# SECTION A

PAGE 1 OF

1. REQUISITION NO.

2. CONTRACT NO.

3. AWARD/EFFECTIVE DATE

4. ORDER NO.

5. SOLICITATION NUMBER

6. SOLICITATION ISSUE DATE

a. NAME

b. TELEPHONE NO. (No Collect Calls)

8. OFFER DUE DATE/LOCAL

TIME

9. ISSUED BY

CODE

10. THIS ACQUISITION IS

 UNRESTRICTED OR

SET ASIDE:

% FOR:

SMALL BUSINESS

HUBZONE SMALL

BUSINESS

SERVICE-DISABLED

VETERAN-OWNED

SMALL BUSINESS

WOMEN-OWNED SMALL BUSINESS

(WOSB) ELIGIBLE UNDER THE WOMEN-OWNED

SMALL BUSINESS PROGRAM

EDWOSB

8(A)

NAICS:

SIZE STANDARD:

11. DELIVERY FOR FOB DESTINA-

TION UNLESS BLOCK IS

MARKED

SEE SCHEDULE

12. DISCOUNT TERMS

 13a. THIS CONTRACT IS A

RATED ORDER UNDER

DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION

RFQ

IFB

RFP

15. DELIVER TO

CODE

16. ADMINISTERED BY

CODE

17a. CONTRACTOR/OFFEROR

CODE

FACILITY CODE

18a. PAYMENT WILL BE MADE BY

CODE

TELEPHONE NO.

DUNS:

DUNS+4:

PHONE:

FAX:

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED

SEE ADDENDUM

19.

20.

21.

22.

23.

24.

ITEM NO.

SCHEDULE OF SUPPLIES/SERVICES

QUANTITY

UNIT

UNIT PRICE

AMOUNT

(Use Reverse and/or Attach Additional Sheets as Necessary)

25. ACCOUNTING AND APPROPRIATION DATA

26. TOTAL AWARD AMOUNT (For Govt. Use Only)

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA

ARE

ARE NOT ATTACHED.

27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA

ARE

ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

29. AWARD OF CONTRACT: REF. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ OFFER

COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND

DATED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. YOUR OFFER ON SOLICITATION

DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY

(BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE

ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)

30c. DATE SIGNED

31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)

31c. DATE SIGNED

AUTHORIZED FOR LOCAL REPRODUCTION

(REV. 2/2012)

PREVIOUS EDITION IS NOT USABLE

Prescribed by GSA - FAR (48 CFR) 53.212

7. FOR SOLICITATION

INFORMATION CALL:

STANDARD FORM 1449

OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

89

VA240C-13-R-0035

03-18-2013

Nicole Lindstrom

612-344-2171

04-01-2013

Department of Veterans Affairs

Service Area Office, Central Region

708 South Third Street Suite 108E

Attn: Nicole Lindstrom

Minneapolis MN 55415

X

0

Y

621111

$10 Million

 N/A

X

Department of Veterans Affairs

Sioux Falls VA Healthcare System

2501 West 22nd Street

Sioux Falls SD 57105

Department of Veterans Affairs

Sioux Falls VA Healthcare System

2501 West 22nd Street

Sioux Falls SD 57105

Department of Veterans Affairs

Finance Services Center

PO Box 149971

Austin TX 78714-9971

See CONTINUATION Page

This is a requirement of as needed Plastic Surgery Services

to be performed at the Sioux Falls VA Health Care System in

Sioux Falls, SD; Please see Statement of Work for the

requirement in its entirety.

See CONTINUATION Page

X

X

X

 (1)

Nicole Lindstrom

Contracting Officer

## A.1 SF 1449 SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

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# SECTION B - CONTINUATION OF SF 1449 BLOCK

CONTRACT ADMINISTRATION DATA

SYSTEM FOR AWARD MANAGEMENT REGISTRATION IS REQUIRED TO BE ACCOMPLISHED BY THE CONTRACTOR BEFORE CONTRACT AWARD https://www.sam.gov/portal/public/SAM/ (SEE FAR PART 12)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See provision 52.212-1. All offers are subject to all terms and conditions of this solicitation.

1. CONTRACT ADMINISTRATION DATA

 a. CONTRACT ADMINISTRATION: List below responsible party that may be contacted during the term of this contract for matters pertaining to the contract:

 Contractor Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Facsimile: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Federal Taxpayer Identification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Dun and Bradstreet Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 b. Government: Contracting Officer (90C)

 VA Medical Center

 2501 W 22nd Street

 Sioux Falls, SD 57105

 Phone (605) 333-6819

 Fax (605) 333-6829

2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor should be mailed to the following address:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

 AMENDMENT NUMBER DATE

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. INVOICE SUBMISSION AND PAYMENT:

a. The contractor shall only invoice for those services actually performed.

b. Contractor shall submit a monthly invoice within 30 days of the end of each month. Submittal shall be made under the terms of this contract in accordance with the billing instructions provided by the VA. Invoice shall include at a minimum:

 1. Date of Invoice with Invoice Number

 2. Contract Number/Obligation Number

 3. Dates of service rendered.

Invoicing documentation must be HCFA compliant for billing purposes using the most current and appropriate codes or payment will not be made. Documentation in the medical record must support the code. If billing is CPT code based, and documentation does not support the CPT code referenced, payment will be made in accordance with the most appropriate code. Differences of opinion regarding assignment of a particular CPT will be resolved using the procedures set forth in clause 52.212-4 (d). Documentation in the patient record must be complete prior to payment being approved.

Contractor may have access to patient records upon request with reasonable notice during normal business hours to the extent such access is necessary to determine that the Contractor is HCFA-compliant.

Contractor must submit bill by the 15th day of the next month. Invoices will be mailed to: Department of Veterans Affairs, Financial Service Center, PO Box 149971, Austin, TX 78714-8971.

c. All payments shall be processed in accordance with the payments clause. It is understood that services provided under this contract may be required on holidays and weekends at the prices specified in the schedule of services. Payment for any holiday and leave, including sick leave or vacation time, is the responsibility of the Contractor and separate payment for such will not be made under this contract.

5. INSPECTION: The right is reserved to thoroughly inspect and investigate the establishment, facilities, business reputation and other qualifications of any bidder and to reject any bid, irrespective of price, that shall be administratively determined lacking in any of the essentials necessary to assure acceptable standards of performance.

6. SAFETY REQUIREMENTS: In the performance of this contract, the Contractor shall take such safety precautions as the Contracting Officer, or his/her designee may determine to be reasonably necessary to protect the lives and health of the occupants of the buildings. The Contracting Officer or his/her designee will notify the Contractor of any noncompliance with the forgoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately correct the conditions to which attention has been directed. Such notice, when served on the Contractor or his/her representative at the site of the work, shall be deemed sufficient for the purposes aforesaid. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or any part of the work and hold the Contractor in default.

7. CONFORMITY TO REGULATIONS: The Contractor and his/her operators shall conform to all regulations, Federal, State, and local, governing the performance of contracted services.

8. TERM OF CONTRACT: The contract period is effective May 1, 2013 through April 30, 2014 plus 4 (one) year option periods. There is also an option in the contract to extend the contract an additional six months if necessary.

9. AVAILABILITY OF FUNDS: The contract is subject to the availability of VA funds. The contractor shall perform no service after the end of the Fiscal Year (September 30) or at the end of the current base (September 30), until the contracting officer authorizes such services in writing.

10. OIG STATEMENT: VA Contracting entities have an affirmative duty to check the program exclusion status http://oig.hhs.gov/fraud/exclusions.asp of individuals and entities prior to entering into employment or contractual relationships, or run the risk of civil money penalties (CMP) liability if they fail to do so. The Contracting Officer will submit a signed annual report to the VA NWIHCS Compliance Officer, certifying each individual or entity under this contract has been checked against the OIG List of Excluded Individuals/Entities and found no individual or entity had been excluded from participation in Medicare, Medicaid and other Federal health care programs. This report will be submitted prior to the start of the contract and each option year renewal thereafter.

11. HIPAA COMPLIANCE: Contractor must adhere to the Provisions of Public Law 104-191, Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the National Standards to Protect the Privacy and Security of Protected Health Information (PHI). In addition, all VA security policies and applicable confidentiality statues such as 38 U.S.C. 5701 (VA Claims Confidentiality), 38 U.S.C. 5705 (Confidentiality of Healthcare Quality Assurance Review Records), 38 U.S.C. 7332 (Confidentiality of certain medical records), as well as 45 C.F.R. Parts 160,162 and 164 (Health Insurance Portability and Accountability Act) should be followed.

12. MEDICAL RECORDS: Patient medical records are confidential and are protected by the Privacy Act of 1974, 5 U.S.C. 552a; VA Claims Confidentiality Statute, 38 U.S.C. 3301 and Drug/Alcohol Abuse Confidentiality Statute, 38 U.S.C. 4132 [Authority: Drug/Alcohol Regs. 42 C.F.R. 2.11(p)(2)]. Any breach of confidentiality and/or unauthorized release of information is subject to monetary penalty. Any individual making unauthorized disclosures may be criminally liable for violations of the Act.

13. INSURANCE LIABILITY: Contractor shall not under any circumstances charge VA beneficiaries or their insurance companies for services rendered by the contractor even if VA does not pay for those services. This provision shall survive the termination or ending of the contract.

14. NATIONAL PROVIDER IDENTIFIER: The National provider identifier (NPI) is a standard, unique 10-digit numeric identifier required by HIPAA. The Veterans Health Administration must use NPIs in all HIPAA-standard electronic transactions for individual (health care practitioners) and organizational entities (medical centers). The contractor shall ensure that the health care practitioners and/or medical center providing service under the contract obtains a NPI and provides it to the contracting officer.

