

Table of Contents

SECTION A	1
A.1 SF 1449 SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS	1
SECTION B - CONTINUATION OF SF 1449 BLOCKS	3
B.1 BLANKET PURCHASE AGREEMENT (BPA) ADMINISTRATION DATA.....	3
B.2 GENERAL TERMS.....	4
B.3 AUTHORIZED INDIVIDUALS	6
B.4 SECURITY & PRIVACY CONTROL	6
B.5 SCHEDULE OF SUPPLIES/SERVICES AND PRICES/COSTS:	10
B.6 PRICING ESTIMATES	15
B.7 STATEMENT OF WORK	16
B.8 OBLIGATION OF FUNDS	21
SECTION C - CONTRACT CLAUSES	22
C.1 FSS ORDER INTRODUCTORY LANGUAGE	22
C.2 MANDATORY WRITTEN DISCLOSURES.....	22
C.3 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (OCT 2018).....	22
C.4 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)	27
C.5 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011).....	28
C.6 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)	28
C.7 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)	29
C.8 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)	29
C.9 VAAR 852.203-70 COMMERCIAL ADVERTISING (MAY 2018).....	29
C.10 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2018).....	29
C.11 VAAR 852.246-71 REJECTED GOODS (OCT 2018).....	31
SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS	32

SECTION B - CONTINUATION OF SF 1449 BLOCKS

B.1 BLANKET PURCHASE AGREEMENT (BPA) ADMINISTRATION DATA

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

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

A. CONTRACTOR: CAREFUSION SOLUTIONS, LLC (Contractor's Name)
3750 Torrey View Court (Address)
San Diego, CA 92310-2635 (City-State-Zip)

Tom Norman / Sr. Contract Consultant (Point of Contact / Title)
858-617-3202 (Phone Number)
thomas.norman@bd.com (E-Mail Address)

80-139-7204 (DUNS Number)
20-8837112 (Federal Tax ID)
36F9718D0454 (FSS Contract Number)

B. GOVERNMENT: Thomas H. Chesak - Contracting Officer NCO-12
Great Lakes Acquisition Center
115 S. 84th Street, Suite 101
Milwaukee, WI 53295
(414) 844-4813
thomas.chesak@va.gov

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.

3. INVOICES: Invoices shall be submitted monthly in arrears in accordance with:

- a. 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012).
- b. UPON ACCEPTANCE OF ITEMS.
- c. Reference the contractor name and address, customer name, contract number, appropriate obligation/funding order number, description of services provided quantity, unit price, and total invoice amount. Invoices shall also include any payment discount terms.

4. GOVERNMENT INVOICE ADDRESS: All invoices from the contractor shall be submitted electronically in accordance with 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012).

FACSIMILE, E-MAIL, AND SCANNED DOCUMENTS ARE NOT ACCEPTABLE FORMS OF SUBMISSION FOR PAYMENT REQUESTS

For assistance setting up e-Invoice, the below information is provided:

- * Tungsten Network e-Invoice Setup Information: 1-877-489-6135.
- * Tungsten e-Invoice email: VA.Registration@ob10.com <<http://VA.Registration@ob10.com/>>.
- * FSC e-Invoice Contact Information: 1-877-353-9791.
- * FSC e-invoice email: vafscshd@va.gov <<http://va.gov/>>.

Vendor inquires: Toll Free Number 1-877-353-9791 / E-mail Address:
www.fsc.va.gov/fsc/vendors.htm

5. AUTHORITY: In accordance with FAR 8.404, FAR 8.405-3 and FAR 8.405-6.

6. DATE OF AWARD: For the purposes of this BPA, the date of award will be the date upon which both signatures, Contractor and Contracting Officer, are completed. The effective date for this BPA is September 1, 2019.

B.2 GENERAL TERMS

The BPA is subject to the duration of the contractor's current Federal Supply Schedule (hereinafter FSS) Contract.

All products and services ordered under this BPA, placed against the Federal Supply Schedule Award Contract(s), are subject to the terms and conditions of the FSS contract. This BPA does not obligate any funds. The Government is obligated only to the extent of authorized orders actually issued under the BPA by authorized individuals.

2.1 BLANKET PURCHASE AGREEMENT (BPA) ADMINISTRATION

The Contracting Officer is the only person authorized to approve changes or modify any of the requirements under this BPA. The Contractor shall communicate with the Contracting Officer on all matters pertaining to BPA administration. Only the Contracting Officer is authorized to make commitment or issue changes that will affect price, quantity or quality of performance of this BPA. In the event the Contractor effects any such change at the direction of any person other than the Contracting Officer, the change shall be considered to have been made without authority and no adjustment will be made in the BPA to cover any increase in cost incurred thereof.

