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SECTION B. CONTINUATION OF SF 1449 BLOCKS

B.1. CONTRACT ADMINISTRATION DATA

B.1.1. Contract Administration: All contract administration matters will be handled by the following individuals:

a. CONTRACTOR:

b. GOVERNMENT: Contracting Officer

B.1.2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor will be made in accordance with:

☒ 52.232-34, Payment by Electronic Funds Transfer -
Other than Central Contractor Registration, or

☐ 52.232-36, Payment by Third Party

B.1.3. INVOICES: Invoices shall be submitted in arrears:

a. Quarterly ☐

b. Semi-Annually ☐

c. Other ☒

B.1.4. ACKNOWLEDGMENT OF AMENDMENTS:

The offeror acknowledges receipt of amendments to the solicitation numbered and dated as follows:

AMENDMENT NO.	DATE

B.1.5. Blocks 18a and 18b -- PAYMENT OF INVOICES - GOVERNMENT INVOICE ADDRESS

B.1.6. All invoices from the contractor shall be mailed to the following address:

Contractors shall submit invoices for payment, to include lease payments, electronically to AMMHINNACINVOICES@VA.GOV. In addition, the contractor shall send a copy of each such invoice to the Contracting Officer (003A4C2), VA National Acquisition Center, National Contracts Service, Post Office Box 76, Hines, IL 60141. For VA orders only.

B.1.7. PAYMENT OFFICE AND INVOICING INSTRUCTIONS FOR DLA ORDERS ONLY

Prior to payment of invoice, contractor shall forward a completed DD250, "Material Inspection and Receiving Report" form to Contracting Officer for signature, pending verification, authorizing acceptance and subsequent payment. This form may be faxed to the DLA Contracting Officer for expediency. Upon receipt of signed DD250 from the Contracting Officer, the contractor may forward the invoice plus the DD250 to the appropriate payment office as cited on Block 18a of the SF1449.

NOTE: *The DLA Contracting Officer is the only Government representative authorized to sign DD Form 250's.*

B.1.8. 852.273-76 ELECTRONIC INVOICE SUBMISSION (Interim - October 2008)

(a) To improve the timeliness of payments and lower overall administrative costs, VA strongly encourages contractors to submit invoices using its electronic invoicing system. At present, electronic submission is voluntary and any nominal registration fees will be the responsibility of the contractor. VA intends to mandate electronic invoice submission, subject to completion of the federal rulemaking process. At present, VA is using a 3rd party agent to contact contractors regarding this service. During the voluntary period, contractors interested in registering for the electronic system should contact the VA's Financial Services Center at <http://www.fsc.va.gov/einvoice.asp>.

B.1.9. ADDENDA TO 52.212-3, OFFEROR REPRESENTATIONS AND CERTIFICATIONS-COMMERCIAL ITEMS

The following clauses and provisions are addenda to Clause 52.212-3.

B.1.10. AS1526 AUTHORIZED NEGOTIATORS (JAN 1998)

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations: (list names, titles, and telephone numbers of the authorized negotiators) Additional names may be included using bond paper attachment.

B.1.11. AS1108 CONTACT FOR CONTRACT ADMINISTRATION (MAY 1992)

Offerors are requested to designate a person to be contacted for prompt contract administration. Additional names may be included using bond paper attachment.

NAME _____

TITLE _____

ADDRESS _____

_____ ZIP CODE _____

PHONE NO. (____)____ 800 NO. _____

FAX NO. (____)_____

EMAIL _____

B.2. 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (FEB 2012)

(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. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

*** TAILORING OF PARAGRAPH (c), PERIOD FOR ACCEPTANCE OF OFFERS:** The offeror agrees to hold the prices in its offer firm for **120** calendar days from the date specified for receipt of offers.

(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. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

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

(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 (<http://assist.daps.dla.mil>).

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

(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 (<http://assist.daps.dla.mil/wizard>);

(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) Data Universal Numbering System (DUNS) Number. (Applies to all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database. The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address. The DUNS +4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.fedgov.dnb.com/webform>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(k) Central Contractor Registration. 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 CCR 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 CCR 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 CCR database accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

(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.

All questions shall be submitted via email to Daniel.crespo@va.gov by Wednesday, December 26, 2012 1:00PM EST.

B.3. SUBMISSION OF OFFERS AND CONTRACT PERIOD

This Multiple Award Solicitation will have a prescribed closing date. This solicitation will be a “standing” opportunity for new offers, which may be submitted to the Contracting Officer at any time prior to February 8, 2013. Contracts resulting hereunder shall cover the base contract period of one year beginning on August 12, 2013, or the date of award, whichever is later, through August 11, 2014 with the Government’s option to renew for up to two additional one-year periods. No contract base period will extend beyond February 15, 2016. Offers will be evaluated and awarded on a first come basis.

B.3.1. Business Proposal Content:

The offeror shall submit a pricing proposal consisting of a properly completed and signed solicitation document (SF 1449).

Offeror shall submit three (3) printed copies of a dated, published commercial price list of all equipment offered in the proposal. This includes price list catalogs or other documentation setting forth the prices charged the general public.

Each offeror shall submit a completed Discount & Pricing Information Worksheet (Part VI, Attachment 6), as described in that attachment, providing information that supports the discount(s) offered.

Each offeror shall include the company’s balance sheet and income statement for the last fiscal year.

Offerors that are a large business shall submit, for approval, a Small Business Subcontracting Plan or a copy of the current approved plan.

For each of its three most recently completed contracts and two current contracts, the offeror shall submit the following information on past performance:

- (1) Contract number
- (2) Location where equipment was installed
- (3) Type and model of equipment installed
- (4) Customer point of contact and telephone number

(5) Attachment #8 (Service Facilities Descriptions)

B.3.2. CONTRACT TYPE

The Government contemplates award of Multiple Award, Fixed Price Indefinite-Delivery/Indefinite-Quantity contracts resulting from this solicitation.

B.3.3. GUARANTEED MINIMUM (JUL 2002)

The minimum quantity of supplies that the Government agrees to order during the period of this contract is \$2,500. If, at the conclusion of the contract period the contractor has received orders for less than \$2,500, the Government will pay (upon request from the vendor) 2,500.

Request for payment of any amount due under this clause shall be submitted in writing to the contracting officer within 30 days after the end of the contract period.

The guaranteed minimum does not apply if the contract is terminated for default.

B.3.4. ESTIMATED QUANTITIES

Previous sales for the last Fiscal Year (October 1, 2010, through September 30, 2011) to all contractors for all equipment described in Part 1 herein were approximately **\$215,878,949. The total estimated value of this procurement, which includes sales of the projected and current imaging contract, a base year, and two option years, is a total over the three-year period of \$673,887,725.00.** It is impossible to determine the exact quantities that will be required during the contract term. Each offeror whose offer is accepted wholly or in part will be required to deliver all articles that may be ordered during the contract term, except as otherwise indicated in the offer and except as otherwise provided herein.

Offerors shall provide the systems identified herein with discounts from the offeror's published commercial price list. The published commercial price list shall be made a part of the ultimate contract, and may only be modified in accordance with the Economic Price Adjustment (EPA) 52.216-2 Clause included in this solicitation.

Offerors shall indicate "No Bid" if a certain type product/system is not offered.

Note: When the contractor receives their 60 days notice to exercise the option years an updated pricelist shall be furnished at this time. (i.e. Current part numbers, descriptions etc.) The preliminary notice does not commit the Government to an extension. The process for submission of the price changes is described in the EPA clause in this solicitation.

B.3.5. ITEMS AND PRICES

FSC Class 6525 - COMPUTED TOMOGRAPHY (CT) SCANNERS, MAGNETIC RESONANCE IMAGING (MRI) SYSTEMS, X-RAY SYSTEMS, NUCLEAR MEDICINE, ULTRASOUND, COMPUTED RADIOLOGY (CR), MAGNETOENCEPHALOGRAPHY, PET SCANNER, CYCLOTRON, RADIOGRAPHY SYSTEMS, AND X-RAY FILM LASER IMAGERS. CT, MRI, X-RAY, NUCLEAR MEDICINE, ULTRASOUND, COMPUTED RADIOLOGY, MAGNETOENCEPHALOGRAPHY, PET SCANNERS, CYCLOTRON, RADIOGRAPHY SYSTEMS, UPGRADES AND ACCESSORIES, INCLUDING INSTALLATION.

LEASING OF RADIOLOGY SYSTEMS AND EQUIPMENT

The Government may lease radiology systems and equipment under this solicitation. Specific leasing terms and conditions will be negotiated into each vendor's resultant contract as the need arises. At a minimum, such specific leasing terms and conditions will be negotiated into a vendor's basic contract prior to the issuance of any leasing delivery order. Negotiated leasing terms and conditions shall not be construed to affect the Government's rights with respect to termination for cause or similar remedial provisions provided under federal law or regulation. All leases will be entered into pursuant to FAR 7.4, and for DoD orders, DFARS 207.4. FAR 52.232-18 shall apply to all leasing orders, and the Government shall not be bound by terms of any lease beyond the current fiscal year, absent a Contracting Officer's written confirmation of funds availability.

ITEM 1, BASE YEAR (Through February 17, 2014):

COMPUTED TOMOGRAPHY (CT) SCANNERS, MAGNETIC RESONANCE IMAGING (MRI) SYSTEMS, X-RAY SYSTEMS, NUCLEAR MEDICINE, ULTRASOUND, COMPUTED RADIOLOGY (CR), MAGNETOENCEPHALOGRAPHY, PET SCANNER, CYCLOTRON, RADIOGRAPHY SYSTEMS, AND X-RAY FILM LASER IMAGERS. CT, MRI, X-RAY, NUCLEAR MEDICINE, ULTRASOUND, COMPUTED RADIOLOGY, MAGNETOENCEPHALOGRAPHY, PET SCANNERS, CYCLOTRON, RADIOGRAPHY SYSTEMS, UPGRADES AND ACCESSORIES, INCLUDING INSTALLATION.

Turnkey installation shall be priced out separately for all agencies.

Offeror hereby offers a discount of _____% deducted from offeror's published commercial price list dated _____.

PLEASE PROVIDE A DISCOUNT FOR EACH CATEGORY

CT Scanners

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

Magnetic Resonance Imaging (MRI) Systems

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

PET CT Scanners

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

CT Upgrades and Accessories, including installation

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

MRI Upgrades and Accessories, including installation

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

PET CT Upgrades and Accessories, including installation

For delivery to the United States and Puerto Rico _____%.

For delivery outside of the United States and Puerto Rico _____%.

Ultrasound Imaging Systems including data acquisition and processing systems, accessories/options, and biomedical training

For delivery to the United States and Puerto Rico_____ %.

For delivery outside of the United States and Puerto Rico_____ %.

Nuclear Imaging Systems Including, data acquisition and processing systems, accessories/options, and biomedical training

For delivery to the United States and Puerto Rico_____ %.

For delivery outside of the United States and Puerto Rico_____ %.

X-Ray systems

For delivery to the United States and Puerto Rico_____ %.

For delivery outside of the United States and Puerto Rico_____ %.

<u>ITEM</u>	<u>MAJOR SYSTEM</u>	<u>DISCOUNT OFFERED</u>
1.	RADIOGRAPHIC	_____ %
2.	RADIOGRAPHIC – DIGITAL	
a.	COMPUTED RADIOGRAPHY (CR)	_____ %
b.	DIGITAL RADIOGRAPHY (DR)	_____ %
2.	RADIOGRAPHIC / FLUOROSCOPIC (R/F)	_____ %
	RADIOGRAPHIC / FLUOROSCOPIC (R/F) – DIGITAL	
a.	DIGITAL SUBTRACTION	_____ %
b.	DIGITAL SPOT	_____ %
5.	CHEST ONLY	_____ %
6.	UROLOGY	_____ %
7.	CARDIAC CATH	_____ %
8.	ANGIO	_____ %
9.	VASCULAR	_____ %
10.	MOBILES (identified by generator power source)	
a.	BATTERY	_____ %
b.	CAPACITOR DISCHARGE	_____ %
11.	MAMMOGRAPHY	_____ %
12.	C-ARM	
a.	MOBILE	_____ %
b.	STATIONARY	_____ %
13.	R & F REMOTE	_____ %
14.	Other: _____	_____ %
15.	Other: _____	_____ %

For delivery to the United States and Puerto Rico
For delivery outside of the United States and Puerto Rico

_____%
_____%

ITEM 2, BASE YEAR: ADDITIONAL SERVICE TRAINING (Training that is in addition to the training required by this solicitation).

Offeror hereby offers a discount of _____% deducted from offeror's published commercial price list dated _____.

Offeror hereby offers a discount deducted from offeror's published commercial price list cited under Base Year.

B.4. DESCRIPTION/SPECIFICATIONS/SCOPE OF WORK

B.4.1. SCOPE

This solicitation provides for the normal supply of computed tomography (CT) scanner and magnetic resonance imaging (MRI) systems, X-RAY systems, nuclear medicine, ultrasound, computed radiology, magnetoencephalography, pet-ct scanners, cyclotron, radiography systems, upgrades and accessories, including installation, to the Department of Veterans Affairs, Department of Defense, and other Federal Agencies, upon their request for delivery within the 50 United States, Washington, D.C., Puerto Rico, and Federal Activities functioning in non-US (OCONUS) locations, and sales to foreign governments under the FMS Program (DFAR 252.225-7027). The resultant contracts will be used as sources for the articles or services listed herein. Articles or services will be ordered from time to time in such quantities as may be needed to fill any requirement determined in accordance with currently applicable procurement and supply procedures. It is anticipated that Other Government Agencies (OGA's) will participate in resultant contracts.

B.4.2. ACTIVITY AUTHORIZED TO ISSUE ORDERS

THE VA NATIONAL ACQUISITION CENTER, NATIONAL CONTRACTS SERVICE (003A4C2) AND DEFENSE SUPPLY CENTER PHILADELPHIA, 700 Robbins Avenue, Philadelphia, PA 19111-5092 ARE THE ONLY ACTIVITIES AUTHORIZED TO PLACE DELIVERY ORDERS UNDER THIS CONTRACT EXCEPT AS OTHERWISE DELEGATED IN WRITING. Individual facilities of the Department of Veterans Affairs are hereby delegated authority to place delivery orders valued at \$50,000 or less for equipment under this contract.