15. The Government may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost/price and technical standpoint. The resultant contract is non-exclusive and shall not prohibit VA or Contractor from entering into agreement(s) with other health care providers or purchasers of health care services. The Government reserves the right to make multiple awards.

END CONTRACT ADMINISTRATION DATA

**B.1 Statement of Work**

**STATEMENT OF WORK**

**STATEMENT OF NEED:** The Department of Veterans Affairs VISN 23 Sioux Falls VAHCS has identified a need for plastic surgery services to fulfill requirements for a plastic surgeon to perform reconstruction and wound care services for Sioux Falls VAHCS. Services are needed for surgical flaps, breast reconstruction, skin ulcerations, and extensive wound care requiring plastic surgery intervention.

**SOLICITATION NOTICE:** This procurement is being conducted under Federal Acquisition Regulation (FAR) combination of Part 12, Acquisition of Commercial Items and Part 15, Negotiated Acquisition Procedures and procurement of Enhanced Health Care Resources in accordance with Public Law 104-262 and §38 U.S.C 8153 as well as VAAR 873. Contractor is to provide the following services in accordance with the requirements of the contract:

Third Party Billing: This contract represents an “**all inclusive reimbursement rate**” for all services provided by the contractor to the veteran beneficiary. Contractor is not allowed third party or direct patient billing for any services provided under this contract. Contractor shall not submit bills to any patient or other State, Federal, or third party agency for reimbursement during the period the beneficiary is covered under this contract.

**The Contractor shall invoice using the CPT codes that cover the greatest number of procedures and not use codes for each separate procedure when combined procedures are performed.** Audits will be conducted of billings to ensure compliance prior to authorization for payment. **(Procedures performed that are not listed will be billed at South Dakota Medicare rates current at time of procedure.)**

The contract will contain one (1) base year and four (4) renewable option years. The Contracting Officer shall determine (based on an integrated assessment of each offeror’s technical and price proposals) the individual proposal judged to be most advantageous to the Government.

**The Government intends on a awarding an Indefinite Quantity-Indefinite Delivery Contract for Enhanced Sharing Medical Services for Plastic Surgery Services.**

**Minimum Contract Amount Shall be: $55,697.32**

**Maximum Contract Amount Shall be: $222,789.29**

1. **STATEMENT OF OBJECTIVES:**

The contractor agrees to provide one or more board certified or board eligible Plastic Surgeon (s) to perform plastic surgery services in accordance with the terms and conditions stated herein at the Sioux Falls VA Health Care System. Services to be performed by contractor shall be done on an agreed upon schedule with concurrence of the Contracting Officer or Contracting Officer’s Designee between the physicians and the VA staff. Services to be performed will be monitored by Surgical/Specialty Care Service Line Site Director

All services and care are to be provided consistent with the community standard of care, based on best clinical judgment, VA/VHA clinical guidelines and pertinent VA/VHA performance measures. It is recognized by both parties that timely reporting of results of examinations as well as diagnostic and therapeutic procedures, is critical component of good patient care.

1. **PROCEDURES:**

Procedures will be performed at the Sioux Falls VA Health Care System located at 2501 West 22nd St. Sioux Falls, SD, 57105. The Sioux Falls VA Health Care System will provide scheduling, pre-procedure screening, nursing support during the procedure, anesthesia support and patient recovery. Procedures will be scheduled on an on-call/as needed basis between the hours 7:00 to 4:30pm and will be negotiated prior to award. A list of procedures required can be found in the schedule of items section. However, this list is not all encompassing.

1. Plastic surgery to be performed in accordance with clinical privileges.
2. Patient office visits and consults will be performed at the Sioux Falls VAHCS
3. **RESPONSIBILITIES:**
4. Adhere to the VA Medical Staff Bylaws, Rules and Regulations as set forth by the medical staff.
5. Answer plastic surgery consults.
6. Adhere to the surgical schedule as closely as possible, minimizing operating room delays and cancellations.
7. Provide daily rounds on inpatients until patient management is transferred to another physician. Transfer of patient will be noted in the electronic medical record within the Computerized Patient Reporting System (CPRS)
8. Complete medical records timely utilizing the computerized medical record system.
9. Operative reports must be dictated on the day of the surgery/procedure and signed within **72 hours** postdate of surgery.
10. Patient’s surgical site will be marked by a Licensed Independent Practitioner (LIP), who will be performing or assisting with the procedure prior to transporting the patient.
11. If the POC and/or provider is unable to provide services and needs to cancel appoints and/or surgery he/she shall give a thirty (30) day notice for clinic and surgery cancellations unless it is due to a change in a patient’s condition.
12. **PLASTIC SURGERY QUALIFICATIONS:**

Meet requirements for appointment to the Medical Staff, Sioux Falls VAHCS as outlined in the Medical Staff Bylaws. The services to be performed by the contractor will be performed within the VA policies and procedures and the regulations of the Medical Staff Bylaws of the VAHCS. Contractor must be credentialed by the Chief of Staff’s Office, Sioux Falls VAHCS as well as the following:

1. Unrestricted license to practice medicine in one of the states or territories of the United States or District of Columbia.
2. Board certified or board eligible in plastic surgery.
3. Possess basic proficiency in spoken and written English in accordance with PL95-201.
4. Provide evidence of annual TB testing or receive annual TB testing at VAHCS
5. Adhere to all applicable Joint Commission Standards.
6. Provide evidence of current professional liability insurance.
7. **CONSULTS:**

Routine consults will be addressed within 7 calendar days indicating recommendations for appointments and/or treatment. Consultations will be in accordance with Network Policy.

In the event the contractor fails to respond to a request within required time-lines, the Surgical/Specialty Care Service Line Leader, Contracting Officer’s Technical Representative or the Contracting Officer will contact the contractor to determine the reason for the delay.

**Inpatient Consults**:

**“Routine”** inpatient consults will be seen by the specialty/subspecialty service and a consult report will be signed and available to the requesting provider preferably within 24 but no longer than within 72 hours of being requested.

**Outpatient Consults**:

**“Routine”** outpatient intra-facility and inter-facility requests for consultations will be seen in person by the specialty/subspecialty service and a consult report will be signed and available to the requesting provider within seven days if possible, but in no case in more than 30 days of the date the consultation request was created in CPRS.

Contractor will adhere to all applicable organizations policies and all applicable laws, regulations and JCAHO standards.

**COMPUTERIZED PATIENT RECORD SYSTEM**

Contractor is responsible for utilizing the Computerized Patient Record System (CPRS) in Veterans Health Information Systems and Technology architecture (VISTA) to the extent that CPRS has been implemented at the VA. Contractor will attend CPRS training prior to providing any patient care services. The contractor will document patient care in CPRS to comply with all VA, CMS and JCAHO requirements.

**DOCUMENTATION REQUIREMENTS**

**Abbreviations**. Only abbreviations listed in Center Circular 00B-21, Medical Center Approved Abbreviation List, will be used in the patient record.

**Progress notes**. The progress notes should be clearly referenced to a specific health care problem or current treatment plan. Information recorded in the progress note should contain all of the pertinent observations made on the patient during the course of care with an interpretation of significance and a plan for problem resolution and/or recommendations to the attending physician

**Medical records** will be completed within 30 days following discharge. Medical records are considered complete as described in VA Center Circular No. 00B-01 (4/2004). Following documents to be present signed & co-signed (when appropriate): doctor orders (including telephone/verbal orders); history & physical; discharge summary; consultation report (when applicable); operative report (when applicable).

A **progress note** will be documented by the treating provider for each outpatient encounter. This note will be recorded in sufficient detail as to provide all pertinent factors in patient’s health history, extend of exam completed, description of services provided, diagnoses treated, and give a precise indication of the present state of his/her health. **Progress notes and an OPT encounter will be completed the same day of the patient’s visit.**

**Circular References**:



**Procedure consent** **will be done electronically utilizing the I-Med Consent.**

 **Operative reports** shall be dictated immediately following procedure and signed **within 72 hours post-procedure.** Discharge reports will be dictated on the day of discharge and medical records are to be signed as soon as available electronically and not later than 30 days of discharge. A delinquent operative report list is available from VISTA.

The following procedures require a dictated report and will be uploaded as an Operative or Non-Operative Report as appropriate: all procedures performed in the operating room suite; EGD; and colonoscopy. Other procedures may be documented either as an electronic Progress Note with the title Procedure Note or as a non-OR procedure report.

**Physicians with delinquent operative reports will have one week to complete the dictation and sign the report. Failure to do so will result in suspension of operating room privileges by the Chief of Staff.**

More detailed requirements of reporting will be found in VA Center Circular No. 00B-01 (4/2004).

**ADMISSION/ATTENDING RESPONSIBILITIES**

Contract health care providers shall directly admit patients to the VAHCS if their condition warrants, or in conjunction with the VAHCS attending physician, admit patients for subsequent inpatient healthcare. During the inpatient stay, contract health care providers shall conduct inpatient rounds as required by the attending physician, VA Regulations and VAHCS procedures.

Contract health care providers shall, to the maximum extent practicable, ensure that VA inpatient resources are utilized for all VA beneficiaries. Should a VA beneficiary require services or care beyond the capabilities of the VAHCS, as determined by the attending physician and VA Chief of Staff, that patient shall be transferred to an appropriate VA or private medical treatment facility based upon patient condition. The contract health care provider shall coordinate all transfers with the VA Clinical Resource Management Nurse prior to actual transfer. Contract health care providers shall seek the approval of the VA Clinical Resource Management Nurse or designee before performing other actions for non-emergent surgical procedures or treatments.