2.2 BASIS OF AWARD

Determination has been made this procurement will be fulfilled by sole sourcing a single award BPA with CAREFUSION SOLUTIONS, LLC, utilizing FSS Contract 36F79718D0454, i/a/w: FAR 8.405-6.

2.3 TYPE OF CONTRACT:

The VA anticipates a Firm-Fixed Price Single Award BPA based on the contents of this solicitation. The contractor shall propose a fixed amount for CLINS.

2.4 HOURS OF COVERAGE

Normal hours of coverage are Monday through Friday from 8:00 am to 5:00 pm, excluding holidays. Federal Holidays observed by the VA are:

New Years' Day Labor Day - Martin Luther King Day - Columbus Day - Presidents' Day - Veterans' Day - Memorial Day - Thanksgiving Day - Independence Day - Christmas Day

1. Also included would be any other day specifically declared by the President of the United States to be a National Holiday.

2. When a holiday falls on a Sunday, the following Monday shall be observed as a legal holiday by U.S. Government agencies. When a holiday falls on a Saturday, the preceding Friday shall be observed as a legal holiday.

2.5 IDENTIFICATION, PARKING, SMOKING AND VA REGULATIONS

The Contractor's employees shall wear visible identification always while on the premises of the VA. It is the responsibility of the Contractor to park in the appropriate designated parking areas. Information on parking is available from the VA Police. The VA will not invalidate or make reimbursement for parking violations of the Contractor under any conditions. Smoking is prohibited inside any buildings at the VA. Possession of weapons is prohibited. Enclosed containers, including tool kits, shall be subject to search. Violations of VA regulations may result in citation answerable in the United States (Federal) District Court, not a local district, state, or municipal court.

2.6 DELIVERY INSPECTION AND ACCEPTANCE

All deliverables shall be delivered FOB DESTINATION. Price is all inclusive of all charges associated with the services being provided. Inspection and acceptance shall be accomplished as follows: The Government, for all deliverables furnished under any resulting order, hereby designates the facility point of contact Kimberly Bell at the Clement J. Zablocki VAMC and the Milo C. Huempfer Green Bay Community Based Outpatient Clinic (CBOC) as the point of contact for the final inspection and acceptance.

2.7 MISCELLANEOUS REPORTING

Required registration with contractor performance assessment reporting system (CPARS): As prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates contractor past performance on all contracts that exceed the thresholds outlined in FAR Part 42.15, and shares those evaluations with other Federal Government contract specialists and procurement officials through the Past Performance Information Retrieval System (PPIRS). The FAR requires that the contractor be provided an opportunity to comment on past performance evaluations prior to the posting of each report. To fulfill this requirement VA uses an online database, the Contractor Performance Assessment Reporting System (CPARS). The CPARS database information is uploaded to the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. Each contractor whose contract award is estimated to exceed the thresholds outlined in FAR Part 42.15 is required to provide to the contracting officer contact information for the contractor's representative with their response to the solicitation. The contractor is responsible to notify the contracting officer of any change to the contractor's representative during the contract performance period. Contractor's representative contact information consists of a name and email address.

The Government will register the contract within thirty days after contract award. For contracts with a period of one year or less, the contracting officer will perform a single evaluation when the contract is complete. For contracts exceeding one year, the contracting officer will evaluate the contractor's performance annually. Intermediate reports will be filed each year until the last year of the contract, when the final report will be completed. Each report shall be forwarded in CPARS to the contractor's designated representative for comment. The contractor's representative will have thirty days to submit any comments and return the report to the VA contracting officer. Failure by the contractor to respond within those thirty days will result in the Government's evaluation being placed on file in PPIRS without contractor's comments.

2.8 PRODUCT MODIFICATION, REMOVAL OR RECALL

If any product awarded under this BPA requires modification, is removed or recalled by the Contractor or manufacturer, or if any required modification, removal or recall is suggested or mandated by a regulatory or official agency, the following steps will immediately be taken by the Contractor or manufacturer:

- A. Notify the Contracting Officer, in writing, by the most expeditious manner possible. Provide two copies of the notification which shall include, but not be limited to the following:

- (1) Complete item description and/or identification, order numbers from customers and the contract number of this BPA.
- (2) Reasons for modifications, removal or recall.
- (3) Necessary instructions for return for credit, replacement or corrective action.

Contractor shall be responsible for any costs associated with the above.