B.4.2.1. Selection Criteria for Placing Delivery Orders under Multiple Award Contracts

For orders valued from \$3,000.00 - \$100,000, to review the catalogs or price lists of at least three schedule contractors and when any Maximum Order Threshold would be exceeded to seek a price reduction from the "best value schedule holder(s)." For a order(s) in excess of \$100,000, all contractors offering the supplies or services would receive fair opportunity to be considered.

B.4.2.2. The contracting officer may consider the applicable evaluation factors prior to placing each delivery order, shown in descending order of importance:

- (1) Availability of reliable service to the hospital and/or using facility
- (2) Ability of the contractor to meet specified delivery times
- (3) Availability of features required by the hospital and/or using facility.
- (4) Price
- (5) Quality/Past performance
- (6) Ability of the offered equipment to meet the Veterans Health Information System and Technology Architecture (VistA) Modality Interface DICOM Conformance Requirements, when required by customer.

B.4.3. EVALUATION OF METRIC PRODUCTS

Products manufactured to metric dimensions will be considered on an equal basis with those manufactured using inch/pound units, providing they fall within the tolerances specified using conversion tables contained in the latest revision of Federal Standard No. 376B, and all other requirements of this document are met. If a product is manufactured to metric dimensions and those dimensions exceed the tolerances specified in the inch/pound units, a request should be made to the contracting officer to determine if the product is acceptable. The contracting officer will accept or reject the product.

B.4.4. ECONOMIC PRICE ADJUSTMENT – ESTABLISHED CATALOG PRICE – (MAR 2006)

(a) All price adjustments authorized or mandated by this clause are based upon changes in the Contractor's List Prices. The clause also provides for voluntary price reductions (VPR) in the form of "specials" or "discounts".

(b) **Definitions:**

(1) **Contract Unit Price:** The price per unit of issue comprised of the "List Price" and the applicable "Discount". The Contract Unit Price is determined by reducing the applicable List Price by the appropriate Discount. The list prices and discounts shall be listed in the contract. The resulting net contract unit prices may or may not be listed in the contract at the discretion of the Contracting Officer.

(2) **Discount:** The percentage reduction off the List Price proposed by the contractor and accepted by the Government. These percentages may vary per item and quantity ordered. They shall be agreed to at time of award and may not be reduced for the life of the contract. These discounts are in addition to any standard trade discounts in the contractor's established commercial Catalog/Price List. (Contractors may offer larger discounts and/or reduced List Prices at any time.)

(3) **List Price:** The established Catalog Unit Prices of the items. In order for a "List Price" to meet the criteria as an established Catalog Price, it must meet the definition in (c) below.

(4) **Voluntary Price Reduction (VPR):** See paragraph (l) below.

(c) The term "**established Catalog Unit Price**", as used in this clause, means a Unit Price that (i) is a Catalog Price for a commercial item sold in substantial quantities to the general public and (ii) is the net price after applying any standard trade discounts offered by the contractor.

(d) The offeror/contractor warrants that (1) the List Prices and the subsequent revisions thereto are the established Catalog Unit Prices in effect at time of Award or adjustment for like quantities of the same items and (2) any Contract Unit Prices determined using these List Prices do not include allowances for any portion of the contingency covered by this clause.

(e) Prior to award the contractor must furnish:

(1) their current established Catalog/Price List, offered Discounts, proposed Contract Unit Prices.

(f) Upon acceptance by the Government, the Award Unit Prices will be established at the List Prices minus the agreed-to Discounts.

(5) **Downward Adjustments.**

(1) Downward adjustments to Contract Unit Prices are mandated whenever there are decreases in List Prices. The contractor shall promptly notify the Contracting Officer in writing of the amount and effective date of each decrease in List Price. The Contractor shall propose a lower Contract Unit Price taking into consideration the quote in paragraph (g)(2) below. The contractor must furnish a copy of the revised Catalog/Price List as soon as it is available. Also, the contractor must provide an Excel spreadsheet or ACCESS Database (in both hard copy and disc) that displays for each item with an offered decrease in Contract Unit Price the appropriate information below. The Contractor shall submit this information at least 60 days prior to the date when the reduced List Prices take effect.

- (i) Deleted
- (ii) The Supplier (Catalog); e.g., ABC Imaging, Inc.
- (iii) The Product Name/Nomenclature; e.g., High Speed Handpiece.
- (iv) Part Number; e.g., HIH 2000
- (v) The List Price upon which the current Contract Unit Price is based.
- (vi) The applicable Contract Discount used as a basis for determining the current Contract Unit Price.
- (vii) The Contract Unit Price currently in effect.
- (viii) The reduced List Price.
- (ix) The applicable Contract Discount or larger Contract Discount now offered.
- (x) The reduced Contract Unit Price now offered.
- (xi) The percentage decrease in List Price from the List Price which determined the current Contract Unit Price to the new, lower List Price.
- (xii) The percentage change in Contract Unit Price from the current Contract Unit Price to the new lower Contract Unit Price now offered.

(2) **Reductions in List Price(s).** For any offered price decrease, the appropriate discount or larger discount now offered will be applied to each reduced List Price to determine the adjusted Contract Unit Price provided the proposed lower Contract Unit Price does not exceed the following quote:

The offered reduction in Contract Unit Price on a percentage basis must be at least equal to the percentage reduction from the List Price currently in effect under the contract to the new lower List Price; i.e., the current Contract Unit Price must, as a minimum, be reduced by the percentage decrease in List Price.

(3) If the proposed Contract Unit Price exceeds the List Price quote, the Contracting Officer shall determine the proposed price reductions unreasonable and negotiate a price reduction which results in a Contract Unit Price that does not exceed the Government estimate. (All negotiated price reductions shall be confirmed in writing and will include the agreed-to price(s) and the list price(s) and discount(s) which make up these prices.) If an agreement cannot be reached the Contracting Officer has the option of removing these items from the Contract or taking the action in the last sentence below. If the proposed Contract Unit Price does not exceed the Government estimate, it will be determined fair and reasonable. Upon acceptance of any proposed price decreases, the Government shall modify the contract to include the reduced list prices and discounts. The adjusted Contract Unit Prices may or may not be shown in the modification at the discretion of the Contracting Officer. These reduced Contract Unit Prices shall apply to those items ordered on or after the date when the reduced List Price(s) take effect. If the contractor fails to notify the Contracting Officer of any List Price decreases within the timeframe and in the manner stated above or agreement on any reduction cannot be reached, the Contracting Officer may determine the applicable adjustment and authorize a unilateral price adjustment retroactively applied to all items ordered on or after the effective date of the decrease in the Contractor's established List Prices.

(h) Upward Adjustments.

B.4.4.1. ONE UPWARD ADJUSTMENT PER OPTION YEAR - NON-ECAT DLA

(1) The Base Year Contract Unit Prices are not subject to any upward adjustment. The Contractor is authorized to submit one request for any upward adjustments to Contract Unit Prices for each Option Year. This request shall be submitted no later than 60 days prior to the effective date of the upcoming Option Year (if exercised). Each request for upward price adjustment must be based upon increases in List Prices only. (List Price increases which will take effect beyond this 60 day evaluation period, shall not be included in the upcoming adjustment but may be submitted for the subsequent Option Year adjustment.) The Contractor shall propose a Contract Unit Price taking into consideration the benchmark. The request shall include a copy of the revised Catalog/Price List, documentation supporting the reasonableness of the price increase, and the following for each item with a proposed increase in Contract Unit Price:

(i) A separate electronic spreadsheet, in both hard copy and CD, that displays for each item with a proposed price increase the following information:

(A) The item number; e.g., 0003.

(B) The Supplier (Catalog); e.g., ABC Medical Equipment Inc.

(C) The Product Name/Nomenclature; e.g., High Speed Hand piece.

(D) The Part Number; e.g., HIH2000.

(E) For the initial Option year, the List Price that determined the Award Unit Price, the applicable Contract Discount, and the Award Unit Price. For all subsequent Option years, the List Price that determined the highest Contract Unit Price that was in effect at any time during the preceding Contract Year, the applicable discount, and the highest Contract Unit Price that was in effect during the preceding Contract Year.

(F) The increased List Price and its effective date, the applicable Contract Discount or larger Contract Discount now offered, and the proposed higher Contract Unit Price.

(G) For the initial Option year, the percentage changes from the List Price that determined the award unit price to the new higher List Price. For all subsequent Option years, the percentage change from the List Price that determined the highest Contract Unit Price that was in effect at any time during the preceding Contract Year to the new higher List Price.

(H) For the initial Option year, the percentage changes from the award unit price to the new higher proposed Contract Unit Price. For all subsequent Option Years, the percentage change from the highest Contract Unit Price that was in effect at any time during the preceding contract year to the new higher proposed Contract Unit Price.

(I) Any other information required by the Contracting Officer.

(2) If any List Price increases, and the increase is authorized under this clause, the Contract Unit Prices for any corresponding items ordered after the increase takes effect shall be determined using the increased List Price and either the applicable Discount originally awarded or any larger Discount now offered that applies to the affected item. Proposed increases will be considered fair and reasonable if they do not exceed whichever is the lower of the following two benchmarks:

(i) For the Initial Option Year of the contract, the proposed increase in Contract Unit Price on a percentage basis cannot exceed the percentage increase from the List Price that determined the award unit price to the new higher List Price. For all subsequent Option Years, the proposed increase in Contract Unit Price on a percentage basis cannot exceed the percentage increase from the List Price that determined the highest Contract Unit Price that was in effect at any time during the preceding contract year to the new higher List Price.

(ii) Any proposed higher Contract Unit Prices are subject to the following limitations:

(A) For the initial Option Year, Contract Unit Price increases shall be limited to the following annual ceiling(s) applied to the award unit price for the same item (i.e., any proposed higher Contract Unit Price cannot exceed the award unit price plus the annual ceiling).

(B) For all subsequent Option Years, Contract Unit Price increases shall be limited to the following annual ceiling(s) applied to the highest Contract Unit Price in effect during the preceding Contract Year for the same item (i.e., any proposed higher Contract Unit Price cannot exceed the highest Contract Unit Price in effect during the preceding Contract Year plus the annual ceiling.)

ANNUAL CEILING, ALL ITEMS: 4%

There is no percentage limit on downward adjustments under this clause.

(C) The Government reserves the right to exercise one of the following options:

- (1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;
- (2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,
- (3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.

(D) Upon approval of the proposed price increases, the Government shall modify the contract to include the increased list prices and discounts. The adjusted Contract Unit Prices may or may not be included in the modification at the discretion of the Contracting Officer. Upward price adjustments shall be effective on the same day that the Option Year takes effect unless either of the following occurs:

- (i) If the Contractor's request for price adjustment is not received a minimum of 60 days prior to the effective date of the upcoming Option Year (if exercised), any approved upward price adjustment shall not be effective until 60 days after receipt of the request.
- (ii) If during the 60 day period the Government has to evaluate prices and modify the contract, the Contracting Officer is unable to determine during that period that a price increase on any item or items is fair and reasonable (i.e., the proposed Contract Unit Price exceeds the lower of the two benchmarks above). In this case, no price increases will be authorized for those items until the Contracting Officer is able to determine the price increases for those items to be fair and reasonable. If necessary, the Contracting Officer shall conduct discussions with the Contractor to negotiate a price reduction which results in a Contract Unit Price that does not exceed the lower of the two benchmarks. When discussions have concluded and an agreement which results in fair and reasonable prices is reached, the Contractor shall confirm the agreed-to price(s) in writing (The agreement shall also identify the list price and discount which makes up each agreed-to price.) Once the written agreement is received, the Government shall modify the contract to include the increased list prices and discounts. The adjusted Contract Unit Prices may or may not be included in the modification at the discretion of the Contracting Officer. If the Contracting Officer and the contractor are unable to agree upon the price for any items, the Contracting Officer will delete these items from the contract. In addition, the Contracting Officer may also, at any time, remove any item from the contract that the Contracting Officer believes is no longer reasonably priced (if the Contracting Officer and the contractor are unable to agree upon a reduced price) and notify customers accordingly.

(E) Isolated incidents may occur for an item or group of items when proposed increases could exceed the annual ceiling benchmark. In such cases the Contractor can submit an adequately justified written request for Contracting Officer approval of an increase in Contract Unit Price that exceeds the ceiling. The Contracting Officer may approve the request on a one-time basis, increase the ceiling for the item or group of items if appropriate, negotiate a lower Contract Unit Price, or delete the item(s) from the contract. In no case may the increase in Contract Unit Price exceed the ceiling without written authorization from the Contracting Officer. Also, no increase will be authorized that results in a Contract Unit Price that exceeds the other benchmark.

(F) Increased List Prices shall not be used to compute Contract Unit Prices for Delivery Orders issued before the date the adjusted Contract Unit Prices take effect under the Contract.

(G) If the Contracting Officer removes items from the contract for price unreasonableness (see (g)(3) and (h)(3) and (4) above), all outstanding orders issued prior to the date the items are removed shall be delivered in accordance with the contract

delivery schedule and the Government shall pay for such items at the Contract Unit Price in effect at the time of the order.

(i) If the Contracting Officer at any time has any reason to believe that the established List Price has been discontinued, the basis for the List Price has been substantially altered, or that the item no longer meets the criteria to qualify as an established Catalog Priced item, the Contractor shall furnish relevant information as required by the Contracting Officer. If the Contracting Officer determines that any of the preceding conditions are present and a substitute for determining price adjustments is needed, the parties shall promptly agree upon an appropriate substitute for determining adjustments pursuant to this or another appropriate clause. The Contract shall be modified to incorporate the substitute and its effective date.

(H) Pricing actions pursuant to paragraph (c) entitled "Changes" of FAR clause 52.212-4 (including any revisions by addendum thereto) or any other provision of this Contract will be priced as though there were no provisions for Economic Price Adjustment.

(I) Pending approval of any proposed price changes and the subsequent modification of the Contract Unit Prices, payment shall be made at the Contract Unit Prices in effect at the time of order.