**ADVISE/CONSENT**

The contract health care provider shall at all times during the course of business in the VAHCS advise and inform the attending physician and VA Surgical/Specialty Care Site Director or VA COS or their designee of patient’s progress in the inpatient setting, or as needed, in the outpatient setting, as well as for patients hospitalized in private facilities. The contract health care provider in an emergency shall refer any patient to a private hospital in the event the VAHCS is unable to support the required emergency procedure. The Contractor shall obtain the concurrence of the attending physician and/or VA COS or designee prior to referral. The contractor shall coordinate with the VA Clinical Resource Management staff or designee prior to referral of a VA Patient to an alternate medical facility. The VA reserves the right to decide to transfer any VA patient to another VA medical facility.

**ADMINISTRATIVE DOCUMENTATION**

a. All personnel providing direct care services must have appropriate identification and have evidence of appropriate training prior to providing any services to veterans. **This training includes but is not limited to privacy and security training, rules of behavior training, correct site surgery computer modules, CPRS training, and dictation training.**

b. All accidents, malfunctions, injuries, and deaths related to the delivery of services shall be immediately reported verbally to the VA Contracting Officer’s Technical Representative (COTR). The Contractor may be required to provide evidence of follow-up through a written report of the incident, describing the event, analysis of cause and effect, and corrective action taken. If such a report is requested by the VA COTR, this will be done within three (3) working days of the verbal report.

**POINT OF CONTACT**

The Contractor shall provide a point of contact (POC) who shall be responsible for the performance of the work under this contract. The POC shall have full authority to act for the Contractor on all matters relating to the daily operation of this contract. The POC may be a contract health care provider performing under this contract. An alternate may be designated, but the Contractor shall identify, in writing, those times when the alternate shall act as the POC. The Contractor shall identify the POC and alternate in writing to the COTR and Contracting Officer (CO). The Contractor shall give written notification to the COTR and CO of the time when the alternate will act as the POC. The POC shall be available by telephone Monday through Friday, 8:00 AM through 4:30 PM, excluding Federal holidays.

**ARRANGE FOR REPLACEMENT STAFF**

The POC shall arrange for pre-credentialed staff coverage when contract health care providers will be unable to provide services for one (1) or more consecutive scheduled clinics and/or surgery dates.

**COMPUTER REQUIREMENTS**

Contract health care providers will be trained in the Computerized Medical Record System (CPRS) and required to utilize this medical record system for documentation and retrieval of patient data.

 Provider assigned by the contractor shall dictate concise and comprehensive reports utilizing VA telephone dictation processes, or enter reports directly into the computerized patient record system (CPRS) utilizing designated templates.

The contractor will be required to use the hospital computer system, to include but not limited to checking electronic reports on a daily basis for accuracy and completeness, writing orders (i.e. lab, consults, and admission), responding to view alerts, and reviewing patient results via electronic signature. It is the responsibility of contractor physician to ensure that all CPRS entries are signed off before leaving the facility the day of clinic or procedure.

Contractor is required to utilize I-Med consent.

**NSQIP**

Service performance will be satisfactory as defined by the VA National Surgery Quality Improvement Program (NSQIP)\* range for mortality and morbidity in this specialty. In addition, complications must be presented at a departmental Mortality and Morbidity Conference, and the minutes of this conference must be forwarded to the Director, Specialty Care monthly. \*The VA NSQIP program compares risk adjusted observed morbidity and mortality to expected morbidity and mortality and ranks all of the VA programs in the country based on the Observed/Expected ratios.

**SPECIAL CONTRACT REQUIREMENTS**

1. **HEALTH CARE RESOURCES SERVICES**:

The Contractor agrees, in accordance with the terms and conditions stated herein, to furnish at the Department of Veterans Affairs hereinafter called Sioux Falls VA Health Care System, Sioux Falls, SD the services specified. The initial listing of services to be furnished and the prices for same are identified in Schedule of Items and the Statement of Objectives.

2. **RESOURCES:**

(a) The services specified in Schedule of Items, Statement of Objectives and Special Contract Requirements may be changed by written modification to this contract. The modification will be prepared by the VA Contracting Officer.

(b) Other necessary personnel for the operation of the services contracted for at VA will be provided by VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.

(c) The services to be performed by the Contractor will be performed within VA policies and procedures and the regulations of the medical staff bylaws of this VA facility.

(d) This contract is a nonpersonal health care services contract as defined in Federal Acquisition Regulation 37.101 and is as follows – “Nonpersonal services contract means a contract under which the personnel rendering the services are not subject, either by the contract’s terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.”

(e) Under no circumstances will Contractor’s employees be considered Sioux Falls VAHCS employees.

(f) Contractor will hold certificate of insurance for general liability and malpractice insurance, workmen’s compensation and vehicle insurance. Prior to award of the contract the Contractor shall furnish to the VA a certificate of insurance evidencing that all required coverage has been obtained. The Contractor shall be responsible for maintaining this certificate/coverage for the duration of the contract.

(g) Under no circumstances will Contractor bill any patient or patient’s insurance company for any procedure. All costs will be charged only to Sioux Falls VAHCS at the designated rate(s) as listed by the Contractor in the Schedule of Items. Those rates will be all-inclusive based on the described service categories herein.

3. **QUALIFICATIONS:**

Personnel assigned by the Contractor to perform the services covered by this contract shall be licensed in a State, Territory or Commonwealth of the United States or the District of Columbia and meet the professional qualification criteria of VA. The qualifications of such personnel shall also be subject to review by VA Chief of Staff and approval by VA Facility Director. The Contracting Officer will be notified prior to any changes in personnel. VA reserves the right to approve the assignment of individual personnel furnished by the Contractor to perform the functions specified in the contract.

* CREDENTIALING AND PRIVILEGING: The personnel assigned by the Contractor must complete VA credentialing process for delineation of clinical privileges in accordance with VHA Handbook 1100.19.

a. Contractor will ensure that all contract personnel to be employed under this requirement participate in the Credentialing and privileging process. No services will be provided by any contract personnel prior to obtaining approval by the Sioux Falls VA Health Care System Professional Standards Board, Clinical Executive Board and Director. The contractor will be provided copies of current requirements and updates as they are published.

b. Privileges will require renewal at least every two (2) years in accordance with Medical Center and (JOINT COMMISSION) requirements. Contract personnel assigned by the contractor to work at the Medical Center will be required to report specific patient outcome information, such as complications, to the Service Chief, Quality improvement data provided by the physicians and/or collected by the Services will be used to analyze individual practice patterns. The Service Chief will utilize the data to formulate recommendations for the Professional Standards Board to consider in the renewal of clinical privileges.

c. It is a policy of this Medical Center that all contract personnel to be employed under this contract must be BLS certified unless a waiver has been granted by a Patient Service Line (PLS) Director. As part of the credentialing process, the contractor BLS certification must be sent to the Medical Staff Office. Failure to provide proof of certification to the Medical Staff Office may impact the contract personnel qualification under this requirement. No services will be provided by any contract personnel prior to obtaining approval by the Sioux Falls VA Health Care System Professional Standards Board, Clinical Executive Board and Director.

4. **KEY PERSONNEL AND TEMPORARY EMERGENCY SUBSTITUTIONS**

The Contractor shall assign to this contract the following key personnel:

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a. For purposes of continuity of care all personnel proposed under this contract must commit to the entire 5 year contract period, including backup-coverage.

b. The Contractor shall make **NO** substitutions of key personnel unless the substitution is necessitated by the individual’s illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 90 calendar days or earlier if practical after the occurrence of any of these events and provide the information required by paragraph (c) below. The Contracting Officer must approve all substitutions.

c. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor after receipt of all required information of the decision on the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel.

d. Permanent and temporary substitutions are subject to the Credentialing and Privileging and security requirements of the contract.

5. **CONTINUITY OF SERVICES**: The contractor shall ensure that qualified backup providers are available to provide coverage during scheduled and unscheduled absences of primary contract providers. Contractor will ensure that all backup providers participate in the Credentialing and Privileging process.

6**. DISASTER/EMERGENCY COVERAGE**: In the event of a Federal, local or community disaster or emergency, the Contractor will continue to provide services to the VA at the same level as is contained in this contract.

7. **STANDARD OF CARE:** The standard of care should be equal to that provided by the VA if the VA were capable of providing the services required at their location. The contractor shall provide competent, quality Plastic surgery services to all patients of the VA Sioux Falls, in the performance of contract requirements. Contractor shall provide all services specified in this contract for any VA beneficiary, regardless of the race, color, religion, sex, or national origin of the person for whom such services are ordered. The Contractor further warrants that he/she shall not resort to subcontracting as a means of circumventing this provision.

8. **ABSENCES:**

a. The payment for any leave, including sick leave, holiday, or vacations time, in excess of authorized absences, is the responsibility of the contractor. Appropriate coverage must be provided in accordance with the contract terms and conditions and must be supplied by the contractor.

 b. The contractor’s employee must be present at the Sioux Falls VA Health Care System (VAHCS) and must be actually performing the required services for the period specified in the contract. Backup coverage is required at all times.

9. **WORK HOURS:**

(a) The services covered by this contract shall be furnished by the contractor as defined herein. The Contractor will not be required, except in case of emergency, to furnish such services on a national holiday or during off-duty hours as described below.

(b) The following terms have the following general meanings:

 (1) Normal Work Hours: 7:00am to 4:00pm; or 8am to 4:30pm and will be negotiated prior to award.

 (2) National Holidays: The ten (10) holidays observed by the Federal Government, are New Year's Day, Washington’s Birthday, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas or any other day specifically declared by the President of the United States to be a national holiday.