B.3 AUTHORIZED INDIVIDUALS

3.1 AUTHORIZED REPRESENTATIVES

The primary Contracting Officer (CO) for this agreement is:

Thomas Chesak - Contracting Officer NCO-12
Great Lakes Acquisition Center
115 S. 84th Street, Suite 101
Milwaukee, WI 53295
(414) 844-4813
thomas.chesak@va.gov

The point of contact at the Clement J. Zablocki VAMC and the Milo C. Huempfner Green Bay CBOC for this agreement is:

Kimberly Bell - Associate Chief of Pharmacy Operations
(414)384-2000 ext. 41153
kimberly.bell@va.gov

B.4 SECURITY & PRIVACY CONTROL

Appropriate background investigation level is: NACI

Contractor will also need to sign the Rules of Behavior and a Non-Disclosure agreement.

1. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

- a. A contractor/sub-contractor shall request logical (technical) or physical access to VA information and VA information systems for their employees, subcontractors, and affiliates only to the extent necessary to perform the services specified in the contract, agreement, or task order.
- b. All contractors, subcontractors, and third-party servicers and associates working with VA information are subject to the same investigative requirements as those of VA appointees or employees who have access to the same types of information. The level and process of background security investigations for contractors must be in accordance with VA Directive and Handbook 0710, Personnel Suitability and Security Program. The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.
- e. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor's employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.

2. VA INFORMATION CUSTODIAL LANGUAGE

HIPPA Compliance Statement:

Department of Veterans Affairs is fully compliant with the HIPAA Standards for Privacy, Electronic Transactions and Security (including the HITECH Act and the Omnibus Rule of 2013). Department of Veterans Affairs has implemented policies, processes, and procedures designed to ensure compliance with Federal and State information security laws, regulations, rules and monitors ongoing compliance efforts and maintains various reporting mechanisms that are required by law or requested by its customers. Department of Veterans Affairs recognizes that it is a key business partner with its customers and will continue to provide all of its various programs and services in accordance with the relevant requirements of all state and federal laws and regulations, including, as applicable, HIPAA.

a. Information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor/subcontractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the VA. This clause expressly limits the contractor/subcontractor's rights to use data as described in Rights in Data - General, FAR 52.227-14(d) (1).

b. VA information should not be co-mingled, if possible, with any other data on the contractor/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on-site inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.

c. Prior to termination or completion of this contract, contractor/subcontractor must not destroy information received from VA, or gathered/created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, Records and Information Management and its Handbook 6300.1 Records Management Procedures, applicable VA Records Control Schedules, and VA Handbook 6500.1, Electronic Media Sanitization. Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.

d. The contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies in this contract.

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

f. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.

g. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.01, Business Associate Agreements. Absent an agreement to use or disclose protected health information, there is no business associate relationship.

h. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.

i. The contractor/subcontractor's firewall and Web services security controls, if applicable, shall meet or exceed VA's minimum requirements. VA Configuration Guidelines are available upon request.

j. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.

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

l. For service that involves the storage, generating, transmitting, or exchanging of VA sensitive information but does not require C&A or an MOU-ISA for system interconnection, the contractor/subcontractor must complete a Contractor Security Control Assessment (CSCA) on a yearly basis and provide it to the COTR.

3. SECURITY INCIDENT INVESTIGATION

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 contractor/subcontractor shall immediately notify the COTR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/subcontractor has access.

b. To the extent known by the contractor/subcontractor, the contractor/subcontractor's notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the contractor/subcontractor considers relevant.

c. With respect to unsecured protected health information, the business associate is deemed to have discovered a data breach when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.

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.

4. LIQUIDATED DAMAGES FOR DATA BREACH

a. Consistent with the requirements of 38 U.S.C. §5725, a contract may require access to sensitive personal information. If so, the contractor is liable to VA for liquidated damages in the event of a data breach or privacy incident involving any SPI the contractor/subcontractor processes or maintains under this contract.

b. The contractor/subcontractor shall provide notice to VA of a “security incident” as set forth in the Security Incident Investigation section above. Upon such notification, VA must secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for contract termination.

c. 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.
- d. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount \$35.00 dollars for each user breach.

5. TRAINING

a. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:

- (1) Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the Contractor Rules of Behavior, Appendix E relating to access to VA information and information systems;
- (2) Successfully complete the VA Privacy and Information Security Awareness and Rules of Behavior training and annually complete required security training;
- (3) Successfully complete the appropriate VA Privacy training and annually complete required privacy training; and
- (4) Successfully complete any additional Information Security/Cyber Security or Privacy training, as required for VA personnel with equivalent information system access [to be defined by the VA program official and provided to the contracting officer for inclusion in the solicitation document – e.g., any role-based information security training required in accordance with NIST Special Publication 800-16, Information Technology Security Training Requirements.]

b. The contractor shall provide to the contracting officer and/or the COTR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within 1 week of the initiation of the contract and annually thereafter, as required.

c. Failure to complete the mandatory annual training and sign the Rules of Behavior annually, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.

