

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NO.	PAGE 1 OF
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NO.	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE	
			36C79118R0022	10-25-2018	
7. FOR SOLICITATION INFORMATION CALL:	a. NAME Alyssa Urquhart		b. TELEPHONE NO. (No Collect Calls)	8. OFFER DUE DATE/LOCAL TIME 11-08-2018 5:00 pm MST	
9. ISSUED BY Department of Veterans Affairs Commodities & Services Acquisition Svc (003B6E) 555 Corporate Circle Golden CO 80401-5621		CODE	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 621492 <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB SIZE STANDARD: \$38.5 Million <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A)		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING N/A
14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP		15. DELIVER TO Department of Veterans Affairs Commodities & Services Acquisition Svc 555 Corporate Circle Golden CO 80401-5621			
16. ADMINISTERED BY Department of Veterans Affairs Commodities & Services Acquisition Svc (003B6E) 555 Corporate Circle Golden CO 80401-5621		17a. CONTRACTOR/OFFEROR CODE			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18a. PAYMENT WILL BE MADE BY Department of Veterans Affairs Financial Services Center 7600 Metropolis Drive Bldg 5 Austin TX 78744 PHONE:1-877-353-9791 FAX:			
18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM		19. ITEM NO.			
20. See CONTINUATION Page SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
Minimum Guarantee is \$10,000 per contract; contract value shall not exceed \$3,000,000,000 per contract under this solicitation.  Reference B.2 Schedule Contract Specialist: Alyssa.Urquhart@va.gov Contracting Officer: David.Little@va.gov  (Use Reverse and/or Attach Additional Sheets as Necessary)					
25. ACCOUNTING AND APPROPRIATION DATA			26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.			27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED		
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED			29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR		31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)	30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)		31c. DATE SIGNED	

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## SECTION B - CONTINUATION OF SF 1449 BLOCKS

### B.1 CONTRACT ADMINISTRATION DATA

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

a. CONTRACTOR:

b. GOVERNMENT: Contracting Officer 36C791 David F. Little

Department of Veterans Affairs

Commodities & Services Acquisition Svc

(003B6E)

555 Corporate Circle

Golden CO 80401-5621

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

52.232-33, Payment by Electronic Funds Transfer—System For Award Management,  
or

52.232-36, Payment by Third Party

3. INVOICES: Invoices shall be submitted in arrears:

a. Quarterly

b. Semi-Annually

c. Other  Monthly

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

Department of Veterans Affairs

Financial Services Center

7600 Metropolis Drive

Bldg 5

Austin TX 78744

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

AMENDMENT NO	DATE

## **B.2 SCHEDULE OF SERVICES**

1. The contractor shall provide the community dialysis services nationwide as defined in the Performance Work Statement and throughout this contract, for eligible beneficiaries as authorized by the Ordering Officers assigned ordering responsibility by the Contracting Officer. All contractors shall provide the minimum of in-center hemodialysis. An offeror that proposes CLIN 0004, “Training for Home-Based Modalities” must also propose CLIN 0002, “Home Based Hemodialysis” and/or CLIN 0003 “Peritoneal Dialysis”. The offeror need not provide services nationwide. The intent of this program is to award contracts to multiple contractors to provide an expansive network of dialysis providers to serve thousands of Veterans throughout the United States and its territories. Personnel assigned by the contractor to perform the services covered by this contract shall be licensed in the State, Territory, or Commonwealth of the United States or the District of Columbia where the services are provided, as applicable. All licenses held by the personnel working on this contract shall be full and unrestricted licenses.

2. Pricing shall be based on a percent of the CMS Medicare Program’s Prospective Payment System (PPS) for the respective dialysis services contract line item number (CLIN), and any authorized Current Procedural Terminology (CPT) that applies to the type of services required for that patient. All services will be paid at the contract percent of the CMS Medicare Program for its respective CLIN. The prices shall be all-inclusive of equipment, facility, nursing, technical personnel, laboratory testing, drugs, supplies and professional services (social work and dietary). Nephrologist services are not included in this contract and must be authorized and paid separately. Other arrangements must be made with the VAMC for the authorization and payment of nephrologist services. The CMS Medicare End Stage Renal Disease (ESRD) PPS is the basis from which all claims will be submitted and paid. (Please reference [https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/Consolidated\\_Billing.html](https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/Consolidated_Billing.html)). VA reserves the right to deviate from the CMS Medicare Program when there is a conflict in policies. Non-ESRD services will not be reimbursed under this contract and must be authorized/coordinated with the VAMC (i.e. vaccines, medications, etc. that are provided during the dialysis session for non-ESRD diagnoses).

3. The CMS Medicare Program allowed amount will be computed in accordance with the rules (1) promulgated by the Centers for Medicare and Medicaid Services (CMS) for the specific Medicare geographic area where the services are provided, (2) in effect at the time of the delivery of service, and (3) including, but not limited to, all CMS Medicare Program payment components (e.g. outliers, etc.) multiplied by the contract percent of Medicare.

4. The Facility List, Attachment 2, must be completed in full and include a complete list of CMS Medicare Program certified facilities included under this contract.

## 5. Period of Performance

Base Period:	six months	[04/01/2019-09/30/2019]
Option I:	one year	[10/01/2019-09/30/2020]
Option II:	one year	[10/01/2020-09/30/2021]
Option III:	one year	[10/01/2021-09/30/2022]
Option IV:	one year	[10/01/2022-09/30/2023]
Option V:	six months	[10/01/2023-03/31/2024]
Option to Extend Services:	six months	[04/01/2024-09/30/2024]

CLIN	Category of Care	Unit	Base Period 04/01/19- 09/30/19	Option I 10/01/19- 09/30/20	Option II 10/01/20- 09/30/21	Option III 10/01/21- 09/30/22	Option IV 10/01/22- 09/30/23	Option V 10/01/23- 03/31/2024
0001	Center Based Hemodialysis	Each	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare
0002	Home Based Hemodialysis	Each	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare
0003	Peritoneal Dialysis	Each	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare
0004	Training for Home-Based Modalities	Each	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare	____% Medicare

### B.3 PERFORMANCE WORK STATEMENT

**ACRONYMS/DEFINITIONS:** The following terms, when used in this contract, will be interpreted as follows:

1. **ADP:** Automatic Data Processing
2. **Authorization:** Same as “task order or order” for the purpose of this contract and clauses contained herein.
3. **CAPD:** Continuous Ambulatory Peritoneal Dialysis. A manual form of peritoneal dialysis, with no machine.
4. **CCPD:** Continuous Cycling Peritoneal Dialysis, also known as Automated Peritoneal Dialysis, a form of peritoneal dialysis using a cycler at night.
5. **Claim:** A request for payment of dialysis services from the contractor to VA. As used in the PWS, this term does not include the meaning of the term “claim” as defined in FAR 2.101.
6. **CMS:** Centers for Medicare and Medicaid Services
7. **CO (Contracting Officer):** A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.
8. **COR (Contracting Officer’s Representative):** An individual designated and authorized in writing by the Contracting Officer to perform specific technical or administrative functions. The COR is responsible for technical administration of the contract and will ensure proper Government surveillance of the contractor’s performance. The COR will keep a quality assurance file. The COR is not empowered to make any contractual obligations or to authorize any contractual changes on the Government’s behalf.
9. **CPT (Current Procedural Terminology):** A coding system developed by the American Medical Association and a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians. The purpose of the terminology is to provide a uniform language that will accurately describe medical, surgical, and diagnostic services, and will thereby provide an effective means for reliable nationwide communication among physicians, patients, and third parties.
10. **EDI:** Electronic Data Interchange
11. **EFT:** Electronic Funds Transfer
12. **EOB:** Explanation of Benefits
13. **ESRD:** End Stage Renal Disease
14. **FAR:** Federal Acquisition Regulations
15. **FSC:** Financial Services Center
16. **HD:** Hemodialysis
17. **HHS:** Department of Health and Human Services
18. **HIPAA:** Health Insurance Portability and Accountability Act
19. **Modify authorization:** Create or adjust the parameters of an authorization by delegated ordering officers when approved by CO/COR when necessary
20. **NDSC:** Nationwide Dialysis Services Contract
21. **NPI:** National Provider Identifier
22. **OCC:** Office of Community Care
23. **Ordering Officer:** A VA employee, delegated in writing by the CO, to order services under the contract via issuance of Approved Referrals
24. **PHI:** Personal Health Information
25. **PPS:** Prospective Payment System

- 26. **QASP:** Quality Assurance Surveillance Plan
- 27. **RAS:** Referral and Authorization System
- 28. **VA:** Department of Veterans Affairs
- 29. **VAMC:** Veterans Affairs Medical Center
- 30. **Vendorizing:** The act of adding a contractor's facility into VA systems to provide payment
- 31. **Veteran:** VA eligible dialysis patient
- 32. **VHA:** Veterans Health Administration
- 33. **VISN:** Veterans Integrated Service Network

## 1. GENERAL INFORMATION

Objective: The Department of Veterans Affairs (VA) has a requirement to purchase chronic dialysis services from community-based dialysis service providers.