10. **PERSONNEL POLICY:**

The Contractor shall assume full responsibility for the protection of its personnel furnishing services under this contract, in accordance with the personnel policy of the Contractor. To carry out this responsibility, the Contractor shall provide worker's compensation, professional liability insurance, health examinations, income tax withholding, and social security payments. The parties agree that the contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.

11. **RECORDKEEPING SYSTEM - CONTRACTOR:**

Contractor is required keep track of procedures performed.

12. **VAHCS MONITORING/RECORDKEEPING:**

Specialty Surgery Administrative Officer will be the Contracting Officer's Technical Representative (COTR) who will monitor Contractor employee work hours/services through one or a combination of the following mechanisms:

(a) Departments being served will monitor Contractor employee procedures to ensure that services called for in the contract have been received by VAHCS. The Contracting Officer's Technical Representative (COTR) will be responsible for verifying contract compliance. Any incidents of Contractor noncompliance as evidenced by the monitoring procedures will be forwarded immediately to the Contracting Officer.

 (b) COTR's office reviews monitoring data. An internal per procedure log is maintained and reviewed for total procedures per month

 (c) Documentation of services performed will be reviewed prior to certifying payment. The COTR will perform periodic spot checks and document with the using service to ensure records monitoring. VA will pay only for services actually performed at VA, and in strict accordance with the schedule of prices/costs shown in the Schedule of Items. Contract monitoring and recordkeeping procedures will be sufficient to ensure proper payment and allow audit verification that services were provided.

(d) Monthly invoices are generated to VA’s financial center who forwards to Service's Administrative Assistant for review. The Administrative Assistant verifies services were actually performed against the schedule and logs. Only after verification are invoices certified for payment.

(e) The using service, through the COTR, will provide a written statement annually to the Contracting Officer to include a summary of Contractor actions and a statement that all requirements of the contract have been fulfilled as agreed. This summary evaluation will be submitted 60 days prior to expiration of contract (and/or prior to election of option year renewals, if applicable).

(f) A Contractor's employee may not certify bills for payment.

13**.** **CONTRACT PERFORMANCE MONITORING:**

 a. Monitoring of contractor’s performance shall be done by the Contracting Officer’s Technical Representative (COTR). Incidents of contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer. Upon award, a Quality Assurance Surveillance Plan will be signed by the Contractor Program Manager and COTR, outlining the evaluation criteria to ensure the contractor is aware of the management and quality criteria required to meet the terms of the contract.

 b. Frequency of Measurement: During contract performance, the COTR will periodically analyze whether the negotiated frequency of surveillance is appropriate for the work being performed. Semi-annual (or quarterly if warranted) reports are prepared and completed by the COTR within 45 days of the end of the reporting period.

 c. Frequency of Performance Assessment Meetings. The COTR shall visit/correspond with the contractor either on an as-needed basis or, at a minimum, twice during the contract period: (1) middle of contract period and (2) end of contract period to assess performance and shall provide a written assessment. This written assessment will be forwarded to the Contracting Officer as documentation of contractor’s performance and/or for a request to exercise option period, renewal of a contract or termination of a contract.

 d. Contractor will review semi-annual (or quarterly) performance measure reports and acknowledge receipt of report by returning a signed copy, along with any comments, to the Contracting Officer within 30 days of receipt of the report.

 e. Contract performances metrics are listed below:

| **Id** | **Indicator** | **Standard** | **Acceptable Quality Level** | **Method Of Surveillance** | **Incentive** |
| --- | --- | --- | --- | --- | --- |
| 1 | Seen by acceptable provider  | 14 days | 90% | Review of Consult QRM Tracking Report | Satisfactory Past performance evaluation. |
| 2 | Consults | Scheduled within 7 calendar days, unless unable to contact patient or patient requests a delay | 100% | Consult Pending Resolution Report | Satisfactory Past performance evaluation. |
| 3 | Procedures  |  Completed within 30 days from receipt of the request | 90% | Review of Consult QRM Tracking Report | Satisfactory Past performance evaluation. |
| 4 | CPRS Requirements: -Preoperative/Pre-procedure Note- Progress Notes  | See – pgs. 11-12  | 95% | Monitored by HIMS using reports from the dictation system and VistA.Medical Records to alert COTR of any provider who is non-compliant with these requirements. | Satisfactory Past performance evaluation. |
| 5 | Medical Records | For inpatients seen within the Medical Center, all medical records will be completed within 30 days following discharge. | 100% | Unsigned and Uncosigned documents report | Satisfactory Past performance evaluation. |
| 6 | Encounters | For each visit performed within the Medical Center, encounters are completed within 14 days of visit | 100% | Encounter action required statistics report | Satisfactory Past performance evaluation. |
| 7 | Encounters with associated signed progress notes | For each visit performed within the Medical Center, encounters will have an associated signed progress note within 10 days following the encounter | 98% | Unsigned and uncosigned documents report | Satisfactory Past performance evaluation. |
| 8 | Clinic Cancellations | For patients seen within the Medical Center, the clinic cancellation rate will be less than <5% | <5% | Missed opportunity report & Clinical cancellation report | Satisfactory Past performance evaluation. |

14**. QUALITY MANAGEMENT REQUIREMENTS:**

a. General

(1) Contractor will adhere to all applicable Joint Commission Standards.

(2) All applicable VAHCS policies and procedures shall be followed by the contract.

(3) Contract personnel shall provide compassionate care with respect for the special needs of the veteran population served.

(4) Care delivered will reflect the Sioux Falls VA Health Care System’s mission, vision and values.

(5) Deviations from the contract requirements must be approved by the Contracting Officer.

(6) Service performance will be satisfactory as defined by the VA National Surgery Quality Improvement Program (NSQIP)\* range for mortality and morbidity in this specialty. In addition, complications must be presented at a departmental Mortality and Morbidity Conference, and the minutes of this conference must be forwarded to the Director, Specialty Care monthly. \*The VA NSQIP program compares risk adjusted observed morbidity and mortality to expected morbidity and mortality and ranks all of the VA programs in the country based on the Observed/Expected ratios.

b. Patient Rights

(1) Care provided will respect and integrate the patient’s beliefs, values and cultural influences.

(2) The Contractor shall involve the patient in care decisions by keeping him/her fully informed about the diagnosis, plan of care and treatment goals, risks and benefits of proposed treatment, and prognosis. Shared decision making shall be pursued.

(3) Protection of all patient’s rights is of highest priority.

(4) The contracted physician is required to review the Patient Rights handbook, and follow the standard of care.

(5) Patient privacy and confidentiality shall be maintained at all times.

(6) Computer access will be granted on a need-to-know basis, and security of computerized information will be maintained at all times.

(7) All patient complaints which cannot be resolved by the contractor shall be referred to the VAHCS Patient Representative.

(8) The contractor and patient care services provided shall be included in VAHCS data collection activities related to patient compliments, complaints and satisfaction.

(9) No eligible veteran shall be denied care for treatment which is not reimbursed by the third party insurance carrier.

c. Patient Safety

(1) Patient safety shall be a primary focus of the contractor.

(2) Every effort shall be made by the contractor to prevent medication errors, falls, and patient injury caused by acts of commission or omission in the delivery of care.

(3) The VAHCS shall determine when a Root Cause Analysis (RCA) is required of the contractor and must be submitted to the COTR in a timely manner.

(4) Contractor will communicate critical test results to the ordering practitioner or the Licensed Responsible Care Giver who is responsible for the care of the patient during that episode of care as outlined in Center Circular 11-91. The write down-read back method of communication will be used, documenting in the medical record the name of the provider notified of the critical test results and the date and time of the notification.

d. Patient Assessment

(1) All care provided shall be based on assessed patient needs. Patient medical history and physical exams shall be performed in accordance with VAHCS Bylaws/ Rules/Regulations, guiding Medical Center policies, and as clinically indicated by patient signs and symptoms. Findings from assessment and reassessment shall be clearly documented in the medical record, which is used by all members of the interdisciplinary care team in care planning and treatment. Primary psychological, social, and nutritional, pain, and overall functional screening and assessment shall be performed by the contractor physician or nurse as appropriate. Assessment for invasive procedures will include all elements as explicitly outlined in VAHCS Bylaws and applicable policies. All required documentation shall be fully completed within VAHCS-required timeframes.

(2) Findings from assessment and reassessment shall be clearly documented in the medical record, which is used by all members of the interdisciplinary care team in care planning and treatment.

(3) Assessment for invasive procedures will include all elements as explicitly outlined in VAHCS Bylaws and applicable policies.