B.5 SCHEDULE OF SUPPLIES/SERVICES AND PRICES/COSTS:

(SF 1449, Continuation of Blocks 19 – 24)

The Contractor shall provide all Pharmacy Automated Dispensing Cabinets, including support services, necessary to replace those at the end of life, in addition to new ones required for the Clement J. Zablocki VAMC and the Milo C. Huempfer Green Bay CBOC.

This Pharmacy Automated Dispensing Cabinets BPA shall have a base period of 1-year, plus four 1-year option periods. The exercising of the option periods shall be at the Governments full discretion.

5.1 BASE PERIOD

PERIOD OF PERFORMANCE SEPTEMBER 01, 2019 – AUGUST 31, 2020:

Premium Drawers are the Cubie Drawers, that are secured, locked and with a lid.

Non-Premium Drawers are open matrix drawers.

Profiled is inclusive of software that interfaces with the Pharmacy Information System and allows the clinician access to only the meds that have been reviewed and approved by a pharmacist for that particular patient.

LINE ITEM	Product ID	Description	UNIT	UNIT PRICE
0001	306	7-Drawer Auxiliary Tower - 5-Premium Drawers	EA	\$39,927.00
0002	303	6-Drawer Main - 3-Premium Drawers (profiled)	EA	\$51,197.00
0003	303	6-Drawer Main - 3-Premium Drawers	EA	\$40,007.00
0004	303	6-Drawer Main - 4-Premium Drawers (profiled)	EA	\$53,557.00
0005	303	6-Drawer Main - 5-Premium Drawers (profiled)	EA	\$55,916.00
0006	303	6-Drawer Main - 5-Premium Drawers	EA	\$44,726.00
0007	303	5-Drawer Main w/ Bin - 2-Premium Drawers	EA	\$36,753.00
0008	345	Smart Remote Managers	EA	\$4,539.00
0009	306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers	MO	\$51.00
0010	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)	MO	\$110.00
0011	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers	MO	\$106.00
0012	303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)	MO	\$110.00
0013	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)	MO	\$110.00
0014	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers	MO	\$106.00
0015	303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers	MO	\$106.00
0016	345	Monthly Support for Smart Remote Managers	MO	\$20.00

5.2 OPTION YEAR ONE (1)

PERIOD OF PERFORMANCE SEPTEMBER 01, 2020 – AUGUST 31, 2021:

LINE ITEM	Product ID	Description	UNIT	UNIT PRICE
1001	306	7-Drawer Auxiliary Tower - 5-Premium Drawers	EA	\$39,927.00

1002	303	6-Drawer Main - 3-Premium Drawers (profiled)	EA	\$51,197.00
1003	303	6-Drawer Main - 3-Premium Drawers	EA	\$40,007.00
1004	303	6-Drawer Main - 4-Premium Drawers (profiled)	EA	\$53,557.00
1005	303	6-Drawer Main - 5-Premium Drawers (profiled)	EA	\$55,916.00
1006	303	6-Drawer Main - 5-Premium Drawers	EA	\$44,726.00
1007	303	5-Drawer Main w/ Bin - 2-Premium Drawers	EA	\$36,753.00
1008	345	Smart Remote Managers	EA	\$4,539.00
1009	306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers**	MO	\$51.00
1010	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)**	MO	\$110.00
1011	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers**	MO	\$106.00
1012	303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)**	MO	\$110.00
1013	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)**	MO	\$110.00
1014	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers**	MO	\$106.00
1015	303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers**	MO	\$106.00
1016	345	Monthly Support for Smart Remote Managers**	MO	\$20.00

5.3 OPTION YEAR TWO (2)

PERIOD OF PERFORMANCE SEPTEMBER 01, 2021 – AUGUST 31, 2022:

LINE ITEM	Product ID	Description	UNIT	UNIT PRICE
2001	306	7-Drawer Auxiliary Tower - 5-Premium Drawers	EA	\$39,927.00
2002	303	6-Drawer Main - 3-Premium Drawers (profiled)	EA	\$51,197.00
2003	303	6-Drawer Main - 3-Premium Drawers	EA	\$40,007.00