The goals of this contract are to:

- A. Maintain and augment the VA's ability to provide these services to Veterans in current and future years by providing improved access to care;
- B. Ensure quality driven services; and
- C. Realize cost savings through the utilization of consistent billing practices.

The contractor shall meet the requirements of this contract and be in compliance with CMS quality standards. The contractor shall provide, supervise, and monitor outpatient chronic dialysis services to Veterans within the contractor's facilities and provide home dialysis training to Veterans. Home dialysis training shall be provided in the contractor's facilities. Home and outpatient based dialysis services shall utilize contractor resources, contractor owned and maintained equipment, contractor staff, and the contractor equipment necessary or required for dialysis services. The contractor shall provide the services and associated healthcare in a manner consistent with the clinical needs of the Veteran and extend the same or superior standards of quality care as delivered to the facility's Non-VA patients.

Applicable Federal, State and Local Laws: During the course of this contract, the contractor must comply with all federal, state and local laws and regulations.

VA reserves the right to perform random inspections of the accreditation, certification, credentialing, privileging/competency measures, and licensing files for any provider within the Contractor's network for performance of this contract. Additional information is detailed in the Quality Assurance Surveillance Plan (QASP), Attachment 1.

VA may perform random onsite visits to provider locations through coordination with the Contractor to inspect physical operations and/or review records of VA Veterans, speak with Veterans, review quality and completeness of accreditation, certification, and credentialing, privileging and licensing documentation. Additionally, VA may request records be sent electronically or by mail to support the inspections and/or visits.

It is the VA's intent to transition dialysis services under the Nationwide Dialysis Services Contract (NDSC) program to the Community Care Network (CCN) contracts providing a wide-array of healthcare services to Veterans. There are four CCN Regions and the contracts will likely not be awarded at the same time. The offerors who are awarded contracts under CCN have a pre-determined amount of time to

reach full healthcare delivery. At the point of operational healthcare delivery, the VA may choose not to exercise options on the dialysis contract(s) in the regions where CCN healthcare is operational, may issue a modification to the facility list, Attachment 2, removing facilities, and/or may transition authorizations from the dialysis contracts to the CCN contract(s).

## 2. SERVICE AREA

Dialysis services are required in the United States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands. The contractor shall provide community-based dialysis services within its network of CMS Medicare Program certified dialysis facilities. The contractor shall only include facilities that meet the contractual requirements and are CMS End Stage Renal Disease (ESRD) certified on the Facility List, Attachment 2. The contractor may add or remove facilities to the facilities list in accordance with the process established in Section 6.

The offeror need not provide services nationwide. The intent of this program is to award contracts to multiple contractors to provide an expansive network of dialysis providers to serve thousands of Veterans throughout the United States and its territories.

## 3. USUAL AND CUSTOMARY TREATMENT UTILIZATION

All treatment modalities delivered must be in accordance with the CMS Medicare Program treatment guidelines to include CMS' Phase III ESRD Clinical Performance Measures. All treatments must be requested and authorized by the Ordering Officer. The treatments to be provided include the following:

- A. **Center-Based Hemodialysis (HD):** Includes in-center dialysis.
- B. **Home-Based HD:** Care shall be provided using Method I as described by the *CMS Medicare Benefit Policy Manual, Chapter 11 – End Stage Renal Disease*. Method II is unallowable.
- C. **Peritoneal Dialysis:** This includes the types of Peritoneal Dialysis (CAPD, CCPD, etc.) described in *CMS Medicare Benefit Policy Manual, Chapter 11 – End Stage Renal Disease*.
- D. **Training for Home-Based Modalities:** Authorization and payment for home dialysis training will be in accordance with the *CMS Medicare and Medicaid Programs; Medicare Benefit Policy Manual, Chapter 11 – End Stage Renal Disease, paragraph 30.2*. A training authorization is required for all new home-based patients. Additional training must be preauthorized by the Ordering Officer.

## 4. AUTHORIZATION (ORDERING) PROCESS

- A. **Authorization Form:** VA will utilize VA Form 10-7079, Request for Outpatient Medical Services, as the ordering form. All authorizations will be created by the initiating VAMC's ordering officers through the Referral and Authorization System (RAS). Contractors shall not perform any services under this contract without prior authorization. Contractors are required to retrieve authorizations via the Provider Portal established by the Financial Services Center (FSC). It is the contractor's responsibility to ensure **all appropriate personnel have access to the**

**system**, and are properly trained to sign onto this system and retrieve the necessary authorizations. The authorization period start and end period will be stated on each VA Form 10-7079.

- B. **Patient Eligibility:** VA has sole authority and responsibility to establish and confirm Veteran eligibility prior to issuing an authorization.
- C. **Veteran Acceptance:** VA acknowledges that, depending on the availability of resources at specific contractor facilities at specific times, acceptance of an authorization may not be feasible for the contractor. In that event, the contractor may decline an authorization. If the contractor proposes another contractor facility, VA reserves the right to reject that facility and seek the services from another contractor. If the contractor has determined space is available at another one of its facilities, and the VAMC agrees with the proposed facility, a new authorization will be sent to the contractor.
- D. **Authorization Process:** Ordering Officers will issue written authorizations to the contractor via RAS, or other systems designated by the CO or COR. In accordance with FAR 16.505, Ordering, VA has determined orders will be placed based on Veteran preference, clinical need, contractor's facility capacity, and price.
- E. **Issuance of VA Authorizations:** Ordering Officers will issue an authorization via the FSC automated information processing system (RAS or other designated system by the CO or COR). The contractor shall initiate services upon receipt of an authorization. The contractor is responsible for verifying the accuracy of and accepting the authorization. Elements of an authorization for verification include, but are not limited to:
1. Authorization Period
  2. Correct modality (Services Authorized)
  3. Facility Name and Address (Cross check with NPI Number)
  4. Onset Date

This verification must be within ten (10) business days of receipt of the authorization and the contractor may request any changes in writing via email during this period through the issuing VAMC and the COR. All questions pertaining to the authorization should be addressed to the Ordering Officer listed on the authorization. If the contractor continues to provide services beyond the ten (10) business day review period, without notifying the issuing VAMC of the authorization issue, payment may be denied. There are three types of authorizations applicable to this contract: new, renewal, and transient.

1. *New Authorization:* A new authorization is created to begin a Veteran's treatment. The period of validity will be stated in the authorization. The contractor shall obtain a new authorization before changing the Veteran's treatment modality or servicing facility. Failure to obtain proper authorization prior to changing Veteran's treatment modality or servicing facility may result in denial of claims for the period and services not authorized. If the authorization is not populated into the Provider Portal within 10 business days, the Contractor will contact authorizing VAMC, COR or CO to obtain.

2. *Renewal Authorization:* A renewal authorization is required to continue treatments once the current authorization has expired. This authorization is initiated by designated Ordering Officer and will be provided to the contractor prior to the authorization expiring. If the contractor does not receive renewal authorization 15 business days prior to expiration of the previous authorization, the contractor must always notify the VAMC that there is a potential for an interruption of services unless a new authorization is received.
3. *Transient Authorization:* Transient dialysis treatments are defined as treatments delivered for less than a 60-calendar day period at a contracted facility other than the Veteran's originally referred facility. A transient authorization is effective for 60-calendar days or less to cover a patient's travel beyond the normal support of the regular community dialysis unit. There must be close coordination between the regular provider, referring VAMC, and the temporary provider, to ensure uninterrupted dialysis treatments to the Veteran while in a travel status. The transient authorization will be placed based on patient needs and proximity to the Veteran's transient location; it may or may not be with the same contractor providing services at the Veteran's regular location. Travel extending beyond 60 calendar days will require a new authorization from the home VAMC's Ordering Officer.

*Note:* The VA may modify authorizations to include the allowance to extend previously expired authorizations or to modify an authorization in the event services were provided without a current authorization. The contractor is still responsible for communicating with the VA regarding missing/expired authorizations.

## 5. PATIENT ORDERING

- A. **Veteran Acceptance:** When the contractor has confirmed the Veteran is accepted to the facility, the VA and contractor's dialysis facility and its designated representatives e.g., social workers) will collaborate and coordinate on a date to transfer the Veteran to the care of the contractor without disruption of the Veteran's required dialysis treatment. Along with the scheduling of an appointment at a specific contracted dialysis facility, the Ordering Officer will provide the contractor with a proper authorization PRIOR to the patient arriving at the scheduled contractor's facility. In the event that the dialysis facility has not received the authorization in the Provider Portal after coordination has been made, the contractor shall contact the VAMC within 10 business days from the authorization expiration date and inquire as to the status of the authorization. If the authorization has been input into RAS, the contractor shall contact the FSC Customer Service Helpdesk at [VAFSCCSD@va.gov](mailto:VAFSCCSD@va.gov), telephone number 1-877-353-9791 for access issues. The contractor's inability to access authorizations through the established Provider Portal shall not be a reason to refuse care to the Veteran. If the authorization cannot be obtained via the Provider Portal, alternate methods of obtaining the authorization shall be pursued by the contractor by contacting the authorizing VAMC or COR. Treatment constitutes acceptance of the Veteran and authorization.
- B. **Secure Transmission of Forms:** Veteran patient information shall be sent via secure fax. The contractor shall maintain a secure fax (operable 24/7) for the receipt of this information.