(J) **Voluntary Price Reductions (VPR):** A "special or discount" offered by the Contractor which results in a voluntary price reduction for an item or group of items for a given period of time. The Contractor may offer a VPR at any time. The price reductions resulting from these VPRs will be in addition to any price reductions mandated by this EPA clause. The contractor shall notify the Contracting Officer when the VPR takes effect, which items are included, and the length of time the VPR will remain in effect. Once the "special or discount" period expires, prices will revert to the Contract Unit Price(s) in effect at that time.

If a List Price decreases when a VPR is in effect, the VPR will remain in effect until it expires if it is lower than the proposed unit price decrease. If the Contractor requests a Contract Unit Price increase based upon an increased List Price when a VPR is in effect, the VPR shall remain in effect until it expires. Upon expiration of the VPR, prices will revert to the adjusted Contract Unit Prices, as calculated in accordance with this clause as if no VPR had been in effect.

B.4.5. COMMERCIAL INTERIM PAYMENT (JUL 2002)

(a) Definition: A commercial interim payment is a payment given to the contractor after some work has been done (FAR 32.202-2). For the purposes of this contract, delivery of the equipment shall constitute "some work done".

(b) Upon delivery of the equipment, the contractor is entitled to a single interim payment consisting of 80 percent of the purchase price. To receive the interim payment, the contractor shall submit an invoice in the amount of the equipment purchase price. The invoice shall be submitted in accordance with 52.212-4, Contract Terms and Conditions -- Commercial Items, paragraph (g) and the invoice submission instructions provided above.

(c) Verification of the contractor's entitlement to the interim payment shall be accomplished by the medical center providing to the contracting officer a receiving report confirming receipt of the equipment. Upon receipt of the receiving report and the contractor's properly submitted invoice, the contracting officer shall authorize and process the 80 percent interim payment.

(d) The Government shall retain the remaining 20 percent of the purchase price until such time as the installation has been completed and the Government has inspected and accepted the installed equipment.

(e) Commercial interim payments are contract financing payments for prompt payment purposes and therefore are not subject to the interest penalty provisions of the Prompt Payment Act (FAR 32.202).

B.4.6. AS217 EXTENDED INSTALLATION (APR 1997)

(a) The Government may require installation services, in addition to those required elsewhere in this solicitation. The costs of these additional services are not included in the price of the equipment, and shall be individually negotiated.

(b) Extended installation may include, but is not limited to: Connecting with existing utilities, furnishing and installing support structures for the equipment, transformers, power runs, disconnects, conduit, wiring, structural support, shielding, and HVAC when required to support systems operations. Surfaces of partitions, and other structural additions, shall be sealed and primed.

(c) Upon request of the Contracting Officer, the contractor shall supply the following:

- (1) Preliminary statement of work. The submission of the work statement will constitute verification that the existing utilities are adequate for the system(s).

(2) Materials and labor cost breakdown.

(d) When extended installation is required, the contractor shall furnish design plans, labor, materials, and equipment necessary to provide for the installation to accommodate the designated system. The installation effort shall incorporate nationally recognized trade organization codes and reflect the minimum requirements to provide a safe and functional system.

Note: For further information on DLA's Turnkey installation see attachment #9.

B.4.7. AS360 ITEMS OFFERED (NOV 2001)

(a) Items offered are to be contractor's standard commercial product line and as such shall conform to specifications defined in contractor's product and technical data. In addition, items offered shall conform to the Government's minimum purchase description to be eligible for initial award. The Government's minimum purchase descriptions are contained in Attachments One, Two, and Three.

(b) All equipment and related peripherals contracted for shall be state-of-the-art technology. "State-of-the-art" is defined as the most recently designed components that are announced for marketing purposes, available, maintained and supported in accordance with mandatory requirements specified in the solicitation. Components and products with a manufacturer's planned obsolescence within the first year of contract award are not acceptable.

(c) Should equipment delivered under this contract fail to meet the requirements of paragraph (a) above, contractor shall be responsible for all costs associated with the upgrading or replacement of equipment to meet the requirements specified.

(d) The Government may decide to award items that fail to meet our minimum purchase descriptions if a need for those items is identified in the future. The contractor will not be responsible for meeting the Government's minimum purchase description for those items, provided the contract award or modification document expressly states the items do not meet the Government's minimum purchase description.

(e) Proof of FDA 510(k) premarket notification, for all offered products that require this certification, must be provided with offer.

B.4.8. AS361 POWER CONDITIONING (AUG 2002)

The Contractor must visit each installation site on the delivery order and survey its electrical power system to determine the system's adequacy for operation of the ordered system. The Contractor will be required to provide protective measures and devices necessary to protect the entire system from:

(1.) Damage due to electrical power problems, including brownouts, emergency power interruptions, electrical surges, sags, electrical storms, etc.

(2.) Image degradation due to electrical power problems.

Items that may be affected by power line transients **MUST** include power line transient suppressors (to be included in unit price).

Note: However, the Government shall not have the right to unilaterally modify the commercial computer software if it is embedded in medical equipment. More specifically, the Government waives the right to modify such software that is granted in FAR 52.227-19(b)(2)(iv).

B.4.9. AS963 PARTIAL DELIVERIES (MAY 1995)

Delivery of equipment by the scheduled date shown on delivery order will be complete except as authorized by the contracting officer. **There will not be any partial deliveries unless authorized by the contracting officer.**

B.4.10. AS1360 AVAILABILITY OF PARTS AND SERVICE (MAY 1995)

The contractor guarantees availability of servicing and replacement parts for a period of ten (10) years.

B.4.11. AS 1361 OPERATIONAL UPTIME

Unit must be operable and available for use 95% of the normal operational time until expiration of the guarantee period. Operational time is considered 7:00 am - 10:00 p.m. Repairs are to be made during normal work hours. Downtime will be computed from notification during normal work hours. Scheduled maintenance will be excluded from downtime. (Normal work hours are 8:00 am - 5:00 p.m., Monday through Friday, excluding national holidays.) Failure to meet this requirement for three consecutive months will be grounds for termination for cause under paragraph (m) of clause 52.212-4, "Contract Terms and Conditions -- Commercial Items".

Refusal of access to the equipment indicates that the unit is up and running and time will not be considered when determining downtime. Refusal of access to the equipment voids the service request.

B.4.12. AS1362 SERVICE DURING WARRANTY (MAY 1995)

The one-year warranty after acceptance will include all parts, labor, preventive maintenance and adjustments necessary for operation of the equipment at a level meeting all requirements of the purchase description/salient characteristics/specifications.

Note: This specifically includes replacement of the CT and X-Ray tubes as necessary during the one-year guarantee period of a CT and X-Ray system.

B.4.13. AS1363 DRAWINGS AND ROOM PREPARATION INSTRUCTIONS (SEP 2007)

The contractor is responsible for visiting the site of installation, surveying power and other utility requirements, room dimensions and other physical characteristics of the room necessary for proper room layout and providing the Contracting Officer Representative (COR) or his/her designee with two (2) complete layout plans, room preparation drawings suitable for development of final construction drawings, two (2) complete sets of face printed sepias, and instructions within 30 days after receipt of delivery order. Such instructions shall specifically indicate the point at which the responsibility for utility connections will be assumed by the contractor. It shall be the responsibility of the Government to comply with the furnished drawings and/or instructions to provide for the proper installation. Contractor is to make maximum use of existing structures (i.e., wall/ceiling mounts, junction boxes, raceways and conduits) in preparation of drawings. Power line recommendations should conform to National Electrical Code NFPA 70 2008 Edition.

Any changes necessary to complete installation caused by incomplete or erroneous drawings and/or instructions furnished will be the responsibility of the equipment contractor.

The contractor will identify a responsible and knowledgeable representative to explain the drawings and make any necessary changes. This representative will visit the site upon request of the VA for review and clarification of the drawings. More than one visit may be required if significant changes are required.

B.4.14. AS1365 TRAINING OF OPERATING PERSONNEL (MAY 1995)

The price quoted shall include contractor responsibility for providing on-site orientation and training of two using personnel in operation and care of the equipment furnished. This training shall include actual demonstration and operation of the equipment including any adjustments or other actions which may be undertaken by operating personnel in the event of failure of equipment, provided that such adjustment or action will in no way jeopardize the Government's rights under contract guarantee clause. This training will be given by qualified contractor personnel upon completion of installation. The contractor will consult with the Contracting Officer Representative at the site (or person acting in that capacity) regarding the time this training will begin. That official will be responsible for arranging for the presence of personnel to be trained.

Note: If off-site training is required, the contractor is required to provide all necessary tuition, transportation, lodging, and meals.

At the time the system is turned over to the Government for use, the contractor shall issue to the customer a dated certificate redeemable for the off-site training. The customer may redeem the certificate at no change in price at any time up to one year from the issue date. The issuance of the training certificate shall be considered sufficient to fulfill the off-site training requirement for the purpose of system acceptance.

B.4.15. AS1366 CONTRACTOR'S RESPONSIBILITY IN CONNECTION WITH INSTALLATION (MAY 1995)

The price quoted shall include cost of installation, which consists of assembling, positioning, and mounting of all equipment listed on the delivery order and connections of all cables. The hospital is responsible for furnishing all conduit and raceways unless specified otherwise on the delivery order. The equipment contractor is responsible for furnishing and pulling interconnecting wiring and cabling through conduit and raceways, and for making any connections. Interconnecting wiring and cabling which do not run through conduit and raceways shall be furnished and installed by the equipment contractor. It is the responsibility of the equipment contractor to install junction boxes, wall/ceiling mounts and support structures supplied by the equipment contractor. The equipment contractor must provide well qualified field engineers or technicians to install and conduct all necessary tests which shall begin within (10) ten days after receipt of notice to proceed from the Contracting Officer Representative (COR) at the affected hospital. Once installation is started, it shall be continuous, eight (8) hours per day coinciding with the regular working hours at the hospital. Compliance with this requirement shall be manifest by the continuous presence of the engineers or technicians on the job site during the daily working period. Installation shall be continuous, without interruption, until all installation and testing work has been completed. The contractor must provide the physical movement of the equipment from the storage point at final destination, to the area of installation, and the uncrating of the equipment.

Rigging and special handling costs, if required, to move the equipment from dock area to the installation site within the consignee's premises, shall be borne by the equipment contractor.

B.4.16. AS1367 INSTALLATION OF EQUIPMENT (MAY 1995)

Upon receipt of notice to proceed with installation, it shall be the contractor's responsibility to inform the Contracting Officer of any problems which may be anticipated in connection with installation or which will affect optimum performance once installation is completed. Such matters as inadequacy of power supply, limitations of site or inadequate preparation of site shall be reported prior to start of installation. Installation shall not proceed under such circumstances until authorized by the Contracting Officer.

In the event that progress of the installation is interrupted through no fault of the contractor, the continuous installation referenced in the preceding paragraphs may be terminated until such time as the cause of delay has been eliminated, and then shall be resumed within twenty-four (24) hours after the contractor has been notified that work may again proceed. Such termination of continuous installation shall be made only after two (2) hours notice has been given to the Contracting Officer Representative (COR) or person acting in that capacity at the hospital receiving installation. Contractor must notify the Contracting Officer within 48 hours of termination of installation.

Unless otherwise authorized by the Contracting officer, installation of equipment shall in no event exceed thirty (30) days per room from the date of notice to proceed with installation.

B.4.17. AS1369 SERVICE (MAY 1995)

Maintenance and other service under guarantee shall be provided within 24 hours of notice from a *designated person* from the VA Hospital requesting maintenance or service under the guarantee period. A routine service request will be issued upon any failure which degrades system performance but does not prevent continuation of patient care.

Emergency service by a qualified engineer must be provided within 4 hours of notification during normal business hours excluding weekends and federal holidays. Telephone response does not satisfy this requirement. An emergency service request will be issued upon any failure which prevents systems operation and disrupts continued patient care.

B.4.18. AS1370 SERVICE PRIOR TO AND DURING GUARANTEE PERIOD (AUG 2002)

Prior to and during the guarantee period, service at other than normal working hours (8:00 a.m. - 5:00 p.m., excluding weekends and holidays), if at the request of the hospital, will be charged at an hourly rate which is the difference between current regular rate and overtime rate. Otherwise, all services will be performed at no charge to the Government during this period.

B.4.19. AS3000 APPLICATION SOFTWARE AND OPERATING SYSTEM REQUIREMENTS (JUL 2008)

Application software (e.g.: image acquisition, manipulation, reconstruction, analysis, display, etc.), and any Off the Shelf commercial Operating System (OS) necessary for operation and maintenance of the system being purchased, are to be provided by the contractor. The OS must be the latest major release currently available for purchase in the commercial marketplace or no older than one release prior to the latest major release. Application software updates compatible with the offered system's hardware shall be kept current at no cost to the Government as long as the equipment is in use in VA or any other Government agency health facility.

- B.4.19.1. For the purpose of this clause, updates are defined as all modifications to correct or improve system operation and current functions including known remedies for security vulnerabilities. Upgrades are defined as providing additional functions and will be made available for purchase.
- B.4.19.2. Updates that are bundled with upgrades shall be provided at no cost. The contractor may restrict added upgrade functions if restriction does not limit existing functions.
- B.4.19.3. Modifications of software by the Government will not be made without prior consent of contractor.
- B.4.19.4. Government may move the application software and OS if the original hardware fails.
- B.4.19.5. Software and commercial OS provided must not be self-canceling, which is interpreted to mean the function of the software will not be stopped due to elapsing time or other condition not identified with the original equipment purchase. The prime contractor is responsible to ensure any third-party provided software is included in this restriction. No "renewable" licenses or agreements will be entered into by either the Contracting Officer or the using facility.
- B.4.19.6. The data rights clause found at FAR 52.227-19, Commercial Computer Software License (Dec 2007), is incorporated by reference into this solicitation and all resulting contracts and orders for equipment containing commercial computer software. However, the Government shall not have the right to unilaterally modify the commercial computer software if it is embedded in medical equipment. More specifically, the Government waives the right to modify such software that is granted in FAR 52.227-19(b)(2)(iv).