2004	303	6-Drawer Main - 4-Premium Drawers (profiled)	EA	\$53,557.00
2005	303	6-Drawer Main - 5-Premium Drawers (profiled)	EA	\$55,916.00
2006	303	6-Drawer Main - 5-Premium Drawers	EA	\$44,726.00
2007	303	5-Drawer Main w/ Bin - 2-Premium Drawers	EA	\$36,753.00
2008	345	Smart Remote Managers	EA	\$4,539.00
2009	306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers**	MO	\$51.00
2010	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)**	MO	\$110.00
2011	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers**	MO	\$106.00
2012	303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)**	MO	\$110.00
2013	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)**	MO	\$110.00
2014	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers**	MO	\$106.00
2015	303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers**	MO	\$106.00
2016	345	Monthly Support for Smart Remote Managers**	MO	\$20.00

5.4 OPTION YEAR THREE (3)

PERIOD OF PERFORMANCE SEPTEMBER 01, 2022 – AUGUST 31, 2023:

LINE ITEM	Product ID	Description	UNIT	UNIT PRICE
3001	306	7-Drawer Auxiliary Tower - 5-Premium Drawers	EA	\$39,927.00
3002	303	6-Drawer Main - 3-Premium Drawers (profiled)	EA	\$51,197.00
3003	303	6-Drawer Main - 3-Premium Drawers	EA	\$40,007.00
3004	303	6-Drawer Main - 4-Premium Drawers (profiled)	EA	\$53,557.00
3005	303	6-Drawer Main - 5-Premium Drawers (profiled)	EA	\$55,916.00

3006	303	6-Drawer Main - 5-Premium Drawers	EA	\$44,726.00
3007	303	5-Drawer Main w/ Bin - 2-Premium Drawers	EA	\$36,753.00
3008	345	Smart Remote Managers	EA	\$4,539.00
3009	306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers**	MO	\$51.00
3010	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)**	MO	\$110.00
3011	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers**	MO	\$106.00
3012	303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)**	MO	\$110.00
3013	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)**	MO	\$110.00
3014	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers**	MO	\$106.00
3015	303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers**	MO	\$106.00
3016	345	Monthly Support for Smart Remote Managers**	MO	\$20.00

5.5 OPTION YEAR FOUR (4)

PERIOD OF PERFORMANCE SEPTEMBER 01, 2023 – AUGUST 31, 2024:

LINE ITEM	Product ID	Description	UNIT	UNIT PRICE
4001	306	7-Drawer Auxiliary Tower - 5-Premium Drawers	EA	\$39,927.00
4002	303	6-Drawer Main - 3-Premium Drawers (profiled)	EA	\$51,197.00
4003	303	6-Drawer Main - 3-Premium Drawers	EA	\$40,007.00
4004	303	6-Drawer Main - 4-Premium Drawers (profiled)	EA	\$53,557.00
4005	303	6-Drawer Main - 5-Premium Drawers (profiled)	EA	\$55,916.00
4006	303	6-Drawer Main - 5-Premium Drawers	EA	\$44,726.00
4007	303	5-Drawer Main w/ Bin - 2-Premium Drawers	EA	\$36,753.00
4008	345	Smart Remote Managers	EA	\$4,539.00

4009	306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers**	MO	\$51.00
4010	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)**	MO	\$110.00
4011	303	Monthly Support for 6-Drawer Main - 3-Premium Drawers**	MO	\$106.00
4012	303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)**	MO	\$110.00
4013	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)**	MO	\$110.00
4014	303	Monthly Support for 6-Drawer Main - 5-Premium Drawers**	MO	\$106.00
4015	303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers**	MO	\$106.00
4016	345	Monthly Support for Smart Remote Managers**	MO	\$20.00

** = This pricing is based upon the Federal Supply Schedule (FSS), current at the time of award. Pricing is subject to the potential increase in FSS pricing.

B.6 PRICING ESTIMATES

ESTIMATES				
<u>BASE PERIOD</u>	<u>OPTION YEAR 1</u>	<u>OPTION YEAR 2</u>	<u>OPTION YEAR 3</u>	<u>OPTION YEAR 4</u>
Period of Performance: Start: 09/01/2019 Ends: 08/31/2020	Period of Performance: Start: 09/01/2020 Ends: 08/31/2021	Period of Performance: Start: 09/01/2021 Ends: 08/31/2022	Period of Performance: Start: 09/01/2022 Ends: 08/31/2023	Period of Performance: Start: 09/01/2023 Ends: 08/31/2024
\$1,849,911.00	\$397,769.00	\$397,769.00	\$397,769.00	\$397,769.00
<u>ESTIMATED TOTAL VALUE OF BPA</u>				<u>\$3,796,955.00</u>

B.7 STATEMENT OF WORK

7.1 BACKGROUND

The Clement J. Zablocki VAMC and the Milo C. Huempfer CBOC needs updated automated dispensing cabinets (ADC), including support services, to replace the current cabinets which are at end of life. Currently the facilities utilize the Pyxis Medstation 4000 system. Only the cabinets are being replaced. The server and all software will continue to operate on the MedStation 4000 platform. In addition to continuing to use the MedStation 4000 platform, the current CII safe, single and double auxiliary towers will be maintained. The required cabinets shall be compatible with the Pyxis MedStation 4000 platform and auxiliary towers currently in use.