Medical records may be transmitted to/from the VAMC via VLER eHealth Exchange system if and when the contractor acquires this capability or other agreed upon (end to end) secure communication system. The contractor will comply with the applicable VA security certification, integration, and testing requirements at no additional cost to the government.

- C. **Referral Disruption/Cancellation:** As contained within *Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities; Final Rule (Reference 42CFR Parts 405, 410, 413, 414, 488, and 494)*, if the contractor considers the discharge of a Veteran for any reason listed in this final rule, and at any time after the receipt of acceptance or after initiation of treatment of the Veteran, the contractor shall provide a 10 business days termination notice in writing to the designated VAMC personnel, and Contracting Officer's Representative (COR) as well as required parties stated in this rule. The designated VAMC personnel will review all contractor notices and the Ordering Officer will issue additional authorizations for the Veteran, as needed. The designated VAMC personnel will aid and assist in the transfer of the Veteran to a new facility, as appropriate.

## 6. CONTRACTOR FACILITY AND EQUIPMENT

The contractor shall comply with *CMS 42 CFR Parts 405, 410, 413 et al. Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities; Final Rule*, and implement all future revisions to the CMS Conditions for Coverage measures at no cost to the Government. The contractor's dialysis facilities are required to be CMS Medicare Program certified and comply with all applicable certification standards and levels of care delivered. Upon written request by the Contracting Officer's Representative (COR) or Contracting Officer, the contractor shall provide a copy of all applicable permits, licenses, and other facility documents.

In compliance with *CMS 42 CFR Parts 405, 410, 413 et al. Medicare and Medicaid Programs; Conditions for Coverage for End-Stage Renal Disease Facilities; Final Rule*, the contractor shall provide and maintain all dialysis equipment appropriately. Water purity testing must meet the standards of the most current guidelines cited by the Association for the Advancement of Medical Instrumentation.

The contractor should notify the designated VAMC personnel, COR, and Contracting Officer within five (5) business days of notification of adverse action (e.g. Termination Notices) by the CMS Medicare Program or its external monitoring agency to include exclusion from participation from the Medicare program, Medicaid program, and other federal programs by the contractor, its agents, employees, assigns or successors.

Veterans shall not be accepted into facilities for dialysis treatment either in center or at home that are not CMS Medicare Program certified, and claims shall not be paid to contractors that attempt to, or furnish, services administered through in non-CMS Medicare Program certified facilities.

The contractor shall use the facility listing template (Attachment 2) to add or remove facilities, or make changes to existing facilities. The process for facility changes is outlined below.

**Administrative Changes**

The contractor may request any adjustments listed below to current facilities. Contractor requests shall be sent via email to the Contracting Officer's Representative at OCCDialysis@va.gov with courtesy copies to the affected VAMC and the CO. The contractor shall identify any additions or changes that require immediate attention. The contractor shall notify the CO and the COR as soon as possible and/or within five (5) business days in advance of administrative changes below, but not limited to:

- a. National Provider Identifier (NPI)
- b. Tax ID Number (TIN)

**Facility Address Changes**

The contractor shall notify the VAMC, CO, and the COR as soon as possible and/or within five (5) business days in advance of changes of facility address (change of ownership addressed separately below in number 7). The contractor shall provide the VA Medical Staff and COR a list of affected Veterans to ensure no lapse in care.

The request shall include the following information, depending on the type of change:

**Facility Additions:**

- A. Name and address of the facility
- B. Applicable VISN
- C. Signed attestation statement (Attachment 3)
- D. Complete and attach the Facility List (Attachment 2) including only new additions
- E. Fill out, Sign, and Forward VA Form 10091, VA-FSC Vendor File Request Form (More information can be found under PWS Paragraph 10. B "Onboarding / Vendorizing")

**Facility Information Changes:**

- A. Identification of the applicable facility
- B. New information including change in address
- C. Complete and attach the Facility List (Attachment 2) including only the changes requested
- D. Statement that CMS Medicare Program certification is valid and still current with the changes
- E. Fill out, Sign, and Forward VA Form 10091, VA-FSC Vendor File Request Form (More information can be found under PWS Paragraph 10. B "Onboarding / Vendorizing")

**Facilities Removal:**

- A. Identification of the facility
- B. Brief description of the reason for removal

When submitting changes and additions on the Facility List, the contractor shall not make changes to the template provided by the VA.

The COR will ensure the contractor receives an e-mail response indicating the facility change has occurred, along with the effective date of this action.

## 7. CHANGE IN OWNERSHIP (CHOW)

In the event a Change in Ownership (CHOW) affects a facility under contract, the contractor shall notify the CO, COR and applicable VAMC at least 30 calendar days prior to the expected effective date.

If the Change of Ownership will result in the facility (facilities) not being Medicare certified as of the date of the sale, the VA may require Veterans to be moved to a contractually compliant facility.

The contractor shall provide:

- Statement of Intent with at least 30 calendar days' notice
- List of affected Veterans
- Authorizations in RAS valid until legal sale date
- Bill of sale documents with ownership percentages
- Selling or purchasing a facility (facilities)
- Date facility (facilities) will no longer be available
- Any other applicable documents requested by the CO or COR

## 8. CUSTOMER SERVICE AND VETERAN SAFETY

- A. **Veteran Complaints:** The contractor shall notify the authorizing VAMC personnel and COR via email and read receipt within five (5) business day of any Veteran complaint filed with the NDSC contracted facility. The CO or COR may require follow-up actions and/or additional information.
- B. **Veteran Clinical Safety Event Notification:** The contractor shall notify the designated VAMC personnel and the COR telephonically, and by email with read receipts, as well as copying the Contracting Officer and Program Manager within 24 hours after the contractor receives formal notice of, or becomes aware of any Veteran safety event (i.e., adverse events, sentinel events, close calls, death of a Veteran, and intentional unsafe acts). The CO or COR may require follow-up actions and/or additional information.

Reference publicly available VHA National Patient Safety Improvement Handbook, VHA Handbook 1050.1 for definitions and additional information; and/or contact the COR for a copy.

- C. **Adverse Administrative Events/Reportable Administrative Events:** The contractor shall notify the designated VAMC personnel (identified in Attachment 4), COR, and Contracting Officer in writing and include information detailing the reasons for and circumstances related to the loss or adverse impact, in accordance with CMS Medicare Program reporting. The notification should be provided within one business day after the contractor receives formal notice of, or becomes aware of any of the following:
1. Any action affecting the status as a certified CMS Medicare Program provider of dialysis services to Veterans, or any other action affecting any of the dialysis facility's federal or state licenses and CMS certification;

2. Any investigations by the CMS Medicare Program into the business and/or billing practices of the dialysis facility that results in negative findings;
3. Any other actual or pending legal or Governmental investigation, incident, claim, action, suit, or proceeding against the dialysis facility, which would impact the dialysis facility's ability to carry out its duties and obligations under this contract;
4. Exclusion from the CMS Medicare Program of any individuals employed by, or contracted with, the dialysis facility for the provision of ESRD services;
5. Revocation of required federal or state licenses of any individuals employed by, or contracted with, the dialysis facility for the provision of ESRD services; and
6. The lapse, for any reason, of the dialysis facility's medical malpractice insurance coverage.

**D. Unexpected Transfer of Patients:**

1. VA Initiated – There are times when the VAMC encounters unexpected situations (e.g. contaminated water, power loss, natural disasters, etc.) when they are temporarily unable to provide dialysis services to Veteran patients within their in-house dialysis facilities. In such situations, the VAMC may send an unusually large number of patients to contracted facilities, and possibly only for a short, undetermined, period of time. Once the urgent situation has been resolved, the VAMC will coordinate with the contracted facility to return the treatment of these patients back to the VAMC.
2. Contractor Initiated – There are also unexpected situations when the authorized, contracted facility is unable to provide the Veteran patients continued dialysis treatments at that facility (e.g. contaminated water, power loss, natural disasters, etc.). In such situations, the contractor may temporarily transfer VA patients to a nearby VA-contracted facility, with the VAMC approval, until the originally authorized facility can resume treatments. Or the patient may be transferred to another facility owned and operated by the contractor (coordinated with the VAMC with a temporary authorization). However, the contractor must contact the authorizing VAMC and COR within 24 hours, and/or as soon as practicable due to loss of communication means to obtain a temporary authorization for the new facility. The authorizing VAMC will provide a temporary authorization via the Provider Portal to the contractor.

