices that are two decimal places and requires the unit prices and total prices to be displayed as two decimal places. Ensure that the two-digit unit price multiplied by the item quantity equals the two-digit total item price (there shall be no rounding). Contractors shall ensure that the actual values in the spreadsheet cells are no more than two decimal places even if values in the spreadsheet cells are formatted to display two decimal places.

**VOLUME III – SMALL BUSINESS SUBCONTRACTING PLAN**

Each Large Business offeror shall provide a Small Business Subcontracting Plan that contains all of the elements required by FAR 52.219-9 or approved plan. If the large business does not have an approved Master Plan or approved Commercial Plan, then an Individual subcontracting plan must be submitted that includes an assurance that small businesses will be given the maximum practicable opportunity to participate in contract performance. [A small business offeror shall include a statement in the proposal certifying they are small business in SAM \(\[www.sam.gov\]\(http://www.sam.gov\)\) under NAICS code \[339113\]\(#\).](#)

**VOLUME IV - SF1449, Amendments, and Other Documents**



This volume shall contain the following:

- a. Signed Standard Form (SF1449) and Acknowledgement of Amendment(s), if any. [Amendments only need to be acknowledged in Section 1.5 of the solicitation](#). An official authorized to bind the firm shall sign the SF 1449 and all certifications requiring original signature. An Acrobat PDF file shall be created to capture the signatures for submission. Proposal shall remain valid for 120 days after proposal submission.
- b. 52.204-5 Women-Owned Business (Other Than Small Business) (OCT 2014)
- c. 52.209-2 Prohibition on Contracting with Inverted Domestic Corporation Representation (NOV 2015)
- d. 52.209-5 Certification Regarding Responsibility Matters (OCT 2015).
- e. 52.209-7 Information Regarding Responsibility Matters (JUL 2013).
- f. 52.209-11 Representation by Corporation Regarding Delinquent Tax Liability or a Felony Conviction Under any Federal (FEB 2016).
- g. Completed provision 52.212-3, Representations and Certifications, if not completed in System for Award Management (SAM). All offerors shall be certified in SAM ([www.sam.gov](http://www.sam.gov)) under NAICS code 339113.
- h. Any proposed terms and conditions and/or assumptions upon which the proposal is predicated. Contractors are hereby advised that any contractor-imposed terms and conditions and/or assumptions which deviate from the Government's material terms and conditions established by the solicitation, may render the proposal non-responsive, and thus ineligible for award.

(End of Addendum to 52.212-1)

#### **E.17 ADDENDUM TO FAR 52.212-2 EVALUATION –COMMERCIAL ITEMS (OCT 2014)**

The Government intends to award a contract to all responsible offerors who can be determined acceptable on the non-price evaluation, and whose prices are determined to be fair and reasonable. Proposals that are found to be missing required information may be rejected without further evaluation. The technical evaluation assesses the offeror's capability to satisfy all requirements. In conducting the evaluation, the Contracting Officer will use information provided by the offeror in its proposal. The burden is on the offeror to provide a complete and thorough proposal. Missing proposal information or component(s) identified above (Volume I – IV) and/or non-adherence to proposal format instructions provided in Addendum to FAR 52.212-1 of the solicitation will be considered

incomplete. As a result, the offeror may be eliminated from further consideration of award. The following factors will be used to evaluate proposals:

- Solicitation Requirements
- Price

SOLICITATION REQUIREMENTS FACTOR is only rated as “Acceptable” or “Unacceptable” to determine “Technical Acceptability.” Offerors shall be evaluated to determine if they meet the minimum requirements of the solicitation which means to have satisfactorily submitted all applicable information requested in solicitation Addendum to section FAR 52.212-1, including sections (a.) through (i). Lack of adequate documentation in a proposal to support any portion of the Solicitation Requirements may result in an “Unacceptable” evaluated rating; however, if discussions are held, offerors may be permitted to provide revised/additional supporting documentation. As such, offerors are encouraged to submit their best proposal upon initial submission. Prior to award all apparent awardees will be subject to a responsibility determination in accordance with FAR 9.104.

PRICE FACTOR All offered pricing must be determined fair and reasonable (for each contract year) in order for an offeror to be considered for award. Other than cost or pricing data will be provided and evaluated to ensure that offered pricing is equal to or better than pricing that the vendor offers to their most favored customers under a similar contracting environment. A VA IG price audit maybe conducted for those vendors with estimated sales over \$10 million.

Award Selection: All offerors who are found to be Acceptable under the Overall Non-price Evaluation and have fair and reasonable pricing shall receive an award.

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.

## **E.18 ORAL PRESENTATIONS**

a. Time Limit – The offeror’s oral presentation shall not exceed 45 minutes. The Contracting Officer or his/her delegate reserves the right to terminate the oral presentation if it overruns the prescribed time limit. During the oral presentation, the Technical Evaluation Team (TET) members will not interrupt the offeror to ask questions (except to request the repetition of inaudible words or statements or the explanation of



terms that are unknown to them) or otherwise engage the offeror in any dialogue. A question and answer period will follow and shall not exceed 15 minutes and may cover the entire proposal. These questions will not constitute “discussions” as defined in FAR 15.306.

b. Offeror Attendees – A maximum of 3 (three) presenters will be allowed into the presentation room at any one time.

c. Topics – The offeror's oral presentation shall address the product literature of proposed schedule of supplies offered (Volume I – Solicitation Requirements). The oral presentation shall be organized in logical fashion (i.e. group items by product family). The oral presentation shall demonstrate how the offer meets all the minimum requirements of the solicitation.

d. Presentation Media – Offerors are free to structure their oral presentations using 8½ ” x 11” view-graphs (slides, transparencies) or computer-generated media. If the offeror chooses to utilize an electronic projection, they must provide their own equipment. An overhead projector will be available at the oral presentation site. The number of view-graphs (or other media) should be reasonable for the stated time limits for presentation. Use of these visual aids is at the offeror's discretion.

e. Paper and Electronic Copies – The offeror shall submit a preliminary version of their planned Oral Presentation materials as part of their written submission by the due date and time in the solicitation. 10 printed color copies of the final presentation shall be provided to the Government when the offeror begins their presentation. The offeror shall also provide one electronic copy of the final presentation by email to [Lawrence.toperoff@va.gov](mailto:Lawrence.toperoff@va.gov) copy to [michelle.bailey@va.gov](mailto:michelle.bailey@va.gov) .

f. Recording the Presentation – The oral presentation will be videotaped by the Government, be available to the TET for their review during the technical evaluation, and be maintained as part of the record.

g. Scheduling – The oral presentation will be scheduled as soon as practicable after proposal receipt, as arranged with the offerors by the Contracting Officer/Contract Specialist. The Government reserves the right to schedule and reschedule presentations at the sole discretion of the Contracting Officer.

h. Location – The oral presentation site will be arranged “conference style” with an overhead projector and screen provided. The location will be announced one week before the oral presentation. The Government reserves the right to change the Oral Presentation site at the sole discretion of the Contracting Officer.