(4) All required documentation shall be fully completed within VAHCS required timeframes.

e. Care of Patients

1. All anesthesia TJC standards and VAHCS policies will be rigorously adhered to for all procedures under contract. Reports will be sent monthly to the COTR, to include confirmation of privileges for procedures performed, complications and adverse outcomes. Medication control, security and safety shall be maintained at all times. Control of prescription pads shall be in accordance with VAHCS policies and procedures. Medications shall only be dispensed, prepared, and administered to patients by appropriately licensed and competent individuals.
2. Contractor will communicate with patient’s primary care provider with any significant issues/complications.
3. The plan of care, all findings from patient assessment and reassessment, and treatment provided shall be documented in the medical record, and integrated into the overall plan of care in all care settings across the continuum.
4. Contract health providers shall, to the maximum extent practicable ensure that that VA inpatient resources are utilized for all VA beneficiaries. Should a VA beneficiary require services or care beyond the capabilities of the VAHCS, as determined by the attending physician and VA Chief of Staff, that patient shall be transferred to an appropriate VA or private medical treatment facility based upon patient condition. Contract health care providers shall seek the approval of the VA Quality Clinical Resource Management Nurse or designee before performing other actions for non-emergent surgical procedures or treatments.
5. All personnel providing direct care services must have appropriate identification and have evidence of appropriate training prior to providing any services to veterans.
6. All accidents, malfunctions, injuries, and deaths related to the delivery of services shall be immediately reported verbally to the VA Contracting Officer’s Technical Representative (COTR). The Contractor may be required to provide evidence of follow-up through a written report of the incident, describing the event, analysis of cause and effect, and corrective action taken. If such a report is requested by the VA COTR, this will be done within three (3) working days of the verbal report. The Contractor shall provide a point of contact (POC) who shall be responsible for the performance of the work under this contract. The POC shall have full authority to act for the Contractor on all matters relating to the daily operation of this contract. The POC may be a contract health care provider performing under this contract. An alternate may be designated, but the Contractor shall identify, in writing, those times when the alternate shall act as the POC.
7. Results are communicated to patients no later than 14 calendar days from the date on which the results are available to the ordering practitioner. Significant abnormalities may require review and communication in shorter timeframes and 14-days represents the outer acceptable limit. For abnormalities that require immediate attention, the 14-day limit is irrelevant, as the communication should occur in the timeframe that minimizes risk to the patient.
8. The Contractor shall identify the POC and alternate in writing to the COTR and Contracting Officer (CO). The Contractor shall give written notification to the COTR and CO of the time when the alternate will act as the POC. The POC shall be available by telephone Monday through Friday, 8:00 AM through 4:30 PM, excluding Federal holidays.
9. The POC shall arrange for pre-credentialed staff coverage when contract health care providers will be unable to provide services for one(1) or more consecutive scheduled shifts.
10. If services are disrupted for more than two (2) consecutive shifts or emergency response requests, the Government reserves the right to procure such services from alternate source, until routine services are restored by the Contractor. When the Government exercises its right to procure these services from an alternate source, the Contractor shall reimburse the government for all charges in excess of the amount that would have normally been incurred by the contract. A copy of the other sources’ service ticket or other verifiable documentation, shall be used as the basis for any reimbursement.

f. Patient Education. Discharge instructions will be provided to and coordinated with the patient and caregiver(s) in the next care setting.

g. Performance Improvement:

(1) The contractor shall fully participate in the VAHCS Performance Improvement (PI) program.

(2) Contractor PI activities may be directed by the VAHCS, VISN or VHA, as well as accreditation or licensing bodies.

(3) High priority shall be given by the contractor to the prevention of risk for the patient.

h. Human Resources:

(1) A physician shall be on-site to assess and treat patients each day that patient care is provided in the clinic.

(2) All contracted staff shall complete a formal VAHCS orientation.

(3) All related documentation, such as completed competency checklists or educational training records, shall be maintained by the contractor and available for VAHCS review upon request.

i. Medical Staff:

(1) The contract LIP will practice within a framework that is clinically relevant and scientifically valid.

(2) The contract physician shall assume the leadership role for improvement activities in the Department.

15. **DESIGNATION OF CONTRACT REPRESENTATIVE:**

A VAHCS representative of the Contracting Officer will be designated to represent the Contracting Officer in furnishing technical guidance and advice regarding the work being performed under this contract. The COTR designated is indicated above. The foregoing is not to be construed as authorization to interpret or furnish advice and information to the Contractor relative to the financial or legal aspects of the contract. Enforcement of these segments is vested in and is the responsibility of the Contracting Officer.

16.     **MEDICAL RECORDS:**

(a)  Clinical or other medical records of VA beneficiaries treated by Contractor are VA records and will remain at VA.  Payment will be withheld if medical records are not complete and in compliance with VA policy.

(b)  Contractor will provide health care to patients seeking such care from or through VA.  As such, the contractor is considered part of the Department health activity for purposes of the following statutes and the VA regulations implementing these statutes:  the Privacy Act, 5 U. S. C. section 552a, and 38 U. S. C. sections 5701, 7705, and 7332.  Contractor and its employees may have access to VA patient medical records to the extent necessary for the contractor to perform this contract.  Contractor and its employees are subject to the penalties and liabilities provided in the statutes and regulations mentioned in the paragraph for unauthorized disclosures of such records and their contents.  Records created by the contractor in the course of treating VA patients under this agreement, are the property of the VA and shall not be accessed, released, transferred or destroyed except in accordance with applicable federal law and regulations. Upon the expiration of this contract or termination of the contract, the contractor will promptly provide the VA with the individually identified VA patient treatment records. VA has unrestricted access to the records generated by the contractor pursuant to this contract.

17. **PAYMENTS UNDER NONPERSONAL SERVICE CONTRACTS:**

The Government shall pay the Contractor once monthly, upon submission of proper invoices or vouchers, the prices stipulated in this contract for services rendered and accepted, less any deductions provided in this contract.

18. **COMPUTER SECURITY:**

(a) VA may provide Contractor and subcontractor, if any, with access to Department of Veterans Affairs (VA) automated patient records and general files maintained on VA computer systems. Contractor, Contractor's employees, and Contractor's subcontractors (if any) shall maintain, access, release, and otherwise manage the information contained in the automated patient record and general file system in accordance with all federal laws governing that information, including federal laws applicable to federal agency records. Contractor shall take reasonable safeguards, both physical and electronic, to safeguard the information and prevent unauthorized disclosures. Contractor, Contractor's employees, and Contractor's subcontractors (if any) shall follow all VA policies governing access to, release of, and management of the information maintained in the automated system. Contractor shall take steps to ensure that its employees and subcontractors (if any) are bound by this requirement and subject to adverse action, up to and including termination of the relationship with Contractor, for failure to follow these requirements and that its employees and subcontractors, if any, meet the same requirements as VA employees for access to information contained in the automated record system. Contractor will utilize computers that are consistent with VA requirements and upgrade its computers if instructed to do so by VA in order to ensure compatibility with the VA system.

(b) In performing this agreement, Contractor shall be considered a part of VA for purposes of 5 U.S.C. §552a, 38 U.S.C. §§5701 and 7332. Contractor's employees and agents may have access to patient medical records and general files to the extent necessary to perform this contract. Notwithstanding any other provision of this agreement, Contractor and/or its employees may not disclose information contained in general files and patient records and or other individually identified patient information, including information and records generated by the Contractor in performance of this agreement, except pursuant to explicit instructions from the VA. For the purposes of this paragraph, instruction to disclose may be provided by these officials only: Contracting Officer, Contracting Officer Technical Representative, the Release of Information supervisor, or VA attorneys.

(c) Records created by Contractor in the course of performing this agreement are the property of the VA and shall not be accessed, released, transferred, or destroyed except in accordance with applicable federal law, regulations, and policy. Access to data will be limited to the minimum necessary for performance of the contract. Contractor will take steps to ensure that access is limited to those employees who need access to the data to perform the contract. Contractor will not copy information contained in the system, either by printing to paper or by copying to another digital format, without the express permission of one of the officials listed in paragraph (b), above, except as is necessary to make single copies in the ordinary course of providing patient care. Contractor will not commingle the data from the system with information from other sources. Contractor shall report any unauthorized disclosure of VA information to the officials listed in paragraph (b).

(d) If this agreement is terminated for any reason, Contractor will provide the VA with all individually-identified VA patient treatment records or other information in its possession, as well as any copies made pursuant to paragraph (c), above within seven (7) days of the termination of the agreement.

(e) Certain information available from the database and other records created by the Contractor under this Agreement are medical quality assurance records protected by 38 U.S.C. §5705; its implementing regulations at 38 U.S.C. §§17.500-511; VHA Directive 98-016,4.b.(1)(d), 4.6(2)(c) and 4.6(4); and Sioux Falls Sioux Falls VA Health Care System Circulars #00-70, Improving Organizational Performance, #00B-15 Information Security, and #00-23 IRM Automated Information System (AIS) Security Policy & Guidelines. These records may be disclosed only as authorized by 38 U.S.C. §5705 and the VA regulations. Disclosure of these records in violation of §5705 is a criminal offense under 38 U.S.C. §5705(e).

(f) Contractor shall follow all VA policies regarding the retention of records. In the alternative, Contractor may deliver the records to VA for retention.

(g) Any changes in the law or regulations, VA mandatory and directory policies or VA Directives or Handbooks governing the information covered by this agreement during the term of this agreement shall be deemed to be incorporated into this agreement. Contractor shall educate its employees and subcontractors, if any, of the requirements of this section and shall advise its employees and subcontractors, if any, of any changes as they occur. On Contractor's request, VA will provide trainers who can educate Contractor's employees and subcontractors, if any, of their obligations under this section.

(h) Contractor shall make its internal policies and practices regarding the safeguarding of medical and/or electronic information available to federal agencies with enforcement authority over the maintenance of those records upon request.

19. **CONTRACTOR PERSONNEL SECURITY REQUIREMENTS:**

All Contractor employees and/or agents who need access to the Department of Veterans Affairs computer systems in order to perform the Contract will be the subject of background investigations. Each Contractor employee and/or agent must receive a favorable adjudication from the VA Law Enforcement Training Center/SIC prior to performing any part of the Contract. If the investigation is not completed prior to the start of the Contract, the Contractor will be responsible for the actions of those individuals they provide to perform work.

1. Position Sensitivity - The position sensitivity has been designated as Low Risk.

2. Background Investigation - The level of background investigation commensurate with the required level of access is National Agency Check with Written Inquiries

3. Contractor Responsibilities:

a. The contractor shall bear the expense of obtaining background investigations. If the Office of Personnel Management (OPM) conducts the investigation, the contractor shall reimburse VA within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month’s invoice(s) for services rendered.

b. It is imperative for the contractor to provide, at the request of VA, a listing of contractor personnel performing services under the contract in order for the background investigation process to commence. This list will include name (first, middle, last) social security number; date of birth; city, state, and country of birth.

c. The contractor or their employees shall submit a complete background investigation packet. Additional guidance and information in completing the required forms, and examples of the forms, can be found at <http://www1.va.gov/VABackground_Investigations/page.cfm?pg=2>.