**E. Medically Appropriate Care:**

In accordance with CMS Medicare Program guidelines, the contractor's delivery of care to Veterans shall be in a manner that maximizes patient outcomes. Delivered care shall be Veteran centered and individually focused and tailored to the goals stated in the Veterans' care plans. Contractor services shall be delivered in accordance with medically accepted professional standards and practices of care. Care delivered to Veterans shall meet or exceed the standard of care delivered to non-VA patients. VA medical personnel maintain the right to render final determination for any care delivered outside of medically accepted professional standards and practices of care.

## 9. DIAGNOSTIC TESTING, PRESCRIPTIONS, AND OTHER VETERAN PREVENTATIVE CARE SERVICES

Miscellaneous and Emergency Testing: If a Veteran requires hospitalization, specialized tests, and/or consultation for any medical, surgical, and/or rehabilitation problem that may occur during the performance of this contract, the contractor shall transfer the Veteran's care to the referring VAMC. In emergent situations, activate the Emergency Management System (EMS) (e.g. call 911). Notify the VAMC within 72 hours of such occurrence. Questions regarding elective procedures should be directed to the designated VAMC personnel or the Veteran's VAMC primary care physician.

- A. **Diagnostic Tests:** All routine diagnostic tests not stipulated by Medicare to be provided by the contractor in the bundled payment for dialysis treatment will be directed to the authorizing VAMC for approval except in emergent situations (e.g. life threatening or a situation that may result in immediate and/or permanent harm to the patient).
- B. **Prescriptions:** All routine medications not stipulated to be provided by the contractor in the bundled payment for dialysis treatment will be filled by the local VA Pharmacy unless alternative guidance is provided to the Veteran by VA. Routine medications prescribed will follow the VA formulary referenced at: <http://www.pbm.va.gov/PBM/NationalFormulary.asp> Questions regarding non-formulary medications may be referred to designated VA personnel for assistance with approval, authorization, or appropriate substitution.
- C. **Vascular Access:** Access related issues shall be referred to the designated VA personnel for assistance. VA available resources must be utilized whenever possible. VA will authorize utilization of community resources if it is determined that VA services (vascular surgery or interventional radiology) for Veteran dialysis access intervention is not available. In addition, VA will authorize the use of community resources if lack of VA emergency services threatens access. Authorizations shall be obtained before the care is delivered except in emergent situations.

## 10. BILLING

For purposes of this PWS, "claim" is defined as an invoice for services rendered in accordance with the terms of the contract. Claims shall be submitted by the contractor to VA on a monthly basis in arrears.

- A. **Standard Billing:** The contractor shall submit invoices in the form of health care claims to VA for payment of services. The health care claims shall be submitted via Health Insurance Portability and Accountability Act (HIPAA) compliant Electronic Data Interchange (EDI) transactions sent through VA's designated clearinghouse within 180 calendar days from the date of service. Claims filed after this time period may not be paid, unless authorized by the Contracting Officer. Medical claims shall contain the Payer ID for the VA Purchased Care Program, which is VA FSC.
- B. **Onboarding / Vendorizing:** VA requires all vendors to submit a VA Form 10091 prior to submitting claims for services or goods provided to VA. Contact [vafscenrprisesupport@va.gov](mailto:vafscenrprisesupport@va.gov) to obtain and submit the form. Contractor should confirm with VA FSC Customer Service Helpdesk that vendorization has been completed prior to submitting claims.

C. **Timely Filing:** The contractor shall submit complete claims for services no later than 180 calendar days from the date of service. Claims filed after this time period may not be paid, unless authorized by the Contracting Officer.

D. **Appropriate Billing Requirements:** The contractor shall bill the VA utilizing the current CMS Medicare Program guidelines for separate line item billing as contained in Chapters 8 and 25 of the Medicare Claims Processing Manual. The contractor will be reimbursed according to current CMS Medicare Program billing guidelines at the applicable percentages found in B.2, Schedule of Services.

E. **Rejected / Denied Claims / Resubmissions:**

Rejected Claim: A claim that cannot be accepted by the clearinghouse due to improper invoice formatting. A notification will be sent to the contractor with the reason for the rejection.

Denied Claim: A claim that cannot be approved for payment because it contains erroneous claim/authorization information. An Explanation of Benefits (EOB) notification will be sent from FSC to the contractor identifying the reason for the denial. A vendorization error will also result in a denied claim. Denied claims will first be addressed by the VA FSC Customer Service Helpdesk. If the Helpdesk is unable to assist in the resolution of the payment issue, the contractor's next step is to contact the COR for assistance. If the COR determines that the claim should not be paid, the COR will notify the contractor in writing via email with read receipt that the claim is denied. If the contractor disagrees with the COR's determination, the contractor may submit an appeal to the Contracting Officer in accordance with Section 12.

- a. VA FSC Customer Service Helpdesk: (877) 353-9791 or [vafscenrprisesupport@va.gov](mailto:vafscenrprisesupport@va.gov)
- b. COR assistance: [OCCDialysis@va.gov](mailto:OCCDialysis@va.gov)
- c. Appeal to CO: Commodities Services Acquisition Service (CSAS), 555 Corporate Circle, Golden, CO 80401, attention David F. Little at [David.Little@va.gov](mailto:David.Little@va.gov)

**Denied claims must be resubmitted within 90 calendar days of denial notice date.**

- F. **Required revenue codes:** In addition to appropriate Current Procedural Terminology (CPT) codes, the contractor shall utilize the appropriate revenue code and, when applicable, condition codes in FL 42 of the UB 04 per current CMS Medicare Program guidelines.

Category of Care	Definition/Description	CPT	Revenue Code
Center-Based Hemodialysis	In-center based Hemodialysis	90999	821, 881*
Center-Based Hemodialysis Transient	In-center based Hemodialysis in a location that is different than the facility issued in original authorization	90999	821, 881
Home-Based Hemodialysis	Home Hemodialysis	90999	821
Peritoneal Dialysis	Peritoneal dialysis	90999	831
Peritoneal Dialysis	CAPD outpatient/home and CCPD outpatient/home	90999	841 or 851
Training for Home-Based Modalities	Training for home Hemodialysis and home Peritoneal dialysis	90999	821, 831, 841, 851

\*881 is the revenue code for ultrafiltration only.

NOTE: 76 is the condition code for backup hemodialysis and must be associated with a home-based peritoneal or home-based hemodialysis authorization only.

See Section 3, Usual and Customary Treatments, for descriptions of treatments provided. The contractor shall not be reimbursed for any test or medical services that are not identified in the authorization. The contractor shall follow current CMS Medicare Program guidelines for treatment. If the CMS Medicare Program changes their guidelines for treatment as well as additional services, the contractor shall adopt and implement such guidelines.

The CMS Medicare Program guidelines shall be followed for billing. Only the ESRD Prospective Payment System (PPS) for CMS Medicare Program outpatient ESRD facilities will be accepted. Guidance is available on the CMS website and should be referenced for VA base pricing.

- G. **Billing for Transient Dialysis Services:** Transient treatments (as defined in Section 4) will be billed at the contract rate applicable to the transient treatment facility location. Prior to the expiration of the Veteran's 60 calendar day period, unless extended, the Veteran shall be transferred back to their home community dialysis facility, as the billing authorization and transient period have expired. Transient dialysis services require a separate VA generated authorization. The transient authorization number must be placed on the claim/billing forms submitted to FSC.
- H. **Billing for Incomplete Treatments:** If a dialysis treatment is started, (i.e., a Veteran is connected to the machine and a dialyzer and blood lines are used), but the treatment is not completed for some unforeseen but valid reason, as determined by the VA, the contractor shall be paid based on the full per treatment price. This should be a rare occurrence and must be fully

documented on the billing statement to the VA. This event must also be fully documented by the contractor in the Veteran's medical record.

- I. **Billing for No Shows:** If a facility sets up in preparation for a dialysis treatment but the treatment is never started, (i.e., the Veteran never arrives), there shall be no service claim or other fee claimed by the contractor for those intended services and there will be no payment or penalty fee paid by the Government. Additionally, the contractor shall not bill the Veteran and/or the Veteran's other insurance (if applicable) for these services.
- J. **Billing the Veteran:** Under no circumstances shall the contractor ever seek any monetary recompense from a Veteran for services provided under this contract.

The VA FSC Customer Service Help Desk phone (877-353-9791) will be answered by staff members who will assist the contractor in resolving provider portal, coding, vendorization, and claims processing issues that arise.

## 11. CLAIM STATUS

The contractor may check the status of their claim submission, Electronic Funds Transfer (EFT) or payment status and EOB status through a secure web portal. The contractor shall provide requisite security information when they sign up for access to the VA web Provider Portal, which allows the contractor to view authorizations and EOB. Contractors should contact the FSC Help Desk for registration information.