7.2 INTENT

The facilities need the ADCs for care of Veteran patients. Since the facilities currently utilize the Pyxis Medstation 4000 system, it is in the best interest of the Government to establish a sole source BPA as the ADCs utilized shall be fully compatible with the existing equipment and only the provider of the equipment, CAREFUSION SOLUTIONS, LLC, can provide the requirement, including support services.

Pursuant to Federal Supply Schedule (FSS), it is the intent to establish a Pharmacy ADC Blanket Purchase Agreement (BPA) for the cabinets. The award of this BPA is pursuant to Federal Supply Schedule (FSS) FSC Group 65, Part II A (Medication and Supply Packaging and Dispensing Equipment and Federal Acquisition Regulation (FAR) 8.404 authorizing the establishment of a BPA to the FSS contract holder offering the 'best value' to the Government. The Government will award a BPA to a single contractor for the ADCs. Contractor agrees to the following terms of the BPA exclusively with the Clement J. Zablocki VAMC and the Milo C. Huempfer Green Bay CBOC.

7.3 SUPPORT / PREVENTIVE MAINTENANCE SERVICES

At the request of the facility, CareFusion shall perform on-site preventative maintenance and analysis of Pyxis Products once every two (2) years. Worn or defective parts shall be replaced when necessary, as per manufacturer's specifications; with the exception of hard drives or other devices storing patient identifiable information which shall be left on site. Preventive maintenance inspections shall be scheduled at least three (3) days in advance with the facility point of contact. Support also includes all necessary intervening service calls required to replace any worn or defective part needed due to instrument failure. The VA shall try to resolve any problem first before calling the Contractor.

Support / Preventive Maintenance Services included "Instruments and Accessories" means those instruments or accessories made or approved by Pyxis for use with the Pyxis "System", meaning all items comprising all Pyxis equipment, certain hardware components ("Hardware"), software program elements ("Software") and related documentation ("Documentation"), that Government may purchase and license hereunder. Contractor shall use parts sourced by Contractor, which may, at Contractor's discretion, include reconditioned parts, ("Equivalent to New" or "ETN"). ETN parts are components, assemblies, or partial products which have had prior usage, but have been inspected, reworked, and tested as required so that their function, performance, and appearance shall be essentially equivalent to that of new parts. Regardless of whether parts are new or ETN, Contractor's appropriate warranties apply. The contractor shall provide on-site field service necessary to keep the Pyxis Products and CareFusion's side of any interfaces (collectively, the "Pyxis System") performing in accordance with the material specifications of the applicable user manuals ("Properly Performing").

Contractor shall:

- (A) Adjust parts on the System from time to time;
- (B) Repair System operational malfunctions;
- (C) Replace all CUBIE Pockets that fail to work for any reason other than external cause
- (D) Replace and install Software, Hardware, and mechanical equipment for safety and reliability;
- (E) Provide twenty-four (24) hours per day, seven (7) days per week (24 x 7) remote diagnostic testing and support by qualified service personnel;
- (F) Provide and install Software upgrades for feature enhancements. Software upgrades and Service with respect to additional equipment not included as part of the System as originally delivered to VA may be subject to separate terms to be agreed upon by the parties;
- (G) Perform System preventative maintenance inspections as necessary to maintain factory specifications

7.4 ADDITIONAL SERVICES

Contractor guarantees all equipment covered in this BPA shall be in optimum working condition at the BPA expiration date provided that the Contractor is notified of any deficiencies at least one (1) day before the BPA expiration date. Any changes, updates or retrofits made on any component or system shall be reported to the facility point of contact or designee for annotation on station equipment manuals and records. For any service call made during normal working hours, the Contractors' technician shall report their arrival and departure as outlined below (7.8). Contractor shall include, at no extra charge, any engineering and software update necessary for continued optimum operation of the equipment listed in this BPA. The Contractors' technician shall complete a service report, in writing, after each service call (emergency or scheduled) and submit either a hard copy or an electronic version of this report to the facility point of contact or designee within 5 days after the service day.