- B.4.19.7. Additionally, the Government shall have networking rights for all commercial computer software that it acquires through contracts and orders for equipment awarded under this solicitation. The Government shall be the licensee and all such software acquired shall be for a perpetual duration.

B.4.20. AS7001 NOTICE TO DEALERS AND SUPPLIERS (NOV 2006)

If other than the manufacturer, the offeror must submit with its proposal either:

- 1) A letter of commitment from the manufacturer which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period, OR (2) evidence that the offeror will have an uninterrupted source of supply from which to satisfy the Government's requirements for the contract period. This requirement must be met prior to contract award.

- B.4.20.1. Section IV, Principles of Operation -- This section shall describe in narrative form the principles of operation of the equipment. Circuitry shall be discussed in sufficient detail to be understood by technicians and engineers who possess a working knowledge of electronics and a general familiarity with the overall applications of the devices. The circuit description should start at the overall equipment level and proceed to more detailed circuit description. The overall description shall be keyed to a functional block diagram of the equipment. Circuit descriptions shall be keyed to schematic diagrams discussed in paragraph (i) below. It is recommended that for complex or special circuits, simplified schematics should be included in this section.

- B.4.20.2. Section V, Maintenance -- The maintenance section shall contain a list of recommended test equipment, special tools, preventive maintenance instructions and corrective information. The list of test equipment shall be that recommended by the manufacturer and shall be designated by manufacturer and model number. Special tools are those items not commercially available or those that are designed specifically for the equipment being supplied. Sufficient data will be provided to enable their purchase by the Department of Veterans Affairs. Preventive maintenance instructions shall consist of those recommended by the manufacturer to preclude unnecessary failures. Procedures and the recommended frequency of performance shall be included for visual inspection, cleaning, lubricating, mechanical adjustments and calibration of circuits. Corrective maintenance shall consist of the data necessary to troubleshoot and rectify a problem and shall include procedures for realigning and testing the equipment. Troubleshooting shall include either a list of test points with the applicable voltage levels or waveforms that would be present under a certain prescribed set of conditions, a troubleshooting chart listing the symptom, probable cause and remedy, or a narrative containing sufficient data to enable a test technician or electronics engineer to determine and locate the probable cause of malfunction. Data shall also be provided describing the preferred method of repairing or replacing discrete components mounted on printed circuit boards or located in areas where special steps must be followed to disassemble the equipment. Procedures shall be included to realign and test the equipment at the completion of repairs and to restore it to its original operating condition. These procedures shall be supported by the necessary waveforms and voltage levels, and data for selecting matched components. Diagrams, either photographic or line, shall show the location of printed circuit board mounted components.

- B.4.20.3. Section VI, Replacement Parts List -- The replacement parts list shall list, in alphanumeric order, all electrical/electronic, mechanical and pneumatic components, their description, value and tolerance, true manufacturer and manufacturers' part number.

- B.4.20.4. Section VII, Drawings -- Wiring and schematic diagrams shall be included. The drawings will depict the circuitry using standard symbols and shall include the reference designations and component values or type designators. Drawings shall be clear and legible and shall not be engineering or production sketches.

B.4.21. eDELIVERY ORDER PRICING STRUCTURE

The purpose is to provide for COMPLETE functional systems. A particular item(s) may be combined with a compatible component(s) to develop a unique system. Therefore, prices quoted for each item shall include the price of

ALL components, such as mounting hardware, electrical cable, adapting parts, etc., required to form a complete operational system when an item is installed with compatible items (offered under this solicitation) in the development of a system. System (or item) descriptions shall clearly identify component parts included in the unit price quoted. When more than one component is required to make up an item or system, all model and/or catalog numbers are to be shown and properly identified.

B.4.22. HARDWARE UPGRADES (JUL 2002)

1. All equipment and related peripherals contracted for shall be state-of-the-art technology. "State-of-the-art" is defined as the most recently designed components which are announced for marketing purposes, available, maintained and supported in accordance with requirements specified in the solicitation. Components and products with a manufacturer's planned obsolescence within the first year of contract award are not acceptable.
2. If hardware upgrades become available after award of this contract but prior to installation of the equipment, the contractor is requested to offer them to the Contracting Officer for consideration.
3. The contractor's proposal for such upgrades shall include the following information:
 - (a) Pricing information, to include both the price of the equipment to be added and the equipment to be deleted.
 - (b) Specific awarded items which shall be changed if the proposal is awarded.
 - (c) Performance data, including both comparison to the specification requirements and to the equipment on contract.
 - (d) A detailed description of the differences between the awarded items and those being proposed, and a specific analysis of the comparative advantages/ disadvantages of the items involved.
 - (e) An evaluation of the effect proposed changes will have on the life cycle of the equipment and an associated cost impact as it relates to site preparation, installation, maintenance, and operational expense.
 - (f) An analysis of the timeframe required to institute the change.

B.4.23. AS1372 SERVICE BULLETINS (MAY 1995)

Two (2) copies of each service bulletin affecting safety or maintenance of equipment furnished under this contract will be forwarded to the receiving activity for a period of ten (10) years after date of delivery.

One additional copy of all service bulletins, hazard notices, and safety notices issued is to be forwarded to the following address: Center for Engineering and Occupational Safety & Health (138F)1 Jefferson Barracks Rd. Bldg 65, St. Louis, MO 63125

B.4.24. AS214 PRODUCT MODIFICATION, REMOVAL OR RECALL (JAN 2008)

If any product awarded under this solicitation requires modification, is removed or recalled by the contractor or manufacturer due to defects in the product or potential dangers to patients, 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 Chief, High Tech Medical Equipment (003A4C2), VA National Acquisition Center, P.O. Box 76, Building 37, Hines, IL 60141, 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 assigned as a result of an award on this solicitation.

(2) Reasons for modifications, removal or recall.

(3) Necessary instructions for return for credit, replacement or corrective action.

b. A copy of the notification in a. above shall be provided to:

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

c. Provide the information in a. above to all agencies and VA Facilities who purchased the product.

(complete with name and/or title and office routing symbol of c.o.) _____, shall be provided a copy of the notification in c. above, and a list of all agencies and/or VA facilities notified.

B.4.25. FDA CERTIFICATION (JUL 2002)

Proof of FDA 510(k) premarket notification, for all offered products that require this certification, must be provided with offer.

B.4.26. DICOM COMPLIANCE

Only systems which are DICOM 3 compliant shall be considered for award. All systems quoted to DOD, VA, and IHS (Indian Health Service) installations shall include DICOM output. Computed Tomography and MRI systems must include software that supports the use of the DICOM 2003 Enhanced CT and MRI objects. (**See Attachment #4**).

B.4.27. ACCEPTANCE PROCEDURES (AUG 2007)

I. General

Upon completion of installation and after contractor makes available to the using activity any training (e.g. initial applications and operator training) required by the manufacturer to properly use the equipment, the equipment shall be turned over to the facility for clinical use and the contractor shall furnish a written notice of readiness for inspection to the following Government personnel:

For VA Issued Orders:

For DSCP Issued Orders:

NAC, VHA Logistics, VA Facilities DSCP, Service Logistics Agency, Customer

Clinical use will be presumed to begin on the day after the notice of readiness for inspection is received by the Government. The using activity must notify the contracting officer, contractor and Service Logistics Agency for DoD if clinical use is not initiated at this time.

Submission of the notice of readiness for inspection, and any other notice required by this provision by electronic mail is acceptable, provided that the party giving such notice obtains and preserves electronic evidence of receipt at the email address or addresses of the party or parties who have a right to notice under this clause. The Government shall provide appropriate email addresses on the purchasing documentation.

II. Inspection and Testing

The Government shall have the right to inspect and test the equipment within thirty (30) calendar days after receipt of the notice of readiness for inspection (the 30-day period) or thereafter during the warranty period as noted below. The contractor shall provide the necessary technical and applications personnel to perform the inspection (and any re-inspections). The Government shall provide notice of acceptance of the equipment or of unsatisfactory inspection/test results to the contractor within ten (10) calendar days after the date of inspection. The latter notice shall identify to the contractor any deficiencies found during the inspection and whether the deficiencies were significant or not, and will provide the contractor fourteen (14) calendar days to correct such deficiencies. It is the contractor's responsibility to correct reported deficiencies and to advise the Contracting Officer when all corrections have been made and the equipment is ready for re-inspection. Re-inspection(s) will be performed by the Government with all costs incurred chargeable to the contractor's account.

III. Warranty Effective Date

Any applicable warranty period will commence on the date the notice of readiness for inspection was submitted unless the equipment is inspected during the 30-day period and one or more significant deficiencies are found and the system is taken out of Substantial Clinical Use. For systems so failing the initial acceptance inspection and accepted after a Government re-inspection or re-inspections, the warranty period will commence on the date the notice of readiness for the successful re-inspection was submitted. If only minor (i.e., non-significant) deficiencies are found during inspection and Substantial Clinical Use continues, the warranty date will commence on the date the notice of readiness for inspection was submitted.

IV. Substantial Clinical Use

Substantial Clinical Use has the following meaning in this clause: the delivered equipment is able to perform the basic intended clinical function of the system in a safe manner for the purpose for which it was designed, with most or all system functionality, allowing the equipment to be used clinically. Substantial Clinical Use does not include initial scanning of patients during applications training.

If the equipment is put into Substantial Clinical Use by the Government for thirty (30) calendar days after the inspection request, acceptance will occur thereafter as described below. However, if significant deficiencies in the equipment are identified during the 30-day period while it is in Substantial Clinical Use and clinical use ceases, the requirement for 30 calendar days of Substantial Clinical Use will not be

considered met and procedures under “No Substantial Clinical Use” will be followed. It is understood that Substantial Clinical Use is incompatible with and cannot continue in the event significant deficiencies are identified.

For systems in Substantial Clinical Use for thirty (30) calendar days without significant deficiencies being identified during inspection (if inspection occurs), the contractor will notify the Government that the system has been in Substantial Clinical Use for this time period, and request acceptance and payment. The Government will confirm with the customer whether or not Substantial Clinical Use has occurred for thirty (30) calendar days and, upon positive confirmation, the Government will issue a notice of acceptance and authorize an appropriate payment document (DD250 for DoD; inspection report or receiving report for VA) within ten (10) calendar days after receiving the request. In the event that the Government is notified by the customer that Substantial Clinical Use has not occurred for thirty (30) calendar days, the Government shall so notify the contractor within ten (10) calendar days after receiving the request for acceptance and payment. Within this notice, the government will provide rationale for why the equipment was not used.

The failure of the Government to notify the contractor of its intent to dispute Substantial Clinical Use within ten (10) calendar days after receiving the request for acceptance and payment shall constitute acceptance on the part of the Government. Acceptance under this paragraph shall

not negate the right on the part of the Government to later exercise its rights under any remedy available to the Government by federal law or regulation.

In the event the Government has not conducted an acceptance inspection of the equipment within thirty (30) calendar days of the date of the notice of readiness for inspection, during the period of Substantial Clinical Use, the Government shall have the right to inspect the equipment during the warranty period. Deficiencies discovered during the inspection shall be presented to the contractor for correction as appropriate under the terms of the warranty.

V. No Substantial Clinical Use

No Substantial Clinical Use means that delivered equipment is not able to perform the basic intended clinical function in a safe manner for the purpose for which it was designed and that most or all system functionality is not present, preventing the equipment from being used clinically during the 30-day period. If the equipment does not meet the criteria for Substantial Clinical Use, as defined in Section IV of this clause, the system will not be accepted without formal testing under Section II, and final payment will not be issued until after the equipment satisfactorily completes formal testing.

VI. Final Acceptance/Rejection Procedures

In the event the equipment is not placed in Substantial Clinical Use for thirty (30) days, or is so placed and inspected and significant deficiencies are found, within seventy-five (75) calendar days after receipt of the notice of readiness for inspection, the Government shall:

- a. accept the equipment; or
- b. accept the equipment and request that identified defects be remedied under the contract’s warranty provisions; or
- c. request the vendor propose an equitable offset in lieu of correcting defects or rejection; or
- d. reject and request removal of the equipment.

This section VI of the Acceptance Procedures clause is not intended to affect the parties’ rights and responsibilities provided in sections I through V and section VII of the Acceptance Procedures clause.

When requested, the contractor shall propose offsets within five (5) calendar days. If agreement is not reached with the Government on such offsets within five (5) calendar days thereafter, additional discussion on offsets may continue at the mutual agreement of the contractor and Government, or, at the request of either party, the Government will cease any clinical use, reject and request removal of the equipment. In cases of an offset, where the equipment is accepted by the Government, the commencement of the warranty period will be established by the contracting officer.

If equipment is rejected and the contractor is requested to remove such equipment, the contractor shall completely de-install all equipment items and remove them within 10 calendar days from the Government premises at the contractor's expense.

VII. Final Payment

Final payment is due in 30 calendar days after formal acceptance. In cases where the Government accepts an offset proposal, final payment (if any is owed) is due within 30 calendar days of the Government's formal acceptance of the proposal.

B.4.27.1. Technical Proposal Content:

- B.4.27.1.1. Offeror shall provide standard system layout information, showing space required, utilities, and floor loading, if applicable, for each system offered.
- B.4.27.1.2. Specifications, system trees (offeror's logic progression for developing a complete system, if not pre-determined), and descriptive literature corresponding to each system or component proposed. **NOTE:** it is the offeror's responsibility to continue to provide updated copies of descriptive literature for any subsequent contract awarded as a result of offeror's proposal.
- B.4.27.1.3. Offeror shall indicate on a separate sheet of paper, the model and/or catalog number and description of each product and components being proposed which meet the Government's minimum purchase descriptions contained in Attachments One, Two, and Three.
- B.4.27.1.4. Offeror shall indicate on a separate sheet of paper the comparison of the equipment he/she proposes to furnish for each element of the Government's minimum purchase descriptions shown contained in Attachment One, Two, and Three. Comparison is to list performance capabilities of offered equipment, and identify the location in the technical data which describes these features. The statement "COMPLIES" is not an acceptable comparison.
- B.4.27.1.5. Offeror shall provide three (3) copies of detailed expanded product descriptions, by catalog, product, or part number, of all items/systems* offered for award under this solicitation. This submission shall be provided both in a printed format (hard copy) and CD, .doc, .docx, or .pdf formats. Multiple copies of the magnetic media are not required, as long as the data on the media can be duplicated from it. "The statement "COMPLIES is not an acceptable comparison. **In addition to the printed copy of the price list, an electronic spreadsheet (i.e. .xls, .xlsx, MS Excel) format is preferred.**

*If system descriptions in the offeror's price list do not clearly identify component parts included in the unit prices quoted, the offeror must also submit two copies of a "SPECIAL DESCRIPTIVE PRICE LIST" - maintaining identical sequence of model numbers and identical pricing.