## 12. CLAIMS APPEAL PROCESS

After the contractor receives a payment that it deems to be not in accordance with the terms of the contract, or no payment, the contractor shall first attempt to resolve the matter by:

- a. Contacting the Financial Services Center (FSC) Customer Support Help Desk and, if not resolved, then by;
- b. Contacting the Contracting Officer's Representative (COR). The COR will investigate the circumstances surrounding the payment issue and if possible, provide a remedy for the payment issue. If the COR determines there is not a remedy and confirms the claim should be denied, the COR will document the findings and communicate with the Contracting Officer. If the Contracting Officer agrees, they will send a determination to the contractor. If the contractor disagrees with the determination, the contractor may request a final determination. If the contractor disagrees with the final determination, the contractor may appeal in accordance with FAR 52.212-4 (d) Disputes.

## 13. MEDICAL RECORDS STORAGE, PRIVACY OF HEALTH RECORDS, AND ACCESS TO AUTOMATIC DATA PROCESSING (ADP) FILES

- A. **HIPAA Compliance:** The contractor and any agents shall adhere to the provisions of Public Law 104-191, HIPAA of 1996. This includes both Privacy and Security Rules published by the Department of Health and Human Services (HHS). As required by HIPAA, HHS has promulgated rules governing the use and disclosure of protected health information by covered entities. The covered entity component of VA is the VHA.

All contractors and health care practitioners, who provide billable health care services to the VHA, shall obtain a NPI as required by the HIPAA National Provider Identifier Final Rule, administered by the CMS. This rule establishes assignment of a 10-digit numeric identifier for health care practitioners, intended to replace the many identifiers currently assigned by various health plans. This contract requires that each facility has a separate, unique NPI. The contractor shall also designate its specialties/subspecialties by means of Taxonomy Codes on the NPI application. The contractor shall provide the NPI numbers of all providers on the medical claim for payment. The contractor shall notify the CO and COR within 5 business days of a change in the NPI, or facility address. Change of ownership shall be communicated at least 30 calendar days prior to the effective date to the CO and COR at [OCCDialysis@va.gov](mailto:OCCDialysis@va.gov).

Generally, individually identifiable health information (IIHI) or Personal Health Information (PHI) disclosed by VA to Contractors, Contractor personnel, subcontractors, and subcontractor personnel pursuant to this contract shall become the property of the Contractor and is no longer considered VA information.

- B. Patient Record Files:** in the performance of official duties, contractor employees and any agents with regular access to printed and electronic files containing sensitive Veteran data shall protect that information under the provisions of the Privacy Act of 1974 (5 USC 552a) and other applicable laws, federal regulations, VA statutes and policies.

The contractor employees and any agents are responsible for protecting that data from unauthorized release or from loss, alteration, or unauthorized deletion.

1. VA Information made available to the Contractor or subcontractor by VA for the performance or administration of this contract or information developed by the Contractor/subcontractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the Contracting Officer. This clause expressly limits the Contractor/subcontractor's rights to use data as described in Rights in Data – Special Works, FAR 52.227-14(d)(1).
2. VA information should not be co-mingled, if possible, with any other data on the Contractors/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the Contractor must ensure that VA's information is destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on-site inspections of Contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.
3. The Contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information

systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the Contractor shall implement the information confidentiality and security laws, regulations and policies in this contract.

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

5. If VA determines that the Contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the Contractor or third party or terminate the contract for cause.

6. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the Contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with Contracting Officer's prior written approval. Within 5 business days of receipt, the Contractor/subcontractor shall refer all requests for, demands for production of, or inquiries about, VA information and information systems to the Contracting Officer for response.

7. Notwithstanding the provision (6) above, the Contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the Contractor/subcontractor is in receipt of a court order or other requests for the above-mentioned information, that Contractor/subcontractor shall immediately refer such court orders or other requests to the VA Contracting Officer for response.

- C. **Records Storage Requirement:** The contractor shall comply with all relevant state, federal (CMS), VA, and HIPAA laws regarding record storage requirements. Unless prohibited by federal statutes, at the conclusion of this contract and if by the order of VA, the contractor shall purge and/or destroy any VA Personal Health Information (PHI) from their systems by first rendering it unreadable and then completely destroying the information from the hard drive and any other storage devices. Information on tapes, paper documents or other media shall be destroyed by the process specified above, or by shredding. A certificate of destruction shall be provided to the COR to attest to the complete destruction and statement of the method used.
- D. **Handling and Storing of VA Data by Contractors and Agents:** The contractor is responsible for ensuring that their employees and agents safeguard sensitive Veteran information in accordance with VHA policies in effect during the contract period. Those policies may be found in the VA Handbook 6500.6.
- E. **Release of Information:** In responding to a Veteran's or third-party request for copies of the Veteran's records, the contractor shall direct the requestor to the referring VAMC for release of

the records. The contractor or community provider may not use or disclose any health information related to HIV, sickle cell anemia, drug abuse or alcohol abuse contained in the attaches health records for a purpose other than health care or treatment of the patient or as permitted by law.

- F. **Nondisclosure of Information:** The contractor shall ensure the confidentiality of all Veteran medical records. Information contained in these records may not be disclosed to any person or agency, except pursuant to a written request and with the prior written consent of the Veteran to whom the records pertain, as long as such requests are consistent with applicable federal laws, regulations, and/or policies. However, this obligation shall not prevent the disclosure of Veteran medical records pursuant to federal law to officials and employees of departments and agencies of the United States Government acting in the performance of their official duties. This includes: officials and employees of local and state governments; agencies in the performance of their official duties pursuant to laws and regulations governing the local control of communicable diseases, preventive medicine, and safety programs, child/spouse/elder abuse or neglect programs, or other public health and welfare programs; official representatives of authorized surveying bodies during the conduct of certification and accreditation reviews; or third party payers to whom the Veteran has authorized release of information.

The contractor shall ensure the confidentiality of all Veteran medical records. Private hospital or physician records which are generated in the course of their business (providing health care) and are subject to the disclosure provisions of the Privacy Act and the HIPAA Privacy Rule. Individuals requesting this type of record should be encouraged to obtain the information from the hospital or physician's office from which the information originated.

All financial, statistical, personnel, and technical data which is furnished, produced or otherwise available to the contractor during the performance of this contract is considered confidential business information and shall not be used for purposes other than performance of work under this contract. Such data or information shall not be released, nor legal rights claimed, by the contractor without prior written consent of the COR and Contracting Officer. Any presentation of any statistical or analytical materials, or any reports based on information obtained from studies covered by this contract will be subject to review and approval by the COR and Contracting Officer before publication or dissemination.

#### G. **Security Incident Investigation Reporting Requirements**

- a. The term "security incident" means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The term "sensitive information" means any information about an individual maintained by VA, including the following: (1) Education, financial transactions, medical history, and criminal or employment history; and/or (2) Information that can be used to distinguish or trace the individual's identity, including name, social security number, date and place of birth, mother's maiden name, or biometric records.

The Contractor/ subcontractor shall notify within one business day notify the COR and simultaneously, the designated ISO and Privacy Officer for the contract in writing of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the Contractor/ subcontractor has access.

## Incident Reporting Procedures:

1. As a HIPAA Covered entity the contractor shall REPORT the complaint/incident/breach to the Department of Health and Human Services at: <https://www.hhs.gov/hipaa/filing-a-complaint/index.html>
  2. Provide a notification copy of the incident to CORs (OCCDialysis@va.gov), VHA OCC Privacy at VHA.OCC.PO@VA.GOV, Information Security Officer at HAC.ISO@VA.GOV
  3. Provide a report with mitigation to the emails above within 10 business days of the event.
- b. To the extent known by the Contractor/subcontractor, the Contractor/ subcontractor's notice to VA shall identify the assets or sensitive information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the Contractor/subcontractor considers relevant.
- c. With respect to unsecured protected health information, the business associate is deemed to have discovered a security incident when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.
- d. In instances of theft or break-in or other criminal activity, the Contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and Security and Law Enforcement. The Contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The Contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.
- e. Consistent with the requirements of 38 U.S.C. 5725, a contract may require access to VA sensitive information. If so, the Contractor is liable to VA for liquidated damages in the event of a data breach or privacy incident involving any SPI the Contractor/subcontractor processes or maintains under this contract.
- f. The Contractor/subcontractor shall provide notice to VA of a "security incident" as set forth in the Security Incident Investigation section above. Upon such notification, VA shall secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive information involved in the data breach. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for termination for cause.
- g. Each risk analysis shall address all relevant information concerning the data breach, including the following:
- (1) Nature of the event (loss, theft, unauthorized access);
  - (2) Description of the event, including:
    - (a) Date of occurrence;

- (b) Data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
- (3) Number of individuals affected or potentially affected;
- (4) Names of individuals or groups affected or potentially affected;
- (5) Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text;
- (6) Amount of time the data has been out of VA control;
- (7) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
- (8) Known misuses of data containing sensitive personal information, if any;
- (9) Assessment of the potential harm to the affected individuals;
- (10) Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and
- (11) Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.