7.5 PERFORMANCE AND RESPONSE TIME

1. The Contractor shall respond to service calls, within eight (8) hours. This requirement for response time shall be the same for both services calls during the VA normal business hours and after-hour service calls.
2. All work shall be performed by competent, experienced and factory-trained to work on the specific equipment. All work performed shall be accomplished in accordance with manufacturer's instructions, including but not limited to adjustments, calibrations, cleaning, lubricating, testing, disassembly, check-out, replacement of worn or defective parts, etc., required to keep the equipment in first-class operating condition. All work shall be performed to the satisfaction of the facility point of contact who shall inspect the technician's work and indicate approval on a signed statement prior to the technician's departure from the premises.
3. Service calls during the VA normal business hours and related to malfunctions not successfully preempted by preventive maintenance services shall be at no additional cost to the Government. Repair service calls shall not take time away from preventive maintenance and other requirements required under this contract.
4. The Government shall not be responsible for incidental charges including, but not limited to, parking, tolls, mileage, phone, etc.

7.6 OTHER SERVICES

In addition to covered services, Contractor shall provide equally responsive, competent service for additional work on covered equipment when requested by the VA, during regular business hours or after hours, which shall be paid via separate purchase order at a pre-determined cost if unrelated to maintenance requirements of the BPA. No work shall be performed prior to obtaining approval and a new purchase order number.

7.7 DOCUMENTING

a) The Contractor shall maintain a separate maintenance record on each piece of equipment covered under this BPA. All maintenance records shall be readily available anytime upon request for inspection by the Contracting Officer, facility point of contact or designee. The maintenance record is the property of the government and shall be turned over to the Government at the end of the BPA. The maintenance record shall be a chronological file that includes the following information:

- (1) Date
- (2) Nature of work (i.e. PM or repair services)
- (3) Description of work performed (contractor should be brief and concise)
- (4) Any indication of problems experienced
- (5) Initial or signature of technician performing work

7.8 PROCEDURE FOR REPORTING OF ARRIVAL AND DEPARTURE FOR ONSITE WORK

The Contractor's representative shall report his arrival and departure for onsite work in accordance with the following procedure:

1. For Medstation service calls, the Contractor shall report to Pharmacy. Pharmacy personnel shall stay with the contractor until the work is complete. This will ensure the facility will always be aware of the Contractor's presence at the facility. For Supply service calls, the Contractor shall report to the Chief of Logistics or designee. Response time shall be determined by the first appearance of a service representative at the appropriate office in response to a call.
2. Upon each departure, Contractor shall serve notice of disposition of work to the facility point of contact or designee. In addition, the Contractor shall furnish the Pharmacy point of contact or designee a copy of a work order, service sheet or other such written notification of services performed. Such reports shall include at a minimum the following information:
 - Name and address of contractor
 - Name of contractor employee(s) performing the work
 - Date(s) work performed, and hours spent.
 - Brief description of work performed, including preventive maintenance services and identification of equipment worked on.
 - Signature of contractor's employee(s) and signature of facility point of contact or his designee.
 - If the report is not submitted, it will indicate to the Government that no inspection or maintenance was performed, and payment may be withheld and/or delayed.

7.9 ORDERS

All products ordered under this BPA, placed against the Federal Supply Schedule Award Contract(s), are subject to the terms and conditions of the FSS contract. This BPA does not obligate any funds. The Government is obligated only to the extent of authorized orders issued under the BPA.

7.10 ESTIMATED QUANTITIES

The Government estimates the below quantities but does not guarantee volumes as listed; they are estimates ONLY.

ID	Description	Estimated Quantity Base Year	Estimated Quantity Option Year 1	Estimated Quantity Option Year 2	Estimated Quantity Option Year 3	Estimated Quantity Option Year 4
306	7-Drawer Auxiliary Tower - 5-Premium Drawers	2	1	1	1	1
303	6-Drawer Main - 3-Premium Drawers (profiled)	1	1	1	1	1
303	6-Drawer Main - 3-Premium Drawers	2	1	1	1	1
303	6-Drawer Main - 4-Premium Drawers (profiled)	3	1	1	1	1
303	6-Drawer Main - 5-Premium Drawers (profiled)	19	2	2	2	2
303	6-Drawer Main - 5-Premium Drawers	2	1	1	1	1
303	5-Drawer Main w/ Bin - 2-Premium Drawers	4	1	1	1	1
345	Smart Remote Managers	27	2	2	2	2
306	Monthly Support for 7-Drawer Auxiliary Tower - 5-Premium Drawers	24	12	12	12	12
303	Monthly Support for 6-Drawer Main - 3-Premium Drawers (profiled)	12	12	12	12	12
303	Monthly Support for 6-Drawer Main - 3-Premium Drawers	24	12	12	12	12
303	Monthly Support for 6-Drawer Main - 4-Premium Drawers (profiled)	36	12	12	12	12
303	Monthly Support for 6-Drawer Main - 5-Premium Drawers (profiled)	228	24	24	24	24