NOTE: Failure to submit complete information in the manner described above for either the Business or Technical Proposal may be considered a "no response" and exclude the proposal from further consideration.

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:

B.4.28. 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)

- (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 FAPIS as required through maintaining an active registration in the Central Contractor Registration database via <https://www.acquisition.gov> (see 52.204-7).

B.4.29. 852.211-72 TECHNICAL INDUSTRY STANDARDS (JAN 2008)

All items required by this solicitation must conform to the following current standards: Medical Device Amendments of 1976; Safe Medical Device Amendments of 1998; National Fire Protection Association National Electrical Code, NFPA 70; Standard for the Protection of Electronic Computer/Data Processing Equipment, NFPA 75; Standard for Health Care Facilities, NFPA 99; Standard Method of Test of Surface Burning Characteristics of Building Materials, NFPA 255; Underwriters Laboratories (UL) 544, Medical and Dental Equipment; UL 1950, Safety of Information Technology Equipment, Including Electrical Business Equipment. In addition to the aforementioned general standards, specific safety standards have been issued for each modality directly related to the solicited equipment. The successful offeror will be required to submit proof that the item(s) furnished conforms to all applicable requirements. This proof may be in the form of a label or seal affixed to the equipment or supplies, warranting that they have been tested in accordance with and conform to the specified standards. The seal or label of any nationally recognized laboratory such as those listed by the National Fire Protection Association, Boston, Massachusetts, in the current edition of the publication "Research on Fire," is acceptable. Proof may also be furnished in the form of a certificate from one of these laboratories certifying that the item(s) furnished have been tested in accordance with and conform to the specified standards.

B.4.30. 852.219-71 VA MENTOR-PROTÉGÉ PROGRAM (DEC 2009)

(a) Large businesses are encouraged to participate in the VA Mentor-Protégé Program for the purpose of providing developmental assistance to eligible service-disabled veteran-owned small businesses and veteran-owned small businesses to enhance the small businesses' capabilities and increase their participation as VA prime contractors and as subcontractors.

(b) The program consists of:

(1) Mentor firms, which are contractors capable of providing developmental assistance;

(2) Protégé firms, which are service-disabled veteran-owned small business concerns or veteran-owned small business concerns; and

(3) Mentor-Protégé Agreements approved by the VA Office of Small and Disadvantaged Business Utilization.

(c) Mentor participation in the program means providing business developmental assistance to aid protégés in developing the requisite expertise to effectively compete for and successfully perform VA prime contracts and subcontracts.

(d) Large business prime contractors serving as mentors in the VA Mentor-Protégé Program are eligible for an incentive for subcontracting plan credit. VA will recognize the costs incurred by a mentor firm in providing assistance to a protégé firm and apply those costs for purposes of determining whether the mentor firm attains its subcontracting plan participation goals under a VA contract. The amount of credit given to a mentor firm for these protégé developmental assistance costs shall be calculated on a dollar-for-dollar basis and reported by the large business prime contractor via the Electronic Subcontracting Reporting System (eSRS).

(e) Contractors interested in participating in the program are encouraged to contact the VA Office of Small and Disadvantaged Business Utilization for more information.

B.4.31. 52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999) -

EVALUATION OF OFFERS AND METHOD OF AWARD

(a) The Government intends to make multiple awards to those responsible offerors whose offers are in compliance with the solicitation, meet the criteria listed below, and whose prices are determined to be fair and reasonable.

1. Technical Capability. Items offered must meet the Government's purchase descriptions as stated in attachments One, Two, and Three of the solicitation. Proof of FDA 510(k) premarket notification for all products that require this certification will also be required. (See AS360 Items Offered).

2. Past performance. The Government will determine if the offeror has an acceptable history of past performance. The Government will review the offeror's reputation for adherence to contract schedules, including both technical and administrative aspects of performance, standards of workmanship, and commitment to customer satisfaction. The Government may determine past performance on the basis of information obtained from its own records, information obtained from the offeror, or from any other sources.

3. Capability of the offeror to deliver and service the equipment on a national basis.

(b) *Price. The contract unit prices (list price minus offered discount) are fixed for the base contract period. The prices of each Option Year may only be increased based on catalog list price increases in accordance with the Economic Price Adjustment (EPA) clause referenced on pages 22-28. The EPA clause mandates a decrease in contract unit price whenever the list price decreases. Price decreases not tied to list price decreases can be offered at any time. Accordingly, offer pricing is requested for the Base Year only.*

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

NOTE: *The Government will enter into good faith negotiations with contractors with a goal of reaching agreement on the following:*

- *The use of contractor's published commercial specifications as the basis for testing and acceptance of products and services delivered hereunder.*
- *No-charge updates for certain types of software used in products delivered hereunder.*
- *Line-item billing for VA generated orders.*
- *Design of a secure web site through which vendors can access information related to the status of Government order placement, equipment inspections, order acceptance, etc.*

B.4.32. 52.212-3 Offeror Representations and Certifications--Commercial Items. (APR 2012)

(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.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

*** TAILORING OF PARAGRAPH (c), PERIOD FOR ACCEPTANCE OF OFFERS:** The offeror agrees to hold the prices in its offer firm for 120 calendar days from the date specified for receipt of offers.

(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.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

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

(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.

(D) 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 (<http://assist.daps.dla.mil>).

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

(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 (<http://assist.daps.dla.mil/wizard>);

(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) *Data Universal Numbering System (DUNS) Number.* (Applies to all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR [Subpart 32.11](#)) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://fedgov.dnb.com/webform>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(k) *Central Contractor Registration.* 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 CCR 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 CCR 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 CCR database accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

(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.

B.5. SPECIAL CONTRACT REQUIREMENTS

B.5.1. Minimum Statutory Requirements

At a minimum, maintenance/installation (warranty) contracts, in which VA sensitive information and/or systems are accessed by a VA contractor/subcontractor require the following five requirements per 38 U.S.C. §§ 5723 and 5725:

- B.5.1.1. A prohibition on unauthorized disclosure: information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor 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" See VA Handbook 6500.6, Appendix C, paragraph 3.a.
- B.5.1.2. A requirement for data breach notification: Upon discovery 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, the contractor/subcontractor shall immediately and simultaneously notify the COR, the designated ISO, and Privacy Officer for the contract. 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. See VA Handbook 6500.6, Appendix C, paragraph 6.a.
- B.5.1.3. A requirement to pay liquidated damages in the event of a data breach: "In the event of a data breach or privacy incident involving any SPI the contractor processes or maintains under this contract, the contractor shall be liable to VA for liquidated damages for a specified amount per affected individual to cover the cost of providing credit protection services to those individuals." See VA Handbook 6500.6, Appendix C, paragraph 7.a., 7.d.
- B.5.1.4. A requirement for annual security/privacy awareness training: "Before being granted access to VA information or information systems, all contractor employees and subcontractor employees requiring such access shall complete on an annual basis either: (i) the VA security/privacy awareness training (contains VA's security/privacy requirements) within 1 week of the initiation of the contract, or (ii) security awareness training provided or arranged by the contractor that conforms to VA's security/privacy requirements as delineated in the hard copy of the VA security awareness training provided to the contractor. If the contractor provides their own training that conforms to VA's requirements, they will provide the COR or CO, a yearly report (due annually on the date of the contract initiation) stating that all applicable employees involved in VA's contract have received their annual security/privacy training that meets VA's requirements and the total number of employees trained. See VA Handbook 6500.6, Appendix C, paragraph 9.
- B.5.1.5. A requirement to sign VA's Rules of Behavior: "Before being granted access to VA information or information systems, all contractor employees and subcontractor employees requiring such access shall sign on an annual basis an acknowledgment that they have read, understand, and agree to abide by VA's Contractor Rules of Behavior which is attached to this contract." See VA Handbook 6500.6, Appendix C, paragraph 9, Appendix D. Note: If a medical device vendor anticipates that the services under the contract will be performed by 10 or more individuals, the Contractor Rules of Behavior may be signed by the vendor's designated representative. The contract must reflect by signing the Rules of Behavior on behalf of the vendor that the designated representative agrees to ensure that all such individuals review and understand the Contractor Rules of Behavior when accessing VA's information and information systems.

VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY

B.5.2. GENERAL

Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same Federal laws, regulations, standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security.

B.5.3. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

- B.5.3.1. A contractor/subcontractor 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.5.3.2. 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.
- B.5.3.3. Contract personnel who require access to national security programs must have a valid security clearance. National Industrial Security Program (NISP) was established by Executive Order 12829 to ensure that cleared U.S. defense industry contract personnel safeguard the classified information in their possession while performing work on contracts, programs, bids, or research and development efforts. The Department of Veterans Affairs does not have a Memorandum of Agreement with Defense Security Service (DSS). Verification of a Security Clearance must be processed through the Special Security Officer located in the Planning and National Security Service within the Office of Operations, Security, and Preparedness.
- B.5.3.4. Custom software development and outsourced operations must be located in the U.S. to the maximum extent practical. If such services are proposed to be performed abroad and are not disallowed by other VA policy or mandates, the contractor/subcontractor must state where all non-U.S. services are provided and detail a security plan, deemed to be acceptable by VA, specifically to address mitigation of the resulting problems of communication, control, data protection, and so forth. Location within the U.S. may be an evaluation factor.
- B.5.3.5. 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.

B.5.4. SANITIZATION OF SENSITIVE DATA FOR TRADE-IN EQUIPMENT

- B.5.4.1. All medical equipment provided for trade-in containing electronic Protected Health Information (ePHI) will be sanitized by VA according to VA guidelines, prior to release to the vendor. The media sanitization process will be as minimally destructive as possible to preserve functioning of the equipment. Whenever possible, the operating system (OS) and application software will be preserved. If the operating system and/or application software cannot be preserved, VA will elect to use one of the following trade-in options:
- B.5.4.2. Trade-in Option 1 - In instances where sanitization of ePHI compromises the OS and/or application software, or requires the removal of internal storage media, the vendor accepts the equipment "as is" and can elect at their discretion to contract with the original equipment manufacturer (OEM) to restore the system.

- B.5.4.3. Trade-in Option 2 - In instances where sanitization of ePHI compromises the OS and/or application software, the operating system and application software will be reloaded by VA or a vendor contracted by VA on the native system drive post sanitization. Verification of system operation is the responsibility of the vendor.

IT CONTRACT SECURITY

B.5.5. VA INFORMATION CUSTODIAL LANGUAGE

- B.5.5.1. 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.5.5.2. 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 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.
- B.5.5.3. 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.
- B.5.5.4. 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.
- B.5.5.5. 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.
- B.5.5.6. 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.
- B.5.5.7. 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.

- B.5.5.8. 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.
- B.5.5.9. 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.
- B.5.5.10. 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.
- B.5.5.11. 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.
- B.5.5.12. 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 COR.

B.5.6. INFORMATION SYSTEM DESIGN AND DEVELOPMENT

- B.5.6.1. Information systems that are designed or developed for or on behalf of VA at non-VA facilities shall comply with all VA directives developed in accordance with FISMA, HIPAA, NIST, and related VA security and privacy control requirements for Federal information systems. This includes standards for the protection of electronic PHI, outlined in 45 C.F.R. Part 164, Subpart C, information and system security categorization level designations in accordance with FIPS 199 and FIPS 200 with implementation of all baseline security controls commensurate with the FIPS 199 system security categorization (reference Appendix D of VA Handbook 6500, VA Information Security Program). During the development cycle a Privacy Impact Assessment (PIA) must be completed, provided to the COR, and approved by the VA Privacy Service in accordance with Directive 6507, VA Privacy Impact Assessment.
- B.5.6.2. The contractor/subcontractor shall certify to the COR that applications are fully functional and operate correctly as intended on systems using the VA Federal Desktop Core Configuration (FDCC), and the common security configuration guidelines provided by NIST or the VA. This includes the latest version of Internet Explorer configured to operate on Windows XP and Vista (in Protected Mode on Vista) and future versions, as required.
- B.5.6.3. The standard installation, operation, maintenance, updating, and patching of software shall not alter the configuration settings from the VA approved and FDCC configuration. Information technology staff must also use the Windows Installer Service for installation to the default "program files" directory and silently install and uninstall.
- B.5.6.4. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

- B.5.6.5. The security controls must be designed, developed, approved by VA, and implemented in accordance with the provisions of VA security system development life cycle as outlined in NIST Special Publication 800-37, Guide for Applying the Risk Management Framework to Federal Information Systems, VA Handbook 6500, Information Security Program and VA Handbook 6500.5, Incorporating Security and Privacy in System Development Lifecycle.
- B.5.6.6. The contractor/subcontractor is required to design, develop, or operate a System of Records Notice (SOR) on individuals to accomplish an agency function subject to the Privacy Act of 1974, (as amended), Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Privacy Act may involve the imposition of criminal and civil penalties.
- B.5.6.7. The contractor/subcontractor agrees to:
 - B.5.6.7.1. Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies:
 - B.5.6.7.1.1. The Systems of Records (SOR); and
 - B.5.6.7.1.2. The design, development, or operation work that the contractor/ subcontractor is to perform;
 - B.5.6.7.2. Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a SOR on individuals that is subject to the Privacy Act; and
 - B.5.6.7.3. Include this Privacy Act clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a SOR.
 - B.5.6.7.4. In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a SOR on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a SOR on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a SOR on individuals to accomplish an agency function, the contractor/subcontractor is considered to be an employee of the agency.
 - B.5.6.7.5. "Operation of a System of Records" means performance of any of the activities associated with maintaining the SOR, including the collection, use, maintenance, and dissemination of records.
 - B.5.6.7.6. "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and contains the person's name, or identifying number, symbol, or any other identifying particular assigned to the individual, such as a fingerprint or voiceprint, or a photograph.
 - B.5.6.7.7. "System of Records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual

- B.5.6.7.8. The vendor shall ensure the security of all procured or developed systems and technologies, including their subcomponents (hereinafter referred to as "Systems"), throughout the life of this contract and any extension, warranty, or maintenance periods. This includes, but is not limited to workarounds, patches, hotfixes, upgrades, and any physical components (hereafter referred to as Security Fixes) which may be necessary to fix all security vulnerabilities published or known to the vendor anywhere in the Systems, including Operating Systems and firmware. The vendor shall ensure that Security Fixes shall not negatively impact the Systems.
- B.5.6.7.9. The vendor shall notify VA within 24 hours of the discovery or disclosure of successful exploits of the vulnerability which can compromise the security of the Systems (including the confidentiality or integrity of its data and operations, or the availability of the system). Such issues shall be remediated as quickly as is practical, but in no event longer than days.
- B.5.6.7.10. When the Security Fixes involve installing third party patches (such as Microsoft OS patches or Adobe Acrobat), the vendor will provide written notice to the VA that the patch has been validated as not affecting the Systems within 10 working days. When the vendor is responsible for operations or maintenance of the Systems, they shall apply the Security Fixes within days.
- B.5.6.7.11. All other vulnerabilities shall be remediated as specified in this paragraph in a timely manner based on risk, but within 60 days of discovery or disclosure. Exceptions to this paragraph (e.g. for the convenience of VA) shall only be granted with approval of the contracting officer and the VA Assistant Secretary for Office of Information and Technology.