#### **H. Liquidated Damages for Data Breach**

Based on the determination by the Department of Health and Human Services (an independent risk analysis), the Contractor shall be responsible for paying to the VA liquidated damages in the amount of \$42.00 per incident, adjusted annually for inflation in accordance with the Consumer Price Index published by the U.S. Department of Labor, per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:

**Identity Theft Insurance** –Victims of identity theft, you may be eligible for reimbursement of up to \$1,000,000 for expenses related to that theft. If an enrolled individual’s identity is compromised, the policy provides coverage for up to \$1,000,000, with no deductible, from an A.M. Best “A-rated” carrier. Covered expenses include:

1. Fees of specialists such as lawyers, accountants, and investigators necessary to restore credit rating to pre-theft level
2. Legal fees incurred by the impacted individual to defend a civil or criminal suit brought against them
3. Reimbursement of stolen funds
4. \$7,500 lost wages per week, for a maximum of four (4) weeks
5. No deductibles

#### **14. Medical Record Requirements**

An acceptable medical record storage policy shall be established by the contractor for ease of retrieval and communication of a Veteran’s clinical information. The contractor’s practices to safe-guard the Veteran’s secure medical information must be established in accordance with the current Federal HIPAA requirements, CMS’ conditions for coverage, and any applicable VA regulation or requirement. The contractor, its employees, and agents who, in the course of contractor responsibilities, have reason to see/handle the Veteran’s PHI are required to complete applicable VA online privacy training located at <https://www.tms.va.gov>. Employee VA privacy training certificates shall be maintained and kept current by the contractor and shall be available for periodic audit inspection and verification by designated VA personnel, the COR, and Contracting Officer. The contractor shall provide an attestation statement and listing of employees and agents that have completed the required training and a certificate of completion shall be maintained in the employee file.

The contractor shall create medical record documentation for each episode of care with the Veteran that is to be billed to VA. Content of the medical record documentation shall be in accordance with all applicable CMS Medicare Program guidelines relating to the provision of dialysis services at the time the service is rendered. The CMS Medicare Program guidelines current at the time of the encounter must be followed. Upon request by VA, the contractor shall provide the Veteran's summary medical records. Required information may include but not limited to: lab data, outcome data, medication list, social work, and/or nutrition summary. Additional documentation may also be required such as administrative records. Records created by the contractor in the course of treating Veterans under this agreement are the property of the contractor and shall not be accessed, released, transferred or destroyed except in accordance with applicable federal law and regulations. The contractor shall be responsible for Veterans' records under its control and shall ensure that Veterans' privacy and confidentiality is maintained.

The contractor shall provide health care to Veterans seeking care from or through the VA in the performance of this contract. As such, the contractor is considered part of the department health activity for purposes of the following statutes, and the VA regulations implementing these statutes: Privacy Act, 5 U.S.C. section 552a, and 38 U.S.C. sections 5701, 5705, and 7332. The contractor, its employees and agents may have access to Veteran medical records to the extent necessary for the contractor to perform this contract, notwithstanding Veteran treatment records only pursuant to explicit disclosure authority from VA. The contractor, its employees, and agents are subject to the penalties and liabilities provided in the statutes and regulations mentioned in this paragraph for unauthorized disclosures of such records and their contents. Contractors shall maintain Veteran medical records per the Health Insurance Portability and Accountability Act (HIPAA) of 1996. At VA's request the contractor will promptly provide VA with copies of individually identified Veteran treatment records. VA has unrestricted access to the records generated by the contractor pursuant to this contract.

#### **15. ELECTRONIC MEDICAL RECORD EXCHANGE**

At this time, VA cannot accept electronic placement of information directly into the patient medical record from external providers. VA is, however, currently able to accept the medical records through secure electronic submissions.

#### **16. DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF THE INSPECTOR GENERAL**

The contractor shall ensure that their employees and agents, providing services under the contract, have not engaged in fraud or abuse regarding Sections 1128 and 1128A of the Social Security Act regarding Federal health care programs. During the performance of this contract, the contractor is prohibited from using any individual or business listed on the List of Excluded Individuals/Entities located at:

<http://exclusions.oig.hhs.gov>.

#### **17. CONTRACTOR DESIGNATED PERSONNEL AND RESPONSIBILITIES**

Upon contract award the contractor shall provide a personnel list of the positions listed below and include the following: name, position, and contact information.

- A. **Contract Administrator:** The contractor shall designate a contract administrator(s) to handle contractual matters and serve as a business liaison. The assigned Contract Administrator shall be listed in Section B.1, 1a of this contract.
  
- B. **Contractor Coordinator:** The contractor shall designate a coordinator(s) for each contracted facility. It is allowable for the Contractor Coordinator to oversee more than one facility, and those assignments shall be provided to the VA. The Contractor Coordinator(s) shall be responsible for communication with the VAMC designated point of contact. Upon reassignment or changes of the facility coordinator(s), the contractor shall notify the VA as soon as possible. The assigned Contractor Coordinator(s) shall be listed in the Facility List, Attachment 2.

## **18. AUDIT OF CONTRACTOR**

The VA reserves the rights to review, inspect, or otherwise audit contractor facilities and/or records (to include Veteran records) at all reasonable times. This is to ensure appropriate medical provision of services and supervision of Veterans, and that the contractor is adhering to the contract requirements.

DRAFT

## SECTION C - CONTRACT CLAUSES

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

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.—

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT)*. If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest*.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions*. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in

the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

## **C.2 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)**

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

*Covered contractor information system* means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

*Federal contract information* means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

*Information* means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

*Information system* means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

*Safeguarding* means measures or controls that are prescribed to protect information systems.

(b) *Safeguarding requirements and procedures.* (1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of Clause)

### **C.3 52.216-18 ORDERING (OCT 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 04/01/2019 through the end of the contract.

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

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

(End of Clause)

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

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$130.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

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

(2) Any order for a combination of items in excess of \$300,000.00; or

(3) A series of orders from the same ordering office within one (1) 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 24 hours/one (1) days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

#### **C.5 52.216-22 INDEFINITE QUANTITY (OCT 1995)**

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after 180 days after the expiration of the period of performance.

(End of Clause)

### **C.6 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 60 days of contract expiration.

(End of Clause)

### **C.7 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 60 days of contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 10 days before the contract expires. The preliminary notice does not commit the Government to an extension.

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

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

(End of Clause)

### **C.8 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

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

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

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

(End of Clause)

### **C.9 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)**

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

- (1) When no longer needed for contract performance.
- (2) Upon completion of the Contractor employee's employment.
- (3) Upon contract completion or termination.

(c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

(End of Clause)

### **C.10 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)**

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.204-18	COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE	JUL 2016

### **C.11 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)**

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of Clause)

### **C.12 52.237-3 CONTINUITY OF SERVICES (JAN 1991)**

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

(End of Clause)

### **C.13 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008)**

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

(End of Clause)

### **C.14 VAAR 852.203-70 COMMERCIAL ADVERTISING (MAY 2018)**

The Contractor shall not make reference in its commercial advertising to Department of Veterans Affairs contracts in a manner that states or implies the Department of Veterans Affairs approves or endorses the Contractor's products or services or considers the Contractor's products or services superior to other products or services.

(End of Clause)

### **C.15 VAAR 852.219-9 VA SMALL BUSINESS SUBCONTRACTING PLAN MINIMUM REQUIREMENTS (DEC 2009)**

(a) This clause does not apply to small business concerns.

(b) If the offeror is required to submit an individual subcontracting plan, the minimum goals for award of subcontracts to service-disabled veteran-owned small business concerns and veteran-owned small business concerns shall be at least commensurate with the Department's annual service-disabled veteran-owned small business and veteran-owned small business prime contracting goals for the total dollars planned to be subcontracted.

(c) For a commercial plan, the minimum goals for award of subcontracts to service-disabled veteran-owned small business concerns and veteran-owned small businesses shall be at least commensurate with the Department's annual service-disabled veteran-owned small business and veteran-owned small business prime contracting goals for the total value of projected subcontracts to support the sales for the commercial plan.

(d) To be credited toward goal achievements, businesses must be verified as eligible in the Vendor Information Pages database. The contractor shall annually submit a listing of service-disabled veteran-owned small businesses and veteran-owned small businesses for which credit toward goal achievement is to be applied for the review of personnel in the Office of Small and Disadvantaged Business Utilization.

(e) The contractor may appeal any businesses determined not eligible for crediting toward goal achievements by following the procedures contained in 819.407.

(End of Clause)

### **C.16 852.219-76 SUBCONTRACTING PLANS MONITORING AND COMPLIANCE (JUL 2018)**

(a) This solicitation includes FAR 52.219-9, Small Business Subcontracting Plan, and VAAR 852.219-9, VA Small Business Subcontracting Plan Minimum Requirement.