The following required forms must be submitted to the VA Office of Security and Law Enforcement **before** contract performance begins:

 (i) Standard Form 85, Questionnaire for Non-Sensitive Positions

 (ii) Optional Form 306, Declaration for Federal Employment

1. Standard Form 86A (EG), Continuation Sheet for Questionnaire
2. Electronic Fingerprint Form

Fingerprinting is required with the background investigation. Fingerprinting can be done at the local VA Facility. The Electronic Fingerprint Verification Form must be submitted with the above required forms.

d. The Contractor shall inform the contract employee that when filling out Standard Form 85, that there should be no gaps in employment history. Any gaps in employment history on Standard Form 85 may result in OPM rejecting the documentation for investigation and delay contract performance.

e. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract, and at the request of the VA, submit another employee for consideration.

f. The contractor may utilize a private investigating agency if such agency possesses an OPM and Defense Security Service certification. A Cage Code number must be provided to the VA Office of Security and Law Enforcement. VA Office of Security and Law Enforcement will verify the information and advise the contracting officer whether contractor’s access to the computer systems can be authorized.

g. All contractor employees and subcontractors are required to complete VA’s Privacy training annually. All Contractor employees and subcontractors requiring access to VA computer network are required to complete Cyber Security training courses annually either on-line or hard copy. Documented proof must be provided to the Contracting Officer

h. The contractor will notify the COTR immediately when their employee(s) no longer require access to VA computer systems.

4. Government Responsibilities:

a. The contracting officer will request the contractor employee’s background investigation by the Office of Security and Law Enforcement.

b. The Office of Security and Law Enforcement will notify the contractor with instructions for the contractor's employees, coordinate the background investigations, and notify the contracting officer and contractor of the results of the investigations.

c. The VA facility will pay for requested investigations in advance. A bill for collection will be sent to the contractor to reimburse the VA facility. The contractor will reimburse the VA facility within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month’s invoice(s) for services rendered.

5. The current fees associated with background investigations are $210.00 each for low level investigation, $850.00 each for medium level investigation, and $2,900.00 each for high level investigation.

**SECURITY TRAINING:** Contractor employees and/or agents are required to complete annual security training and sign a VA Computer Access Agreement prior to having access to VA computer system. In addition, if providing medical services, Contractor employees and/or agents will attend Computerized Patient Record System (CPRS) training prior to providing any patient care services, including on-call/emergency coverage at VA. Contractor employees and/or agents must document patient care in CPRS to comply with VA and JCAHO standards.

As VA routinely reviews and updates policies and procedures covering contractor computer access, security requirements may change during the term of this contact and new polices and procedures may be implemented unilaterally during the term of this agreement.

**SUBCONTRACTORS:** To the extent that the Contract is performed by subcontractors whose employees need access to the VA computer system to perform their responsibilities, these requirements apply to employees and/or agents of the sub-contractors. The Contractor will impose these same terms on its agreement with the subcontractors.

20. **BLOOD BORNE PATHOGENS:** Contractor and the employees provided pursuant to this agreement will comply with the effective VAHCS Policy (and Occupational Health requirements in accordance with OSHA Blood Borne Pathogens (BBP) Law and the OSHA Tuberculosis Compliance Directive, enforceable under OSHA’s General Duty Clause) governing health care workers infected with a blood borne pathogen. If the Contractor obtains information that a health care worker providing care pursuant to this agreement may be infected with a blood borne pathogen, Contractor will advise the Contracting Officer immediately.

21. **INFECTION CONTROL COMPLIANCE:** Contractor shall provide written certification of training compliance with the Blood borne Pathogens Standards, 29 CFR Part 1910.1030 (copy available on request) to the Administrative Contracting Officer prior to Contractor compensating work shall receive certification. Contractor/contractor staff shall adhere to VAHCS Infection Control policies and procedures.

1. Mantoux Testing- Contractor shall provide evidence to the Administrative Contracting Officer:
2. Negative PPD test within fourteen (14) calendar days prior to beginning service. If an earlier PPD test was given over twelve (12) months previously, the current test shall be a 2-step Mantoux test.
3. Medical evidence that personnel are disease free for those having a positive PPD.
4. A regular annual re-testing program for TB shall be established and maintained by the Contractor. Contractor shall provide evidence of re-tests to the Administrative Contracting Officer within ten (10) calendar days of the re-test
5. Hepatitis B Vaccination
6. The Contractor shall consider the need for Hepatitis B vaccine and vaccination series within ten (10) days of contract employment and follow-up if there has been an exposure incident. VA shall not provide the vaccine or vaccination series.
7. VA Form 10-5549c, Information About Hepatitis B Vaccine (Recombinant), Consent Form or VA Form 10-549d, Hepatitis B Vaccine Declination (Mandatory) shall be submitted to the Administrative Contracting Officer within thirty (30) days of waiver or completion of the first in the series of the Hepatitis B Vaccine and at completion of the vaccination series.
8. Drug Testing: All Contractor personnel shall be subject to VA’s Drug-Free Workplace Policy. Personnel may receive a drug test and are subject to random drug testing thereafter. This includes any situation of “reasonable suspicion” and “accident or unsafe practice testing”. Refusal to be tested or interfering with the process shall result in immediate termination of the contract. In addition, Contractor shall be subject to background check with local and county law officials to determine “suitability” for this sensitive position.

22. **BASIC LIFE SUPPORT (BLS) AND ADVANCED CARDIAC LIFE SUPPORT (ACLS) TRAINING:**

 For all providers that will be utilizing moderate sedation, evidence of current ACLS (or equivalent) training is required.   For providers that will not be utilizing moderate sedation, evidence of current BLS training (or equivalent to include CPR/AED training or VA Heart Saver Class) will be required Note: Training classes are offered at the VA at no cost to the contractor.   Contact Employee Education, in collaboration with the COTR, at the Sioux Falls VA for registration instructions.   A certificate of training must be provided to the clinical service’s Administrative Officer with a copy forwarded to the COTR.

23. **REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS):**

1. As prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates contractor past performance on all contracts that exceed $100,000, and shares those evaluations with other Federal Government contract specialists and procurement officials. The FAR requires that the contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement VA uses an online database, the Contractor Performance Assessment Reporting System (CPARS), which is maintained by the Naval Sea Systems Command (NAVSEA). The CPARS database information is shared with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies.
2. Each contractor whose contract award is estimated to exceed $100,000 is required to register with the NAVSEA CPARS database at the following web address <http://www.cpars.gov/>. Help in registering can be obtained by contacting CPARS Support E-mail webptsmh@navy.mil or by calling (207) 438-1690. Registration should occur no later than thirty days after contract award, and must be kept current should there be any change to the contractor’s registered representative.
3. For contracts with a period of one year or less, the contracting officer will perform a single evaluation when the contract is complete. For contracts exceeding one year, the contracting officer will evaluate the contractor’s performance annually. Interim reports will be filed each year until the last year of the contract, when the final report will be completed. The report shall be assigned in CPS to the contractor’s designated representative for comment. The contractor representative will have thirty days to submit any comments and re-assign the report to the VA contracting officer.
4. Failure to have a current registration with the NIH CPS database, or to re-assign the report to the VA contracting officer within those thirty days, will result in the Government’s evaluation being placed on file in the database with a statement that the contractor failed to respond.

**Malpractice insurance policy requirement (See VAAR Clause 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE)**.

The contractor will provide professional liability insurance that must include coverage for peer review should the contractor employee participate in peer review activities, defined as “services provided by an insured in reviewing professional standards, evaluation and/or improving the quality of care, and reviewing the qualification, credentials and/or competence of any health care provider…”.

**Contractor Internal Compliance Plan:**

In Accordance with the American Health Information Management Association, (AHIMA), Centers for Medicare and Medicaid Services (CMS),  VHA Directive 2003-028 "Compliance and Business Integrity Program", its updates or replacement directives, HHS OIG Compliance Program Guidance for Hospitals, as published 63 FR 8987 (February 23, 1998) and HHS OIG Supplemental Compliance Program Guidance for Hospitals as published at 70 FR 4858 ( January 31, 2005) the contractor is to provide in writing their internal Compliance Program, Training and Monitoring Plans which is to include documentation of training and monitoring procedures.

**Annual VHA Training:**

In accordance with VHA Directive 2003-028 "Compliance and Business Integrity Program", its updates or replacement directives, IG Guidance at 8994, Section II( C ); Guidance at 4875, Section III ( B )( 4) Sentencing Guidelines, Section 8B2.1 (b) (4) (B)  annual compliance training is to be provided to all contractors within the scope of their work.. The medical center COTR's are to coordinate the annual training with their respective Compliance and Business Integrity Officers. A copy of the documentation of the completed annual training is to be provided to the Compliance and Business Integrity Officers for their files.

**Contractor Certification**

The Contractor certifies that the Contractor shall comply with any and all legal provisions contained in the Immigration and Nationality Act of 1952, As Amended; its related laws and regulations that are enforced by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor as these may relate to non-immigrant foreign nationals working under contract or subcontract for the Contractor while providing services to Department of Veterans Affairs patient referrals;

While performing services for the Department of Veterans Affairs, the Contractor shall not knowingly employ, contract or subcontract with an illegal alien; foreign national non-immigrant who is in violation their status, as a result of their failure to maintain or comply with the terms and conditions of their admission into the United States.