B.5.7. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE

- B.5.7.1. For information systems that are hosted, operated, maintained, or used on behalf of VA at non-VA facilities, contractors/subcontractors are fully responsible and accountable for ensuring compliance with all HIPAA, Privacy Act, FISMA, NIST, FIPS, and VA security and privacy directives and handbooks. This includes conducting compliant risk assessments, routine vulnerability scanning, system patching and change management procedures, and the completion of an acceptable contingency plan for each system. The contractor's security control procedures must be equivalent, to those procedures used to secure VA systems. A Privacy Impact Assessment (PIA) must also be provided to the COR and approved by VA Privacy Service prior to operational approval. All external Internet connections to VA's network involving VA information must be reviewed and approved by VA prior to implementation.
- B.5.7.2. Adequate security controls for collecting, processing, transmitting, and storing of Personally Identifiable Information (PII), as determined by the VA Privacy Service, must be in place, tested, and approved by VA prior to hosting, operation, maintenance, or use of the information system, or systems by or on behalf of VA. These security controls are to be assessed and stated within the PIA and if these controls are determined not to be in place, or inadequate, a Plan of Action and Milestones (POA&M) must be submitted and approved prior to the collection of PII.
- B.5.7.3. Outsourcing (contractor facility, contractor equipment or contractor staff) of systems or network operations, telecommunications services, or other managed services requires certification and accreditation (authorization) (C&A) of the contractor's systems in accordance with VA Handbook 6500.3, Certification and Accreditation and/or the VA OCS Certification Program Office. Government- owned (government facility or government equipment) contractor-operated systems, third party or business partner networks require memorandums of understanding and interconnection agreements (MOU-ISA) which detail what data types are shared, who has access, and the appropriate level of security controls for all systems connected to VA networks.

- B.5.7.4. The contractor/subcontractor's system must adhere to all FISMA, FIPS, and NIST standards related to the annual FISMA security controls assessment and review and update the PIA. Any deficiencies noted during this assessment must be provided to the VA contracting officer and the ISO for entry into VA's POA&M management process. The contractor/subcontractor must use VA's POA&M process to document planned remedial actions to address any deficiencies in information security policies, procedures, and practices, and the completion of those activities. Security deficiencies must be corrected within the timeframes approved by the government. Contractor/subcontractor procedures are subject to periodic, unannounced assessments by VA officials, including the VA Office of Inspector General. The physical security aspects associated with contractor/ subcontractor activities must also be subject to such assessments. If major changes to the system occur that may affect the privacy or security of the data or the system, the C&A of the system may need to be reviewed, retested and re- authorized per VA Handbook 6500.3. This may require reviewing and updating all of the documentation (PIA, System Security Plan, Contingency Plan). The Certification Program Office can provide guidance on whether a new C&A would be necessary.
- B.5.7.5. The contractor/subcontractor must conduct an annual self assessment on all systems and outsourced services as required. Both hard copy and electronic copies of the assessment must be provided to the COR. The government reserves the right to conduct such an assessment using government personnel or another contractor/subcontractor. The contractor/subcontractor must take appropriate and timely action (this can be specified in the contract) to correct or mitigate any weaknesses discovered during such testing, generally at no additional cost.
- B.5.7.6. VA prohibits the installation and use of personally-owned or contractor/ subcontractor-owned equipment or software on VA's network. If non-VA owned equipment must be used to fulfill the requirements of a contract, it must be stated in the service agreement, SOW or contract. All of the security controls required for government furnished equipment (GFE) must be utilized in approved other equipment (OE) and must be funded by the owner of the equipment. All remote systems must be equipped with, and use, a VA-approved antivirus (AV) software and a personal (host-based or enclave based) firewall that is configured with a VA-approved configuration. Software must be kept current, including all critical updates and patches. Owners of approved OE are responsible for providing and maintaining the anti-viral software and the firewall on the non-VA owned OE.
- B.5.7.7. All electronic storage media used on non-VA leased or non-VA owned IT equipment that is used to store, process, or access VA information must be handled in adherence with VA Handbook 6500.1, Electronic Media Sanitization upon: (i) completion or termination of the contract or (ii) disposal or return of the IT equipment by the contractor/subcontractor or any person acting on behalf of the contractor/subcontractor, whichever is earlier. Media (hard drives, optical disks, CDs, back-up tapes, etc.) used by the contractors/ subcontractors that contain VA information must be returned to the VA for sanitization or destruction or the contractor/subcontractor must self-certify that the media has been disposed of per 6500.1 requirements. This must be completed within 30 days of termination of the contract.
- B.5.7.8. Bio-Medical devices and other equipment or systems containing media (hard drives, optical disks, etc.) with VA sensitive information must not be returned to the vendor at the end of lease, for trade-in, or other purposes. The options are:
- B.5.7.8.1. Vendor must accept the system without the drive;
- B.5.7.8.2. VA's initial medical device purchase includes a spare drive which must be installed in place of the original drive at time of turn-in; or
- B.5.7.8.3. VA must reimburse the company for media at a reasonable open market replacement cost at time of purchase.
- B.5.7.8.4. Due to the highly specialized and sometimes proprietary hardware and software associated with medical equipment/systems, if it is not possible for the VA to retain the hard drive, then;

- B.5.7.8.5. The equipment vendor must have an existing BAA if the device being traded in has sensitive information stored on it and hard drive(s) from the system are being returned physically intact; and
- B.5.7.8.6. Any fixed hard drive on the device must be non-destructively sanitized to the greatest extent possible without negatively impacting system operation. Selective clearing down to patient data folder level is recommended using VA approved and validated overwriting technologies/methods/tools. Applicable media sanitization specifications need to be pre-approved and described in the purchase order or contract.
- B.5.7.8.7. A statement needs to be signed by the Director (System Owner) that states that the drive could not be removed and that (a) and (b) controls above are in place and completed. The ISO needs to maintain the documentation.

B.5.8. TRAINING

- B.5.8.1. 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:
 - B.5.8.1.1. 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;
 - B.5.8.1.2. Successfully complete the VA Cyber Security Awareness and Rules of Behavior training and annually complete required security training;
 - B.5.8.1.3. Successfully complete the appropriate VA privacy training and annually complete required privacy training; and
 - B.5.8.1.4. Successfully complete any additional 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.5.8.1.5. The contractor shall provide to the contracting officer and/or the COR 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.
 - B.5.8.1.6. 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.5.9. SECURITY INCIDENT INVESTIGATION

- B.5.9.1. 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 COR 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.5.9.2. 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.
- B.5.9.3. 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.
- B.5.9.4. 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.

B.5.10. LIQUIDATED DAMAGES FOR DATA BREACH

- B.5.10.1. 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.5.10.2. 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.
- B.5.10.3. Each risk analysis shall address all relevant information concerning the data breach, including the following:
 - B.5.10.3.1. Nature of the event (loss, theft, unauthorized access);
 - B.5.10.3.2. Description of the event, including:
 - B.5.10.3.3. date of occurrence;
 - B.5.10.3.4. data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
 - B.5.10.3.5. Number of individuals affected or potentially affected;
 - B.5.10.3.6. Names of individuals or groups affected or potentially affected;
 - B.5.10.3.7. 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;
 - B.5.10.3.8. Amount of time the data has been out of VA control;
 - B.5.10.3.9. The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
 - B.5.10.3.10. Known misuses of data containing sensitive personal information, if any;
 - B.5.10.3.11. Assessment of the potential harm to the affected individuals;

- B.5.10.3.12. Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and
- B.5.10.3.13. 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.

B.5.11. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount of \$37.50 per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:

- B.5.11.1. Notification;
- B.5.11.2. One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
- B.5.11.3. Data breach analysis;
- B.5.11.4. Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
- B.5.11.5. One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
- B.5.11.6. Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

B.5.12. SECURITY CONTROLS COMPLIANCE TESTING

On a periodic basis, VA, including the Office of Inspector General, reserves the right to evaluate any or all of the security controls and privacy practices implemented by the contractor under the clauses contained within the contract. With 10 working-day's notice, at the request of the government, the contractor must fully cooperate and assist in a government-sponsored security controls assessment at each location wherein VA information is processed or stored, or information systems are developed, operated, maintained, or used on behalf of VA, including those initiated by the Office of Inspector General. The government may conduct a security control assessment on shorter notice (to include unannounced assessments) as determined by VA in the event of a security incident or at any other time.

B.5.13. 852.273-75 Security Requirements for Unclassified Information Technology Resources (Interim - OCT 2008)

(a) The contractor and their personnel shall be subject to the same Federal laws, regulations, standards and VA policies as VA personnel, regarding information and information system security. These include, but are not limited to Federal Information Security Management Act (FISMA), Appendix III of OMB Circular A-130, and guidance and standards, available from the Department of Commerce's National Institute of Standards and Technology (NIST). This also includes the use of common security configurations available from NIST's Web site at: <http://checklists.nist.gov/>.

(b) To ensure that appropriate security controls are in place, Contractors must follow the procedures set forth in "VA Information and Information System Security/Privacy Requirements for IT Contracts" located at the following Web site: <http://www.iprm.oit.va.gov/>.

SECTION C. CONTRACT CLAUSES

C.1. 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (FEB 2012)

(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 re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance 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 Government wide 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 the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). 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, contract 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-- Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), 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 contract 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 Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), 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.

Note: For additional warranty terms, See Clause 852.211-71.

(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. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 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, and Compliance with Laws Unique to Government Contracts 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) Central Contractor Registration (CCR).

(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 CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR 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 CCR database to ensure it is current, accurate and complete. Updating information in the CCR 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 CCR 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 CCR 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 CCR 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 CCR database. Information provided to the Contractor's CCR 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 CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

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.

C.2. 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (APR 2012) ALTERNATE II (DEC 2010)

(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) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104 (g)).

(2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78)

(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:

[X] (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

- ☒ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010)(Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).
- ☒ (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 (FEB 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- ☒ (5) 52.204-11, American Recovery and Reinvestment Act-Reporting Requirements (JUL 2010) (Pub. L. 111-5).
- ☒ (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).
- ☒ (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (JAN 2012) (41 U.S.C. 2313).
- ☐ (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (section 740 of Division C of Public Law 111-117, section 743 of Division D of Public Law 111-8, and section 745 of Division D of Public Law 110-161)
- ☐ (9) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).
- ☐ (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- ☐ (11) [Reserved]
- ☐ (12)(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).
- ☐ (13)(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.
- ☒ (14) 52.219-8, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637(d)(2) and (3)).
- ☒ (15)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637(d)(4)).
- ☐ (ii) Alternate I (Oct 2001) of 52.219-9.
- ☒ (iii) Alternate II (Oct 2001) of 52.219-9.
- ☐ (iv) Alternate III (JUL 2010) of 52.219-9.
- ☒ (16) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- ☐ (17) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- ☐ (18) 52.219-16, Liquidated Damages--Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (19)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer.)
- ☐ (ii) Alternate I (June 2003) of 52.219-23.

[] (20) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

[] (21) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

[] (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).

[X] (23) 52.219-28, Post Award Small Business Program Rerepresentation (APR 2009) (15 U.S.C. 632(a)(2)).

[] (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012) (15 U.S.C. 637(m)).

[] (25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012) (15 U.S.C. 637(m)).

[X] (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

[X] (27) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).

[X] (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

[X] (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

[X] (30) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

[X] (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

[X] (32) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).

[X] (33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

[] (34) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

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

[] (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

[] (36) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).

[] (37)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).

[] (ii) Alternate I (DEC 2007) of 52.223-16.

[X] (38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

[] (39) 52.225-1, Buy American Act--Supplies (FEB 2009) (41 U.S.C. 10a-10d).

[] (40)(i) 52.225-3, Buy American Act--Free Trade Agreements-- Israeli Trade Act (MAR 2012) (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, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, and Pub. L. 112-41).

[] (ii) Alternate I (MAR 2012) of 52.225-3.

[] (iii) Alternate II (MAR 2012) of 52.225-3.

[] (iv) Alternate III (MAR 2012) of 52.225-3.

[X] (41) 52.225-5, Trade Agreements (MAR 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

[X] (42) 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).

[] (43) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

[] (44) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

[] (45) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

[] (46) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

[] (47) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

[X] (48) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

[] (49) 52.232-36, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).

[] (50) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

[] (51)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

[] (ii) Alternate I (Apr 2003) of 52.247-64.