(b) Accordingly, any contract resulting from this solicitation will include these clauses, unless the contract is awarded to a small business concern. The Contractor is advised in performing contract administration functions, the Contracting Officer may use the services of a support contractor(s) to assist in assessing the Contractor's compliance with the plan, including reviewing the Contractor's accomplishments in achieving the subcontracting goals in the plan. To that end, the support contractor(s) may require access to the Contractor's business records or other proprietary data to review such business records regarding the Contractor's compliance with this requirement.

(c) 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 Contracting Officer in assessing the Contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs.

(d) 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 Contracting Officer to assess the Contractor compliance with the subcontracting plan.

## **C.17 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

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

(1) *Contract financing payment* has the meaning given in FAR 32.001.

(2) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(3) *Electronic form* means an automated system transmitting information electronically according to the

Accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

(4) *Invoice payment* has the meaning given in FAR 32.001.

(5) *Payment request* means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

(b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(c) *Data transmission.* A contractor must ensure that the data transmission method and format are through one of the following:

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at <http://www.fsc.va.gov/einvoice.asp>.)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>) includes additional information on EDI 810 and 811 formats.

(d) *Invoice requirements.* Invoices shall comply with FAR 32.905.

(e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States

Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

- (1) Awards made to foreign vendors for work performed outside the United States;
- (2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;
- (3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;
- (4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or
- (5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

## **C.18 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)**

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

\* Amounts are listed below:

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

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

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

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

\* Amounts from paragraph (a) above:

\$1,000,000 Per Occurrence  
\$3,000,000 Aggregate

(End of Clause)

### **C.19 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.

### **C.20 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)**

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

(End of Clause)

## **C.21 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (AUG 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) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115–91).

(3) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(4) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(5) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

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

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

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

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

(5) [Reserved]

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

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

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

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

(10) [Reserved]

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

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

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

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

(13) [Reserved]

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

(ii) Alternate I (NOV 2011).

(iii) Alternate II (NOV 2011).

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

(ii) Alternate I (Oct 1995) of 52.219-7.

(iii) Alternate II (Mar 2004) of 52.219-7.

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

(17)(i) 52.219-9, Small Business Subcontracting Plan (AUG 2018) (15 U.S.C. 637(d)(4)).

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

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

(iv) Alternate III (JAN 2017) of 52.219-9.

(v) Alternate IV (AUG 2018) of 52.219-9.

(18) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).

(19) 52.219-14, Limitations on Subcontracting (JAN 2017) (15 U.S.C. 637(a)(14)).

(20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

(21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).

(22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

(23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (DEC 2015) (15 U.S.C. 637(m)).

(24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (DEC 2015) (15 U.S.C. 637(m)).

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

(26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JAN 2018) (E.O. 13126).

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

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

(ii) Alternate I (FEB 1999) of 52.222-26

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

(ii) Alternate I (JULY 2014) of 52.222-35

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

(ii) Alternate I (JULY 2014) of 52.222-36

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

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

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

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

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

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

(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.

(42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

(43) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

(44) 52.223-21, Foams (JUN 2016) (E.O. 13693).

(45) (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.

(48) 52.225-5, Trade Agreements (AUG 2018) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

(49) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(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).

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

(57) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

(58) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

(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.

(iii) Alternate II (FEB 2006) of 52.247-64

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

(1) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495).

(2) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

(3) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

Employee Class	Monetary Wage – Fringe Benefits
Registered Nurse Hemodialysis	\$56,600-\$126,575

(4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C 206 and 41 U.S.C. chapter 67).

(6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

(8) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

(9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

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

(11) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

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

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

(iii) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115–91).

(iv) 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.

(v) 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.

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

(vii) 52.222–26, Equal Opportunity (SEP 2016) (E.O. 11246).

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

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

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

(xi) 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.

(xii) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

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

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

(xiv) 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).

(xv) 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).

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

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

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

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

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

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

(xxi) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

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

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

DRAFT

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

Attachment 1	Quality Assurance Surveillance Plan (QASP)
Attachment 2	Facility List
Attachment 3	Attestation Statement
Attachment 4	VAMC Points of Contact [to be inserted upon award]
Attachment 5	Small Business Subcontracting Plan Template [to be removed or updated upon award]
Attachment 6	Past Performance Questionnaire [to be removed upon award]
Attachment 7	Dialysis Data for FY17 by VISN [to be removed upon award]
Attachment 8	Schedule of Services Price Table [to be removed upon award]

See attached document: Attachment 1 - QASP NDSC-Program.

See attached document: Attachment 2 - Facility List - FY19.

See attached document: Attachment 3 - Attestation Statement.

~~See attached document: Attachment 4 - VAMC Points of Contact (Reserved for Award).~~

See attached document: Attachment 5 - Small Business Subcontracting Plan Template.

~~See attached document: Attachment 6 - Past Performance Questionnaire - Final.~~

See attached document: Attachment 7 - Dialysis Data for Fiscal Year 17 by VISN.

See attached document: Attachment 8- Schedule of Services Price Table.

## SECTION E - SOLICITATION PROVISIONS

### E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS (JAN 2017)(TAILORED)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) "Remit to" address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers. TAILORED* The offeror agrees to hold the prices in its offer firm for **180** calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* **TAILORED** Offerors shall not submit more than one proposal. If an offeror submits more than one proposal, the Government may choose not to review any proposals.

(f) Late submissions, modifications, revisions, and withdrawals of offers.

**TAILORED- VAAR 852.273-70 LATE OFFERS (JAN 2003) takes precedence in the event of a conflict in this section.**

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact

time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) Availability of requirements documents cited in the solicitation.

(1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—

GSA Federal Supply Service Specifications Section

Suite 8100 470 East L'Enfant Plaza, SW

Washington, DC 20407

Telephone (202) 619-8925

Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (<https://assist.dla.mil/online/start/>);

(ii) Quick Search (<http://quicksearch.dla.mil/>);

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by?

(i) Using the ASSIST Shopping Wizard (<https://assist.dla.mil/wizard/index.cfm>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Unique entity identifier.* (Applies to all offers exceeding \$10,000, and offers of \$10,000 or less if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) database.) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see subpart 32.11) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at [www.sam.gov](http://www.sam.gov) for establishing the unique entity identifier.

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

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

- (1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
- (2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of Provision)

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

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

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

### **E.2 SUBMISSION AND CONTACT INFORMATION**

The only authorized means of proposal submission is one (1) hard copy and (1) compact disc (CD) delivered to:

Department of Veteran Affairs  
Commodities Services Acquisition Service  
ATTN: ALYSSA URQUHART  
555 Corporate Circle  
Golden, CO 80401

The CD shall contain all volumes and documents the offeror submits. The following documents shall be submitted as a Microsoft Excel format: Schedule of Services Pricing Table (Attachment 8) and Facility List (Attachment 2). The rest of the documents shall be submitted as an Adobe PDF.

Past Performance Questionnaires (Attachment 6) from references may be submitted by email to ALYSSA.URQUHART@VA.GOV prior to close of business the day proposals are due.

The offeror need not provide services nationwide in order to submit a proposal. The intent of this program is to award contracts to multiple contractors to provide an expansive network of dialysis providers to serve thousands of Veterans throughout the United States and its territories.

In accordance with FAR 52.216-27, Single or Multiple Awards, the Government reserves the right to make single or multiple awards based on what is most advantageous to the Government. Pricing must be submitted on all CLINs proposed by the offeror for the base and all option periods, or the proposal will be non-compliant.

The proposal shall be clear and legible. Each volume should be bound separately. In addition, the Offeror shall write the proposal in English and the proposal must be specific and complete as described in these instructions. Offerors shall not include Personal Identifiable Information(PII)/Protected Health Information (PHI) in their proposal. Failure to comply may deem the offeror non-complaint.

In the event there is a discrepancy in the hard copy and the electronic copy, the electronic proposal will prevail.

The Government will not pay any costs incurred by any offeror in the preparation and submission of a proposal in response to this RFP. The Contracting Officer is the only person who can legally obligate the Government for the expenditure of public funds in connection with this procurement.

**Proposal Structure:**

The proposal shall include the following volumes:

Volume 1 – Executive Summary

Volume 2 – Technical

Volume 3 – Price and Past Performance

**Volume 1 – EXECUTIVE SUMMARY:**

The Executive Summary shall contain the following documents: one signed copy of the Solicitation (SF 1449). The Executive Summary shall also contain a cover letter that includes all information required by FAR 52.212-1, the offeror's DUNS number and Tax ID Number. The cover letter shall be signed by an individual with authority to obligate the organization to the proposal and contract, if awarded.

**Volume 2 – TECHNICAL:**

Factor 1: Technical Qualifications

All Offerors must provide a Technical Proposal to be considered for award. The Technical Proposal must contain:

1. Signed Attestation Statement: The offeror shall submit the signed Attestation Statement found in Attachment 3 to the solicitation; thereby certifying that all technical requirements have been met and all terms and conditions of the RFP are agreed to.
2. Completed Facility List, per Attachment 2: This spreadsheet shall include all dialysis Medicare-certified offeror facilities the contractor wishes to include under contract and include the modalities proposed at each facility. The facility list shall be provided in a Microsoft Excel spreadsheet and saved to a CD for submission as a Microsoft Excel document. Additionally, the columns shall not be modified in this document.