303	Monthly Support for 6-Drawer Main - 5-Premium Drawers	24	12	12	12	12
303	Monthly Support for 5-Drawer Main w/ Bin - 2-Premium Drawers	48	12	12	12	12
345	Monthly Support for Smart Remote Managers	324	24	24	24	24

7.11 TERM OF BPA

This will be a single award, firm-fixed price BPA with one base year and four, one year options and shall be effective for the term of the FSS Contract including additional FSS extensions. The Contractor is required to immediately notify the Contracting Officer (CO), in writing, if at any time the FSS contract upon which this BPA is based, is no longer in force. In addition, where a new FSS contract replaces Contractor's current FSS contract, the resulting BPA may be reassigned under the new FSS contract for the remaining term of the BPA with written agreement between Contractor and the contracting officer. This BPA is not a contract. This BPA shall be reviewed annually. The Government intends to establish the base year of the agreement as September 01, 2019 through August 31, 2020.

PERIOD OF BPA PERFORMANCE:

BASE YEAR: 09/01/2019 to 08/31/2020
 OPTION YEAR 1: 09/01/2020 to 08/31/2021
 OPTION YEAR 2: 09/01/2021 to 08/31/2022
 OPTION YEAR 3: 09/01/2022 to 08/31/2023
 OPTION YEAR 4: 09/01/2023 to 08/31/2024

7.12 IDENTIFICATION

Delivery Orders issued shall be identified by their applicable FSS Contract Number and BPA Number. FSS & BPA identification numbers are assigned through the VHA Procurement Activity: CO.

7.13 ADDRESSES FOR FACILITY DELIVERIES

The Pharmacy ADCs will be acquired for two (2) facilities. The facility where an item shall be delivered will be identified clearly on resulting delivery orders. The addresses for delivery at the facilities is listed below.

<u>NAME OF FACILITY</u>	<u>ADDRESS</u>
Clement J. Zablocki VAMC (695)	5000 W. National Avenue Building 111 Milwaukee, WI 53295
Milo C. Huempfer Green Bay CBOC (695)	2851 University Avenue Green Bay, WI 54311

B.8 OBLIGATION OF FUNDS

This BPA does not obligate any funds nor is the Government obligated to make any purchases under this BPA. The Government is obligated only to the extent of authorized orders issued under the BPA by the Contracting Officer.

SECTION C - CONTRACT CLAUSES

C.1 FSS ORDER INTRODUCTORY LANGUAGE

The terms and conditions of the contractor's FSS contract (including any contract modifications) apply to all task or delivery orders issued under the contract. When a lower price has been established, or when the delivery terms, FOB terms, or ordering requirements have been modified by the task/delivery order, those modified terms will apply to all purchases made pursuant to it and take precedence over the FSS contract. Any unique terms and conditions of an order issued under the contract that are not a part of the applicable FSS contract will govern. In the event of an inconsistency between the terms and conditions of a task/delivery order and the Contractor's FSS terms, other than those identified above, the terms of the FSS contract will take precedence.

C.2 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.3 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (OCT 2018)

(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) [Reserved]

(u) *Unauthorized Obligations.*

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

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

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

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

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

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

(End of Clause)

ADDENDUM to FAR 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS

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

The following clauses are incorporated into 52.212-4 as an addendum to this contract:

C.4 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)

C.5 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)

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

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

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

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

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

(End of Clause)

C.6 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.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 10 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 15 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 5-Years.

(End of Clause)

C.8 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.9 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.10 VAAR 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2018)

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

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

(2) *Designated agency office* means the office designated by the purchase order, agreement, or contract to first receive and review invoices. This office can be contractually designated as the receiving entity. This office may be different from the office issuing the payment;

(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; and

(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 at the current website address provided in the contract.

(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).

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

(e) *Exceptions.* If, based on one of the circumstances in this paragraph (e), 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.11 VAAR 852.246-71 REJECTED GOODS (OCT 2018)

(a) *Supplies and equipment.* Rejected goods will be held subject to Contractor's order for not more than 15 days, after which the rejected merchandise will be returned to the Contractor's address at the Contractor's risk and expense. Expenses incident to the examination and testing of materials or supplies that have been rejected will be charged to the Contractor.

(b) *Perishable supplies.* The Contractor shall remove rejected perishable supplies within 48 hours after notice of rejection. Supplies determined to be unfit for human consumption will not be removed without permission of the local health authorities. Supplies not removed within the allowed time may be destroyed. The Department of Veterans Affairs will not be responsible for, nor pay for, products rejected. The Contractor will be liable for costs incident to examination of rejected products.

(End of Clause)

(End of Addendum to 52.212-4)

SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

None