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

[] (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

[] (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

Employee Class	Monetary Wage-Fringe Benefits
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[] (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

[] (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

[] (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

[] (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).

[] (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247)

[] (8) 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, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to-

- (i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and
- (ii) Interview any officer or employee regarding such transactions.

(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), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than-

- (i) Paragraph (d) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and
- (ii) Those clauses listed in this paragraph (e)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(A) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note))

(B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(C) 52.219-8, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(D) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(E) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(F) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

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

(H) Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(I) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

- (J) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
 - (K) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).
 - (L) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. 351, et seq.).
 - (M) 52.222-54, Employment Eligibility Verification (Jan 2009).
 - (N) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
 - (O) 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.

C.3. 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):

www.acquisition.gov

FEDERAL ACQUISITION REGULATION (48 CHAPTER 1) CLAUSES:

- 2.202-1 Definitions. (July 2004)
- 52.203-5 Covenant Against Contingent Fees. (Apr 1984)
- 52.203-7 Anti-Kickback Procedures. (Oct 2010)
- 52.204-9 Personal Identity Verification of Contractor Personnel (Jan 2011)
- 52.215-2 Audit and Records – Negotiation (Oct 2010) Alternate I (Mar 2009)
- 52.216-27 Single or Multiple Awards (OCT 1995)
- 52.219-9 Small Business Subcontracting Plan. (Jan 2011)
- 52.222-1 Notice to the Government of Labor Disputes (Feb 1997)
- 52.222-6 DAVIS-BACON ACT (July 2005)
- 52.222-7 Withholding of Funds (Feb 1988)
- 52.222-8 Payrolls and Basic Records (June 2010)
- 52.222-9 Apprentices and Trainees (July 2005)
- 52.222-10 Compliance with Copeland Act Requirements (Feb 1988)
- 52.222-11 Subcontracts (Labor Standards) (July 2005)
- 52.222-12 Contract Termination—Debarment (Feb 1988)
- 52.222-13 Compliance with Davis-Bacon and Related Act Regulations (Feb 1988)
- 52.222-14 Disputes Concerning Labor Standards (Feb 1988)
- 52.222-15 Certification of Eligibility (Feb 1988)
- 52.222-16 Approval of Wage Rates (Feb 1988)
- 52.222-19 Child Labor—Cooperation with Authorities and Remedies (Mar 2012)
- 52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Dec 2007)
- 52.223-14 Toxic Chemical Release Reporting. (Aug 2003)
- 52.223-16 IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products. (Dec 2007)
- 52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts. (May 2008)
- 52.223-18 Contractor Policy to Ban Text Messaging While Driving. (Sep 2010)
- 52.224-1 Privacy Act Notification (Apr 1984)
- 52.224-2 PRIVACY ACT (Apr 1984)
- 52.225-13 Restrictions on Certain Foreign Purchases. (June 2008)
- 52.227-19 Commercial Computer Software License. (Dec 2007)
- 52.232-17 Interest. (Oct 2010)
- 52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information (May 1999)
- 52.232-37 Multiple Payment Arrangements (May 1999)
- 52.233-2 Service of Protest. (Sept 2006)
- 52.233-4 Applicable Law for Breach of Contract Claim. (Oct 2004)
- 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984)
- 52.236-13 Accident Prevention (Nov 1991)
- 52.242-13 Bankruptcy (July 1995)
- 52.242-15 STOP-WORK ORDER (Aug 1989)
- 52.243-1 Changes Fixed-Price (Aug 1987)
- 52.243-4 Changes (June 2007)
- 52.244-6 Subcontracts for Commercial Items. (Dec 2010)
- 52.246-23 Limitation of Liability (Feb 1997)
- 52.247-29 F.O.B. Origin. (Feb 2006) (Applies to OCONUS orders only when applicable)(for DSCP orders only)
- 52.247-35 F.O.B. Destination, Within Consignee's Premises (Apr 1984)
- 52.247-38 F.O.B. Inland Carrier, Point of Exportation. (Feb 2006)
- 52.247-39 F.O.B. Inland Point, Country of Importation. (Apr 1984)
- 52.249-14 Excusable Delays (1984)

FAR CLAUSES IN FULL TEXT

C.4. 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 date of award through February 12, 2014. If the option(s) to renew are exercised, orders may be issued through the expiration of each option year period.

(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.

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 \$2,500.00, 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 single item within an order/system in excess of \$3,000,000.00;
- (2) Any order for a combination of items in excess of \$9,000,000.00; or
- (3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(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) above.

(d) Notwithstanding paragraphs (b) and (c) above, 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 10 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.

C.4.1.1. 52.216-22 Indefinite Quantity (Oct 1995)

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

(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 the maximum Schedule quantity of \$3.2 billion for the entire procurement. The Government shall order at least the minimum quantity of supplies or services in the Schedule of \$2,500.*

(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 Contractors and Governments rights and obligations with respect to that order to the same extent as if the order were completed during the contracts effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after August 4, 2016.

C.5. 52.217-9 Option to Extend the Term of the Contract (MAR 2000)

- C.5.1.1. (a) The Government may extend the term of this contract by written notice to the Contractor within thirty days before the contract expires; provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- C.5.1.2. (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- C.5.1.3. The total duration of this contract, including the exercise of any options under this clause, shall not extend beyond February 15, 2016.

C.6. 52.222-5 Davis-Bacon Act—Secondary Site of the Work (JUL 2005)

(a)(1) The offeror shall notify the Government if the offeror intends to perform work at any secondary site of the work, as defined in paragraph (a)(1)(ii) of the FAR clause at [52.222-6](#), Davis-Bacon Act, of this solicitation.

(2) If the offeror is unsure if a planned work site satisfies the criteria for a secondary site of the work, the offeror shall request a determination from the Contracting Officer.

(b)(1) If the wage determination provided by the Government for work at the primary site of the work is not applicable to the secondary site of the work, the offeror shall request a wage determination from the Contracting Officer.

(2) The due date for receipt of offers will not be extended as a result of an offeror's request for a wage determination for a secondary site of the work.

C.7. 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products (FEB 2001)

- 1. (a) *Definition*.
- 2. "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.

3. (b) *Listed end products*. The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed end products from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

1. Listed End Product 2. Listed Countries of Origin

_____	_____
_____	_____

4. (c) *Certification*. The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

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

[] (2) The offeror may supply an end product listed in paragraph (b) 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 such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

PLEASE NOTE: The correct mailing information for filing alternate protests is as follows:

Deputy Assistant Secretary for Acquisition and Logistics,
Risk Management Team, Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, DC 20420

Or for solicitations issued by the Office of Construction and Facilities Management:

Director, Office of Construction and Facilities Management
811 Vermont Avenue, N.W.
Washington, DC 20420

52.247-35 F.O.B. Destination, Within Consignee's Premises (Apr 1984)

TAILORING OF CLAUSE. Delivery to the room where the system will be installed is required.

*52.247-35 applies to orders shipped within the 50 United States, Washington D.C., and Puerto Rico. The F.O.B. point for overseas shipments will either be Point of Exportation as defined in FAR 52.247-38 or Inland Point, Country of Importation as defined in FAR 52.247-39. (See below.) The Request for Quote for any orders for overseas shipments will specify the FOB point.

LOCAL CLAUSES IN FULL TEXT

C.8. 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)

The bidder or offeror agrees that if a contract is awarded to him/her, as a result of this solicitation, he/she will not advertise the award of the contract in his/her commercial advertising in such a manner as to state or imply that the Department of Veterans Affairs endorses a product, project or commercial line of endeavor.

C.9. 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)

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

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

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

C.10. 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.

C.11. 852.233-70 PROTEST CONTENT (JAN 2008)

- (a) Any protest filed by an interested party shall:
 - (1) Include the name, address, fax number, and telephone number of the protester;
 - (2) Identify the solicitation and/or contract number;
 - (3) Include an original signed by the protester or the protester's representative and at least one copy;
 - (4) Set forth a detailed statement of the legal and factual ground of the protest, including a description of the 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.
- (d) 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.

C.12. 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)

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

C.13. 852.246-70 GUARANTEE (JAN 2008)

The contractor guarantees the equipment against defective material, workmanship and performance for a period of one (1) year, said guarantee to run from date of acceptance of the equipment by the Government. The contractor agrees to furnish, without cost to the Government, replacement of all parts and material which are found to be defective during the guarantee period. Replacement of material and parts will be furnished to the Government at the point of installation, if installation is within the continental United States, or f.o.b. the continental U.S. port to be designated by the contracting officer if installation is outside of the continental United States. Cost of installation of replacement material and parts shall be borne by the contractor.

C.14. 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.

C.15. 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.

*****LOCAL CLAUSES PERTAINING TO DLA ORDERS ONLY IN FULL TEXT*****

C.15.1. ADDENDUM TO 52.212-1

5. Solicitation Provisions Incorporated by Reference:

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. The full text of any FAR, DFARS, DLAD and DSCP solicitation provision may be accessed electronically at <http://www.dla.mil/j-3/j-336/icps.htm> or obtained from the Contracting Officer.

(a) Delay in furnishing the appropriate information other than cost or pricing data that is required by paragraph (b) above and that is adequate for evaluating the reasonableness of the offered prices, may delay any potential award to that offeror. As a consequence, if the Government has indicated elsewhere in this solicitation that multiple awards are intended, delivery orders that might otherwise have been placed with that offeror may be placed with awardees that furnished the required information on a timely basis. Failure to furnish the appropriate information other than cost or pricing data that is required by paragraph (b) above and that is adequate for evaluating the reasonableness of the offered prices may result in a determination that there is insufficient information to determine the offer prices to be fair and reasonable. The Contracting Officer may determine that cost or pricing data (and an audit) is required. If ultimately there is insufficient information to determine the offer prices to be fair and reasonable, the Contracting Officer has no choice but to determine the offer prices to be unreasonable. Unreasonable offer prices may be rejected for award.

C.15.2. ADDENDUM TO 52.212-4

Addenda to 52.212-4(g)

The invoicing and payment office for orders/contracts issued herein shall be as follows:

Normal Mail Delivery: DFAS-Columbus Center
ATTN: DFAS-BVDPII/CC
P.O. BOX 182317
COLUMBUS, OHIO 43218-6248

Overnight Delivery: DFAS-Columbus Center
ATTN: DFAS-BVDPII/CC
3990 EAST BROAD STREET
BUILDING 21
COLUMBUS, OHIO 43213-1152

2. Addenda to 52.212-4(i)

Substitute the following for the first sentence:

☐ Fast Payment procedures apply to all Direct Contractor Delivery (DVD) delivery orders, regardless of dollar value, issued against this indefinite-delivery contract. The clause at 52.213-1, Fast Payment Procedure, is hereby incorporated by reference.

☒ Fast Payment procedures apply to all Direct Contractor Delivery (DVD) orders issued under prime vendor and long-term contracts is authorized up to \$30,000 (reflecting the new policy number 11-03 dated October 21, 2011 and FAR DEV 11-03). The clause at 52.213-1, Fast Payment Procedure, is hereby incorporated by reference. NOTE: Fast Pay also applies to any order, regardless of dollar value, that requires direct shipment overseas.

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text of any FAR, DFARS, DLAD and DSCP solicitation clause may be accessed electronically at www.dla.mil/j-3/j-336/icps.htm or obtained from the Contracting Officer. The clauses listed below are incorporated by reference only when checked.

C.15.3. ADDENDUM TO 52.212-4

<u>CLAUSE NUMBER</u>	<u>TITLE</u>	<u>DATE</u>
[] 52.211-9004 DLAD	PRIORITY RATING FOR VARIOUS LONG-TERM CONTRACTS	MAR 2000
(Applies to delivery orders for surge or sustainment requirements. May also apply to urgent requirements at contracting officer's discretion.)		
[X] 52.211-9008 DLAD	BARCODING REQUIREMENTS FOR	FEB 2004
[X] 52.232-9P01 FAR	MARKING DANGEROUS OR HAZARDOUS MATERIALS	JAN 1992
[X] 52.246-9P08 DSCP	TESTING AT GOVERNMENT LABORATORY	JAN 1992
[X] 52.246.9P42 DSCP	WARRANTY OF BIOMEDICAL EQUIPMENT	JAN 1992
[X] 52.242-9P08 DSCP	DELAY OF INSTALLATION FOR MEDICAL AND LABORATORY INSTRUMENTATION DIRECT CONTRACTOR DELIVERY (DVD) SHIPMENTS – DD FORM 250/250c/ COMMERCIAL PACKING LIST	JAN 1992
(Applies to all Direct Contractor Deliveries, i.e., supplies shipped directly to a customer or through a port or government Container Consolidation Point to a customer. This does not apply to depot stock deliveries.)		
[X] 52. 217-9006 DLAD	LIMITATIONS ON USE OF SURGE AND SUSTAINMENT (S&S) INVESTMENTS	NOV 2011
[X] 52.212-9000 CHANGES--MILITARY READINESS (NOV 2011) DLAD		

The commercial changes clause at Federal Acquisition Regulation (FAR) 52.212-4(c) is applicable to this contract in lieu of the changes clause at FAR 52.243-1. However, in the event of a contingency operation or a humanitarian or peace keeping operation, as defined below, the Contracting Officer may, by written order, change 1) the method of shipment or packing, and 2) the place of delivery. If any such change causes an increase in the cost of, or the time required for performance, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must assert its right to an adjustment within 30 days from the date of receipt of the modification. "Contingency operation" means a military operation that-

(i) "Contingency operation" means a military operation that-is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(ii) results in the call or order to, or retention on, active duty of members of the uniformed services under 10 United States Code (U.S.C.) 688, 12301(a), 12302, 12304, 12305, or 12406, chapter 15 of U.S.C., or any other provision of law during a war or during an national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

“Humanitarian or peacekeeping operation” means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operation under Chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing. (10 U.S.C. 2302 (8) and 41 U.S.C. 259(d)(2)(B)).

[X] 52.233-9001 DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011) DLAD

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the Contractor (see Federal Acquisition Regulation (FAR) clause 52.233-1), or, for the Agency, by the Contracting Officer, and approved at a level above the Contracting Officer after consultation with the ADR Specialist and with legal. Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the Contracting Officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here []. Alternate wording may be negotiated with the contracting officer.