To assist offerors in determining the scope of the requirement, the VA has provided the number of patients by VISN for Government Fiscal Year (FY) 2017 as Attachment 7. A map of the VISNs can be located at: <https://www.va.gov/directory/guide/division.asp?dnum=1>.

**VOLUME 3 – PRICE AND PAST PERFORMANCE:**

Volume 3 shall contain the offeror's Price proposal information, Past Performance information and small business subcontracting plan (if applicable) (see Attachment 5 of this solicitation for a template). Offerors shall also include a completed Schedule of Services Price Table (Attachment 8) as a Microsoft Excel document.

Past Performance

Offerors are to send the past performance questionnaire (Attachment 6) to up to three (3) of their references, and the references are to return the questionnaire directly to [ALYSSA.URQUHART@VA.GOV](mailto:ALYSSA.URQUHART@VA.GOV). Responses must be received no later than the deadline to submit proposals.

Additionally, the contractor shall provide information on up to three (3) previous Government contracts whose effort is/was recent and relevant to the effort required by this solicitation. This information may be

duplicative of the references who may fill out the Past Performance Questionnaire (Attachment 6).

Offerors shall provide:

- Agency Name, Contract Title, Contract Description, Contracting Officer (other POC) name, email address, and phone number for the point of contact at the Federal agency that can verify the past performance references noted in the proposal.

If the offeror has not had three (3) Government contracts within the last three (3) years (i.e. 2015, 2016 and/or 2017), information on recent and relevant subcontracts and/or commercial contracts may be submitted with the proposal.

a. "Recent" is defined as a contract in-progress or completed within the last three (3) years (i.e. 2015, 2016 and/or 2017) of the date of this solicitation issue date.

b. "Relevant" is defined as a contract that is of similar scope, magnitude, and complexity to the requirements as set forth in this solicitation. Note: Offerors need not have provided dialysis on a Nationwide scope.

If the offeror does not have any recent or relevant past performance, they may submit a signed statement explaining why they do not have any recent and/or relevant experience to with their proposal.

### **E.3 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

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

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

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

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

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

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

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

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

(i) In a criminal proceeding, a conviction.

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

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

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

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

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

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

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in 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.4 52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of multiple Firm-Fixed-Price, Indefinite Delivery Indefinite Quantity contracts resulting from this solicitation.

#### **E.5 52.217-5 EVALUATION OF OPTIONS (JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

#### **E.6 52.233-2 SERVICE OF PROTEST (SEP 2006)**

Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

David F. Little  
Contracting Officer

Hand-Carried Address:

Department of Veterans Affairs  
Denver Logistics Center/CSAS  
555 Corporate Circle  
Golden CO 80401

Mailing Address:

Department of Veterans Affairs  
Denver Logistics Center/CSAS  
555 Corporate Circle  
Golden CO 80401

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

(End of Provision)

## **E.7 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (SEP 2018)**

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

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

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

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

(End of Provision)

## **E.8 ALTERNATE PROTEST PROCEDURE (SEP 2018)**

(a) As an alternative to filing a protest with the Contracting Officer, an interested party may file a protest by mail or electronically with: Executive Director, Office of Acquisition and Logistics, Risk Management and Compliance Service (003A2C), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or Email: [EDProtests@va.gov](mailto:EDProtests@va.gov).

(b) The protest will not be considered if the interested party has a protest on the same or similar issue(s) pending with the Contracting Officer.

(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):

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

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

(End of Provision)

### **E.10 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (MAY 2011)**

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

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

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

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

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

(End of Clause)

<b><u>FAR</u></b> <b><u>Number</u></b>	<b><u>Title</u></b>	<b><u>Date</u></b>
52.204-16	COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING	JUL 2016
52.216-27	SINGLE OR MULTIPLE AWARDS	OCT 1995

### **E.11 VAAR 852.273-70 LATE OFFERS (JAN 2003)**

This provision replaces paragraph (f) of FAR provision 52.212-1. Offers or modifications of offers received after the time set forth in a request for quotations or request for proposals may be considered, at the discretion of the contracting officer, if determined to be in the best interest of the Government. Late bids submitted in response to an invitation for bid (IFB) will not be considered.

(End of Provision)

### **E.12 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)**

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

(End of Provision)

### **E.13 852.273-73 EVALUATION – HEALTH-CARE RESOURCES (JAN 2003)(TAILORED)**

(a) The Government intends to award multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts resulting from this solicitation to the responsible offerors whose offers, conforming to the solicitation, are technically acceptable, have an acceptable or neutral history of past performance, and are reasonably priced.

The following factors shall be used to evaluate offers:

1. Technical Acceptability: To be determined acceptable, an offeror must agree to meet contract requirements by completing, signing and returning Attachment 3, Attestation Statement for Solicitation 36C79118R0022. In addition, the Government will statistically sample the facilities listed on Attachment 2 to ensure some facilities are certified Medicare Program facilities by reviewing the CMS website <https://www.medicare.gov/dialysisfacilitycompare/>.
2. Past Performance: Past performance information that is recent (ongoing or completed within 3 years of the solicitation issue date) and relevant will be evaluated. The Government will determine if the offeror has demonstrated an acceptable history of performance in the following areas:
  - (a) Quality
  - (b) Compliance with CMS, Federal and State Regulations for Dialysis
  - (c) Timeliness of Performance and
  - (d) Business Relations/Customer Satisfaction

The Government may use any relevant information in its possession or in the public domain, including information available in Government and non-Government databases. This may include, but is not limited to: information provided by the offeror's references; the Contractor Performing Assessment Reporting System (CPARS); Dun & Bradstreet; and the Past Performance Information Retrieval System (PPIRS).

If the offeror has no recent or relevant past performance, this factor will receive a rating that is neither favorable nor unfavorable (i.e. a neutral rating).

3. **Price:** Each Contract Line Item Number (CLIN) that is offered must include a price for the base period and each option period. The prices of each CLIN will be evaluated separately, and only those CLINs that the Government determines are fair and reasonable will be awarded. However, all offerors must submit prices for CLIN 0001, In Center Hemodialysis at a minimum. An offer for CLIN 0002 for Home Based Hemodialysis must include an offer for 0004 Training for Home-Based Modalities; the offered prices for both CLINs 0002 and 0004 must be deemed reasonable to receive a contract for home based hemodialysis services. Additionally, an offer for CLIN 0003 for Peritoneal Dialysis must include an offer for CLIN 0004 Training for Home-Based Modalities; the offered prices for both CLINS 0003 and 0004 must be deemed reasonable to receive a contract for peritoneal dialysis services. For the purposes of this solicitation, the price of the period of performance associated with clause 52.217-8, Option to Extend Services, will equal the price of the final option period.

The Government may determine that an offer is unacceptable if the base or option prices are materially unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

#### **E.14 VAAR 852.273-74 AWARD WITHOUT EXCHANGES (JAN 2003)**

The Government intends to evaluate proposals and award a contract without exchanges with offerors. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, the Government reserves the right to conduct exchanges if later determined by the contracting officer to be necessary.

(End of Provision)

(End of Addendum to 52.212-1)

#### **E.15 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS— COMMERCIAL ITEMS (AUG 2018)**

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) Web site located at <https://www.sam.gov/portal>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (u) of this provision.

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

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

*Forced or indentured child labor* means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

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

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

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

*Manufactured end product* means any end product in product and service codes (PSCs) 1000-9999, except—

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

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

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

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as

those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

“Sensitive technology”—

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

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

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

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

*Service-disabled veteran-owned small business concern—*

(1) Means a small business concern—

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

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

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

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

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

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

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

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

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

*Subsidiary* means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

*Successor* means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

*Veteran-owned small business concern* means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

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

*Women-owned small business concern* means a small business concern—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.*] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

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

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

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

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

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

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

(2) Foreign End Products:

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

*[List as necessary]*

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

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

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

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

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

*[List as necessary]*

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

Other Foreign End Products:

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

*[List as necessary]*

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

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

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

Canadian End Products:

Line Item No.

_____
_____
_____

[List as necessary]

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

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

Canadian or Israeli End Products:

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

[List as necessary]

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

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

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

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

_____	_____
_____	_____
_____	_____

[List as necessary]

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

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

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

Other End Products:

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

[List as necessary]

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

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

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

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

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

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

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

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

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

(ii) *Examples.*

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

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

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

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

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

(1) *Listed end products.*

Listed End Product      Listed Countries of Origin

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

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

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

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

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

(2)  Outside the United States.

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

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

(1) All offerors must submit the information required in paragraphs (1)(3) through (1)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

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

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

TIN: \_\_\_\_\_.

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_.

(5) *Common parent.*

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

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

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

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

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

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

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

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

(1) The offeror shall email questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](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 <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(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 Web site the results of a

greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

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

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

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

(u)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

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

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

(End of Provision)