If the Contractor fails to comply with any requirements outlined in the preceding paragraphs or its Agency regulations, the Department of Veterans Affairs may, at its discretion, require that the foreign national who failed to maintain their legal status in the United States or otherwise failed to comply with the requirements of the laws administered by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor, shall be prohibited from working at the Contractor’s place of business that services Department of Veterans Affairs patient referrals; or other place where the Contractor provides services to veterans who have been referred by the Department of Veterans Affairs; and shall form the basis for termination of this contract for breach.

The Contractor agrees to obtain a similar certification from its subcontractors.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Typed Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

**END OF SPECIAL CONTRACT REQUIREMENTS**

**VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY REQUIREMENTS**

**1. 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.

**2. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS**

a. 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. 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.

c. 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.

d. 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.

e. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor’s employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.

**3. VA INFORMATION CUSTODIAL LANGUAGE**

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

b. VA information should not be co-mingled, if possible, with any other data on the 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.

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

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

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

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

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

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

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

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

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

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

**4. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE**

a. 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. 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.

**5. SECURITY INCIDENT INVESTIGATION**

a. The term “security incident” means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor/subcontractor shall immediately notify the COTR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/subcontractor has access.

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

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

d. In instances of theft or break-in or other criminal activity, the contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and Security and Law Enforcement. The contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.

**6. LIQUIDATED DAMAGES FOR DATA BREACH**

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

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

c. Each risk analysis shall address all relevant information concerning the data breach, including the following:

(1) Nature of the event (loss, theft, unauthorized access);

(2) Description of the event, including:

(a) date of occurrence;

(b) data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;

(3) Number of individuals affected or potentially affected;

(4) Names of individuals or groups affected or potentially affected;

(5) Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text;

(6) Amount of time the data has been out of VA control;

(7) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);

 (8) Known misuses of data containing sensitive personal information, if any;

(9) Assessment of the potential harm to the affected individuals;

(10) Data breach analysis as outlined in 6500.2 Handbook, *Management of Security and Privacy Incidents*, as appropriate; and

(11) Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.

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

(1) Notification;

(2) One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;

(3) Data breach analysis;

(4) Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;

(5) One year of identity theft insurance with $20,000.00 coverage at $0 deductible; and

(6) Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

**7. 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-days’ 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.

**8. TRAINING**

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

(1) Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior*, Appendix E relating to access to VA information and information systems;

(2) Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;

(3) Successfully complete the appropriate VA privacy training and annually complete required privacy training; and

(4) Successfully complete any additional cyber security or privacy training, as required for

VA personnel with equivalent information system access *[to be defined by the VA program official and provided to the contracting officer for inclusion in the solicitation document – e.g., any role-based information security training required in accordance with NIST Special Publication 800-16, Information Technology Security Training Requirements.]*

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

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

## B.2 Price/Cost Schedule

### Item Information

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| ITEM NUMBER | DESCRIPTION OF SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
| 0001 | Plastic Surgery Services BASE YEAR May 1, 2013 Through April 30, 2014 | 1.00 | JB | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 0002 | Plastic Surgery Serivces: OPTION YEAR ONE (1): May 1, 2014 Through April 30, 2015 | 1.00 | JB | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 0003 | Plastic Surgery Services: OPTION YEAR TWO (2): May 1, 2015 Through April 30, 2016 | 1.00 | JB | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 0004 | Plastic Surgery Services: OPTION YEAR THREE (3): May 1, 2016 Through April 30, 2017 | 1.00 | JB | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 0005 | Plastic Surgery Services: OPTION YEAR FOUR (4): May 1, 2017 Through April 30, 2018 | 1.00 | JB | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 0006 | Administrative Time/Training | 8.00 | HR | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  | **GRAND TOTAL** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

# 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 reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights-

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

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

 (b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the 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.

 (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.

(End of Clause)

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

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

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

## C.2 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)

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

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

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

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

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

(End of Clause)

## C.3 52.203-16 PREVENTING PERSONAL CONFLICTS OF INTEREST (DEC 2011)

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

 "Acquisition function closely associated with inherently governmental functions" means supporting or providing advice or recommendations with regard to the following activities of a Federal agency:

 (1) Planning acquisitions.

 (2) Determining what supplies or services are to be acquired by the Government, including developing statements of work.

 (3) Developing or approving any contractual documents, to include documents defining requirements, incentive plans, and evaluation criteria.

 (4) Evaluating contract proposals.

 (5) Awarding Government contracts.

 (6) Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services).

 (7) Terminating contracts.

 (8) Determining whether contract costs are reasonable, allocable, and allowable.

 "Covered employee" means an individual who performs an acquisition function closely associated with inherently governmental functions and is--

 (1) An employee of the contractor; or

 (2) A subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

 "Non-public information" means any Government or third-party information that--

 (1) Is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) or otherwise protected from disclosure by statute, Executive order, or regulation; or

 (2) Has not been disseminated to the general public and the Government has not yet determined whether the information can or will be made available to the public.

 "Personal conflict of interest" means a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the Government when performing under the contract. (A *de minimis* interest that would not "impair the employee's ability to act impartially and in the best interest of the Government" is not covered under this definition.)

 (1) Among the sources of personal conflicts of interest are--

 (i) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household;

 (ii) Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and

 (iii) Gifts, including travel.

 (2) For example, financial interests referred to in paragraph (1) of this definition may arise from--

 (i) Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;

 (ii) Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);

 (iii) Services provided in exchange for honorariums or travel expense reimbursements;

 (iv) Research funding or other forms of research support;

 (v) Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);

 (vi) Real estate investments;

 (vii) Patents, copyrights, and other intellectual property interests; or

 (viii) Business ownership and investment interests.

 (b) *Requirements.* The Contractor shall--

 (1) Have procedures in place to screen covered employees for potential personal conflicts of interest, by--

 (i) Obtaining and maintaining from each covered employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:

 (A) Financial interests of the covered employee, of close family members, or of other members of the covered employee's household.

 (B) Other employment or financial relationships of the covered employee (including seeking or negotiating for prospective employment or business).

 (C) Gifts, including travel; and

 (ii) Requiring each covered employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the covered employee is performing.

 (2) For each covered employee--

 (i) Prevent personal conflicts of interest, including not assigning or allowing a covered employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency;

 (ii) Prohibit use of non-public information accessed through performance of a Government contract for personal gain; and

 (iii) Obtain a signed non-disclosure agreement to prohibit disclosure of non-public information accessed through performance of a Government contract.

 (3) Inform covered employees of their obligation--

 (i) To disclose and prevent personal conflicts of interest;

 (ii) Not to use non-public information accessed through performance of a Government contract for personal gain; and

 (iii) To avoid even the appearance of personal conflicts of interest;

 (4) Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;

 (5) Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause; and

 (6) Report to the Contracting Officer any personal conflict-of-interest violation by a covered employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include--

 (i) Failure by a covered employee to disclose a personal conflict of interest;

 (ii) Use by a covered employee of non-public information accessed through performance of a Government contract for personal gain; and

 (iii) Failure of a covered employee to comply with the terms of a non-disclosure agreement.

 (c) Mitigation or waiver*.* (1) In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required by paragraph (b)(2)(i) of this clause, the Contractor may submit a request through the Contracting Officer to the Head of the Contracting Activity for--

 (i) Agreement to a plan to mitigate the personal conflict of interest; or

 (ii) A waiver of the requirement.

 (2) The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.

 (3) The Contractor shall--

 (i) Comply, and require compliance by the covered employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or

 (ii) Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

 (d) *Subcontract flowdown.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts--

 (1) That exceed $150,000; and

 (2) In which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).

(End of Clause)

## C.4 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)

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

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

 (1) When no longer needed for contract performance.

 (2) Upon completion of the Contractor employee's employment.

 (3) Upon contract completion or termination.

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

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

(End of Clause)

## C.5 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 May 1, 2013 through April 31, 2018.

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

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

(End of Clause)

## C.6 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 One (1), the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

 (1) Any order for a single item in excess of Three Hundred and Sixty-Five (365);

 (2) Any order for a combination of items in excess of Three Hundred and Sixty-Five (365); or

 (3) A series of orders from the same ordering office within 365 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

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

 (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within Seven (7) days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

## C.7 52.216-22 INDEFINITE QUANTITY (OCT 1995)

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

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

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

 (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after April 31, 2018.

(End of Clause)

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

 The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days.

(End of Clause)

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

 (a) The Government may extend the term of this contract by written notice to the Contractor within 30 days; provided that the Government gives 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.

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

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

(End of Clause)

## C.10 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011) ALTERNATE II (OCT 2001)

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

 (b) *Definitions*. As used in this clause--

 "Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

 "Commercial item" means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

 "Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

 "Electronic Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at http://www.esrs.gov.

 "Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

 "Individual contract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

 "Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

 "Subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

 (c) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

 (d) The offeror's subcontracting plan shall include the following:

 (1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women- owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

 (i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

 (ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

 (A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

 (B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

 (C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

 (D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

 (2) A statement of-

 (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

 (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

 (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

 (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

 (v) Total dollars planned to be subcontracted to HUBZone small business concerns;

 (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

 (vii) Total dollars planned to be subcontracted to women-owned small business concerns.

 (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-

 (i) Small business concerns;

 (ii) Veteran-owned small business concerns;

 (iii) Service-disabled veteran-owned small business concerns;

 (iv) HUBZone small business concerns;

 (v) Small disadvantaged business concerns; and

 (vi) Women-owned small business concerns.

 (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

 (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

 (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with-

 (i) Small business concerns (including ANC and Indian tribes);

 (ii) Veteran-owned small business concerns;

 (iii) Service-disabled veteran-owned small business concerns;

 (iv) HUBZone small business concerns;

 (v) Small disadvantaged business concerns (including ANC and Indian tribes); and

 (vi) Women-owned small business concerns.