[X] 52.252-9P11 EFFECTIVE DATE OF UNDATED REGULATORY PROVISIONS AND CLAUSES (AUG 1996) DSCP

The effective date of any undated regulatory provision or clause applicable to this solicitation shall be the date of the provision/clause in effect at the time of solicitation issuance, as published in either the Federal Acquisition Regulation (FAR) or the Defense FAR Supplement (DFARS), unless otherwise specified.

[X] 52.204-10 – REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2010)

(a) Definitions. As used in this clause:

“Executive” means officers, managing partners, or any other employees in management positions.

“First-tier subcontract” means a subcontract awarded directly by a Contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a Contractor’s general and administrative expenses or indirect cost.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) Salary and bonus.

(2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(5) Above-market earnings on deferred compensation which is not tax-qualified.

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c)(1) Unless otherwise directed by the contracting officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, (and any modifications to these subcontracts that change previously reported data), the Contractor shall report the following information at <http://www.fsrc.gov> for each first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsrc.gov> to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor’s parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

- (iii) Amount of the subcontract award.
 - (iv) Date of the subcontract award.
 - (v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
 - (vi) Subcontract number (the subcontract number assigned by the Contractor).
 - (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
 - (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
 - (ix) The prime contract number, and order number if applicable.
 - (x) Awarding agency name and code.
 - (xi) Funding agency name and code.
 - (xii) Government contracting office code.
 - (xiii) Treasury account symbol (TAS) as reported in FPDS.
 - (xiv) The applicable North American Industry Classification System code (NAICS).
- (2) By the end of the month following the month of a contract award, and annually thereafter, the Contractor shall report the names and total compensation of each of the five most highly compensated executives for the Contractor's preceding completed fiscal year at <http://www.ccr.gov> , if—
- (i) In the Contractor's preceding fiscal year, the Contractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm> .)
- (3) Unless otherwise directed by the contracting officer, by the end of the month following the month of a first-tier subcontract with a value of \$25,000 or more, and annually thereafter, the Contractor shall report the names and total compensation of each of the five most highly compensated executives for each first-tier subcontractor for the subcontractor's preceding completed fiscal year at <http://www.frs.gov> , if—
- (i) In the subcontractor's preceding fiscal year, the subcontractor received—
 - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
 - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm> .)
- (d)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.
- (2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards to that subcontractor.
- (e) Phase-in of reporting of subcontracts of \$25,000 or more.
- (1) Until September 30, 2010, any newly awarded subcontract must be reported if the prime contract award amount was \$20,000,000 or more.
 - (2) From October 1, 2010, until February 28, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$550,000 or more.
 - (3) Starting March 1, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$25,000 or more.

[X] 52.203-13 – CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)

(a) Definition. As used in this clause--

“Agent” means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

“Full cooperation”—

- (1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;
- (2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require—

- (i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or
 - (ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and
- (3) Does not restrict a Contractor from—
- (i) Conducting an internal investigation; or
 - (ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

“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).

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

- (1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

- (i) Have a written code of business ethics and conduct;
- (ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall—

- (i) Exercise due diligence to prevent and detect criminal conduct; and
- (ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)

- (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked “confidential” or “proprietary” by the company. To the extent permitted by the law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c)

does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) Subcontracts.

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

[X] 52.203-14 DISPLAY OF HOTLINE POSTER(S) (DEC 2007)

(a) Definition.

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s) Obtain from:

DoD Hotline Poster DoD Inspection General
ATTN: Defense Hotline
400 Army Navy Drive
Arlington, VA 2222-4704

(Contracting Officer shall insert—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed \$5,000,000, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

**C.16. 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS --
COMMERCIAL ITEMS (JAN 2005)**

C.16.1. ADDENDUM TO 52.212-5

**252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE
TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (DEC 2004)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

____ 52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207).

 X 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

____ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

 X 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement (DFARS) clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

☒ 252.203-7003, Agency Office of the Inspector General (SEP 2010)(Section 6101 of Pub. L. 110-252, 41 U.S.C. 3509 note)-. The agency office of the Inspector General referenced in paragraphs (c) and (d) of FAR clause 52.203-13

☒ 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991)
(10 U.S.C. 2416).

☒ 252.206-7000 Domestic Source Restriction (DEC 1991) (10 U.S.C. 2304).

☒ 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (SEP 2011)
(15 U.S.C. 637).

☐ 252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business
Subcontracting Plan (Test Program) (JUN 1997) (10 U.S.C. 637 Note).

☒ 252.225-7001 (i) Buy American Act and Balance of Payments Program (OCT 2011)
(41 U.S.C. chapter 83, E.O. 10582).
☐ (ii) Alternate I (OCT 2011) of 252.225-7001

☒ 252.225-7008, Restriction on Acquisition of Specialty Metals (JUL 2009)
10 U.S.C. 2533b).

☒ 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty
Metals (JAN 2011) 10 U.S.C. 2533b).

☒ 252.225-7012, Preference for Certain Domestic Commodities (JUN 2010) (10
U.S.C. 2533a).

☒ 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)
(10 U.S.C. 2533a).

☒ 252.225-7012 Preference for Certain Domestic Commodities. (AUG 2000)

☒ 252.225-7014 Preference for Domestic Specialty Metals (MAR 1998) (10 U.S.C. 2241
note).

☐ 252.225-7015 Preference for Domestic Hand or Measuring Tools (DEC 1991)
(10 U.S.C. 2241 note).

☐ 252.225-7016 Restrictions on Acquisition of Ball and Roller Bearings (DEC 2000)
(☐ Alternate I) (DEC 2000) (Section 8064 of Pub L. 106-259)

☐ 252.225-7021 Trade Agreements (SEP 2001) (19 U.S.C. 2501-2518 and 19 U.S.C.
3301 note).

☐ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (MAR 1998)
(22 U.S.C. 2779).

Para (b): Government(s) of _____
☐ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (DEC 1991)
(22 U.S.C. 2755).

☐ 252.225-7029 Preference for United States or Canadian Air Circuit Breakers (AUG
1998)
(10 U.S.C. 2534(a)(3)).

☒ 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payment
Program (OCT 2011) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).

(ii) ☐ Alternate I (OCT 2011) of 252.225-7036

(iii) ☐ Alternate II (OCT 2011) of 252.225-7036

(iv) ☐ Alternate III (OCT 2011) of 252.225-7036

☒ 252.227-7015, Technical Data -- Commercial Items (DEC 2011) (10 U.S.C. 2320).

☐ 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999)

(10 U.S.C. 2321).

☒ 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports
(MAR 2008) (10 U.S.C. 2227).

☐ 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

☒ 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

☐ Alternate I (MAR 2000) of 252.247-7023.

☐ Alternate II (MAR 2000) of 252.247-7023.

☐ Alternate III (MAY 2002) of 252.247-7023

☒ 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000)
(10 U.S.C. 2631).

NOTE: Contractor agrees to comply with clause 252.247-7024, which is included in this contract by reference, when it represents in its offer that it does not anticipate that supplies will be transported by sea.

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (Federal Acquisition Regulation 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, Awarded at any tier under this contract:

252.247-7023 Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631)

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631)

The following Defense FAR Supplement (DFARS) clauses are incorporated by reference and are applicable to all acquisitions:

RIGHTS IN SHOP DRAWINGS (APR 1966) DFARS

MODIFICATION PROPOSALS – PRICE BREAKDOWN (DEC 1991) DFARS

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS – SF1449

Instructions, Conditions & Notices to Offerors

FOB. Offers are solicited on a FOB Destination basis. Notwithstanding the foregoing designation of destination, the Government reserves the right to exercise orders on a F.O.B. Origin basis.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS – SF1449

Instructions, Conditions & Notices to Offerors

NON-COMPLIANCE WITH CONTRACT REQUIREMENTS.

In the event the Contractor, after receiving written notice from the Contracting Officer of non-compliance with any requirement of this contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement, the Contracting Officer shall have the right to order the Contractor to stop any or all work under the contract until the Contractor has complied or has initiated such action as may be appropriate to comply with specified requirements. The contractor shall not be entitled to any extension of contract time or payment for any costs incurred as a result of being ordered to stop work for such cause.

2. PAYMENT.

Upon receipt of the contractor's invoice by the appropriate paying office, supported by the required signed DD form 250 by the Contracting Officer, payment will be made in accordance with the delivery order Contract Line Item Number CLIN).

Delivery orders with equipment/systems requiring installation shall be issued with 80% of the total costs in the equipment/system CLIN, and the remaining 20% of the total cost in a separate installation CLIN.

Delivery orders issued for equipment/systems not requiring installation shall be issued with 100% of the total cost in the equipment/system CLIN.

Payment of each CLIN on the Delivery Order will be authorized and made only after final inspection and acceptance.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS – SF1449
Instructions, Conditions & Notices to Offerors

3. MARKET ACCEPTABILITY CRITERIA

Items offered shall have been in clinical use for not less than three (3) months in at least one (1) clinical site. If an item offered has not been in clinical use for at least three (3) months in at least one (1) clinical site, an award for that specific item still may be executed at the discretion of the Contracting Officer.

4. ARMY AND NAVY INFORMATION ASSURANCE REQUIREMENT

Items offered shall have been in compliance with the Army and Navy information Assurance Requirement. Below attachments are provided information which shall be included in each award delivery order.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS – SF1449
Instructions, Conditions & Notices to Offerors

SPECIAL NOTES

Offerors are reminded that their proposals should include the following:

You must include pricing for all years. All pricing information shall easily identify the following:

DSCP Indefinite Quantity/Delivery Contract (IQC) Item #
Catalog Page Reference
Contractor Catalog Number
Description
List Price
Discount
Net price
Country of Origin

Offerors may use the sample pricing chart included in the solicitation on the following pages or the contractor may submit their own catalog pricing pages, as long as all DSCP requested information is available. If the offeror provides their own pricing pages, the offeror must identify the pricing page number for each item on the Schedule of Supplies.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS – SF1449
Instructions, Conditions & Notices to Offerors

Restocking charge policy, to include restocking charge:

Restocking Charge:_____

Offers are solicited on an F.O.B. destination (CONUS-Continental United States) basis. All OCONUS (Outside Continental United States) orders shall be quoted on a case by case basis.

RESTOCKING CHARGES WILL ONLY APPLY TO DSCP ORDERS ONLY.

4. Any previous contract options for items listed in this solicitation held by contractors that are awarded a percentage of this present acquisition agrees, by acceptance of this award, to make the previous options null and void.

CERTIFICATION REQUIREMENT FOR NON-MANUFACTURED WOOD PACKING MATERIAL (NMWPM)

Applicable to all commercial/government export shipments of supplies packed in/on NMWPM and destined for delivery to Europe on/after 1 October 2001, either directly to the customer or through a Defense Depot or other consolidation point.

“All wooden pallets and wood containers produced of non-manufactured wood being utilized in the packaging and shipment of items being furnished to the Government shall be constructed from Heat Treated (HT to 56 degrees Centigrade for 30 minutes) material and certified by an accredited agency recognized by the American Lumber Standards Committee (ALSC) in accordance with Non-Regulations both dated 30 May 2001.”

All NMWPM must be marked to indicate the method of treatment and the facility where it was performed. Failure to comply may result in refusal, destruction or treatment of material at the point of entry, thus hindering supply support.

C.16.2. ADDENDUM TO 52.212-3(f)

252.225-7020 Trade Agreements Certificate (JAN 2005) DFARS

(a) Definitions “Designated country end product”, “nondesignated country end product”, “qualifying country end product”, and “U.S.-made end product” have the meanings given in the Trade Agreements clause of this solicitation.

(b) Evaluation. The Government--

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.- made, qualifying country, or designated country end products, unless

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government’s requirements; or

(iii) A national interest waiver has been granted.

(c) Certification and identification of country of origin.

(1) For all line items subject to the Trade Agreements clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, or designated country end product.

(2) The following supplies are other non-designated country end products:

Line Item Number	Country of Origin
------------------	-------------------

_____	_____
_____	_____
_____	_____

C.16.3. ADDENDUM TO 52.212-3 (g)

C.16.4. 252.225-7035 BUY AMERICAN ACT--FREE TRADE AGREEMENTS--BALANCE OF PAYMENTS PROGRAM CERTIFICATE (JAN 2005) DFARS

(a) Definitions.

“Domestic end product”, “end product of Australia, Canada, Chile, Mexico, or Singapore”, “foreign end product”, “qualifying country end product”, and “United States” have the meanings given in the Buy American Act--Free Trade Agreements--Balance of Payments Program clause of this solicitation.

(b) Evaluation. The Government--

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to Free Trade Agreements, will evaluate offers of qualifying country end products or end products of Australia, Canada, Chile, Mexico, or Singapore without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) Certifications and identification of country of origin.

(1) For all line items subject to the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this solicitation, the offeror certifies that--

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

____Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include clause 252.247-7023, Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

SECTION D. CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

- D.1. Minimum Purchase Description CT Single Slice.**
- D.2. Minimum Purchase Description CT Multislice.**
- D.3. Minimum Purchase Description MRI 1.0T and 1.5T.**
- D.4. Modality Interface DICOM Conformance Requirements**
- D.5. SF-3881, ACH Vendor/Miscellaneous Payment Enrollment Form**
- D.6. Discount and Pricing Information Worksheet.**
- D.7. X-RAY Inspection Criteria.**
- D.8. Geographic Service Area**
- D.9. System Description TURNKEY INSTALLATION.**
- D.10. Past Performance/Prior Experience Questionnaire**
- D.11. List of construction clauses (Davis Bacon, Copeland Act, etc.)**

SECTION E. SOLICITATION PROVISIONS

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

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

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

<http://www.va.gov/oamm/oa/ars/policyreg/vaar/index.cfm>

- 52.216-27 Single or Multiple Awards (Oct 1995)
- 52.225-25 Prohibition on Contracting with Entities in (Nov 2011)
Sanctioned Activities Relating to Iran –Representation and Certification
- 52.232-38.1 Submission of Electronic Funds Transfer (May 1999)
Information with Offer