 (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

 (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

 (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $650,000 ($1.5 million for construction of any public facility with further subcontracting possibilities) to adopt a subcontracting plan that complies with the requirements of this clause.

 (10) Assurances that the offeror will-

 (i) Cooperate in any studies or surveys as may be required;

 (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

 (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

 (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

 (v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

 (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

 (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

 (i) Source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

 (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

 (iii) Records on each subcontract solicitation resulting in an award of more than $150,000, indicating-

 (A) Whether small business concerns were solicited and, if not, why not;

 (B) Whether veteran-owned small business concerns were solicited and, if not, why not;

 (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

 (D) Whether HUBZone small business concerns were solicited and, if not, why not;

 (E) Whether small disadvantaged business concerns were solicited and, if not, why not;

 (F) Whether women-owned small business concerns were solicited and, if not, why not; and

 (G) If applicable, the reason award was not made to a small business concern.

 (iv) Records of any outreach efforts to contact-

 (A) Trade associations;

 (B) Business development organizations;

 (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

 (D) Veterans service organizations.

 (v) Records of internal guidance and encouragement provided to buyers through-

 (A) Workshops, seminars, training, etc.; and

 (B) Monitoring performance to evaluate compliance with the program's requirements.

 (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

 (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

 (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

 (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

 (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

 (4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

 (5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

 (6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

 (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided-

 (1) The master plan has been approved;

 (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

 (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

 (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

 (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

 (i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

 (j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-- Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

 (k) The failure of the Contractor or subcontractor to comply in good faith with-

 (1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

 (2) An approved plan required by this clause, shall be a material breach of the contract.

 (l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

 (1) *ISR.* This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

 (i) The report shall be submitted semiannually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

 (ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

 (iii) The authority to acknowledge receipt or reject the ISR resides--

 (A) In the case of the prime Contractor, with the Contracting Officer; and

 (B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

 (2) *SSR.*

 (i) Reports submitted under individual contract plans--

 (A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

 (B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

 (C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $650,000 (over $1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

 (D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

 (E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

 (F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

 (ii) Reports submitted under a commercial plan--

 (A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

 (B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

 (C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

 (D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

 (iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of Clause)

## C.11 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)

 The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of Clause)

## C.12 52.224-2 PRIVACY ACT (APR 1984)

 (a) The Contractor agrees to--

 (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--

 (i) The systems of records; and

 (ii) The design, development, or operation work that the contractor is to perform;

 (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 design, development, or operation of a system of records on individuals that is subject to the Act; and

 (3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

 (b) 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 system of records 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 system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

 (c) (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

 (2) "Record," as used in this clause, 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 that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

 (3) "System of records on individuals," as used in this clause, 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.

(End of Clause)

## C.13 52.228-5 INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

 (a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

 (b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective--

 (1) For such period as the laws of the State in which this contract is to be performed prescribe; or

 (2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

 (c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of Clause)

## C.14 52.237-3 CONTINUITY OF SERVICES (JAN 1991)

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

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

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

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

(End of Clause)

## C.15 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (FAR 52.237-7) (JAN 1997)

 (a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided, but retains no control over professional aspects of the services rendered, including by example, the Contractor's professional medical judgment, diagnosis, or specific medical treatments. The Contractor shall be solely liable for and expressly agrees to idemnify the Government with respect to any liability producing acts or omissions by it or by its employees or agents. The Contractor shall maintain liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: \*\_\_\_\_\_\_\_\_\_\_\_.

\* Amounts are listed below:

 (b) An apparently successful offeror, upon request by the Contracting Officer, shall furnish prior to contract award evidence of its insurability concerning the medical liability insurance required by paragraph (a) of this clause.

 (c) Liability insurance may be on either an occurrences basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement (tail) for a period of not less than 3 years after the end of the contract term must also be provided.

 (d) Evidence of insurance documenting the required coverage for each health care provider who will perform under this contract shall be provided to the Contracting Officer prior to the commencement of services under this contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the commencement of services, evidence of such endorsement shall be provided to the Contracting Officer prior to the expiration of this contract. Final payment under this contract shall be withheld until evidence of the extended reporting endorsement is provided to the Contracting Officer.

 (e) The policies evidencing required insurance shall also contain an endorsement to the effect that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. If during the performance period of the contract the Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this clause, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

 (f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts under this contract for health care services and shall require such subcontractors to provide evidence of and maintain insurance in accordance with paragraph (a) of this clause. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Contracting Officer evidence of such insurance.

\* Amounts from paragraph (a) above:

 $1,000,000.00

(End of Clause)

## C.16 SUPPLEMENTAL INSURANCE REQUIREMENTS

 In accordance with FAR 28.307-2 and FAR 52.228-5, the following minimum coverage shall apply to this contract:

 (a) Workers' compensation and employers liability: Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least $100,000 is required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

 (b) General Liability: $500,000.00 per occurrences.

 (c) Automobile liability: $200,000.00 per person; $500,000.00 per occurrence and $20,000.00 property damage.

 (d) The successful bidder must present to the Contracting Officer, prior to award, evidence of general liability insurance without any exclusionary clauses for asbestos that would void the general liability coverage.

 (End of Clause)

## C.17 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)

 Funds are not presently available for performance under this contract beyond 2018. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond 2018, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of Clause)

## C.18 52.232-99 PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEVIATION) (AUG 2012)

 This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

 (a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.

 (b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

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

(End of Clause)

## C.19 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)

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

(End of Clause)

## C.20 VAAR 852.216-70 ESTIMATED QUANTITIES (APR 1984)

 As it is impossible to determine the exact quantities that will be required during the contract term, each bidder whose bid is accepted wholly or in part will be required to deliver all articles or services that may be ordered during the contract term, except as he/she otherwise indicates in his/her bid and except as otherwise provided herein. Bids will be considered if made with the proviso that the total quantities delivered shall not exceed a certain specified quantity. Bids offering less than 75 percent of the estimated requirement or which provide that the Government shall guarantee any definite quantity, will not be considered. The fact that quantities are estimated shall not relieve the contractor from filling all orders placed under this contract to the extent of his/ her obligation. Also, the Department of Veterans Affairs shall not be relieved of its obligation to order from the contractor all articles or services that may, in the judgment of the ordering officer, be needed except that in the public exigency procurement may be made without regard to this contract.

(End of Clause)

## C.21 VAAR 852.219-9 VA SMALL BUSINESS SUBCONTRACTING PLAN MINIMUM REQUIREMENTS (DEC 2009)

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

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

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

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

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

(End of Clause)

## C.22 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)

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

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

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

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

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

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

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

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

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

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

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

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

 (e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

 (1) Awards made to foreign vendors for work performed outside the United States;

 (2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

 (3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

 (4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

 (5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

## C.23 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)

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

\* Amounts are listed below:

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

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

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

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

\* Amounts from paragraph (a) above:

 $1,000,000.00

(End of Clause)

## C.24 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)

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

(End of Clause)

## C.25 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008)

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

(End of Provision)

 (End of Addendum to 52.212-4)

## C.26 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2013)

 (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.)

 [X] (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 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).

 [X] (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 (FEB 2012) (41 U.S.C. 2313).

 [] (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 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]

 [X] (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.

 [X] (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.

 [X] (16) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).

 [X] (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 2012) (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).

 [] (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).

 [X] (34) 52.222-54, Employment Eligibility Verification (JUL 2012). (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 (NOV 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, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

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

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

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

 [] (41) 52.225-5, Trade Agreements (NOV 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).

 [X] (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.).

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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.).

 [X] (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) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O.13495).

 [] (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247)

 [] (9) 52.237-11, Accepting and Dispensing of $1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

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

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

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

 (ii) 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.

 (iii) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

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

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

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

 (vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

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

 (ix) 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) 52.222-51, 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.).

 (xi) 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.).

 (xii) 52.222-54, Employee Eligibility Verification (JUL 2012)

 (xiii) 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.

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

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

(End of Clause)

# SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

See attached document: P11 CPT Codes.

# SECTION E - SOLICITATION PROVISIONS

**INSTRUCTIONS TO OFFERORS**

**GENERAL INSTRUCTIONS FOR TECHNICAL, PAST PERFORMANCE & COST PROPOSAL SUBMISSION:**

**Format Requirements for Submission of Qualifications:** All proposal shall be submitted electronically to Nicole Lindstrom by email nicole.lindstrom@va.gov no later than April 1, 2013. The Technical Proposal MUST NOT contain any reference to cost/price. Keep your information brief, simple and to the point. The proposals should not simply rephrase or restate the Government’s requirements, but shall address how the Offeror intends to meet these requirements. Offerors shall assume that the Government has no prior knowledge of their abilities and experience, and will base its evaluation information presented in the Offeror’s Proposal. It is critical that each factor of the technical evaluation criteria listed is addressed.

The Government may award a Contract on the basis of initial offers received, without discussions.

Therefore, each initial offer must contain the offeror’s best terms from technical, small business participation, past performance and price. Award will be made to the offeror(s) that has been determined to provide the “best value” to the government. Proposals received in response to this solicitation will be evaluated on the following:

**SOLICITATION QUESTIONS:** Questions concerning the solicitation have a final cut-off date for question submission of 1:00PM Central Standard Time, March 28, 2013. Questions will only be accepted by email at Nicole.lindstrom@va.gov.

Offerors will be considered only from offerors who are regularly established in the business called for and whom in the judgment of the Contracting Officer (CO) are financially responsible and able to show evidence of their reliability, ability, experience, equipment, facilities and personnel directly employed or supervised by them to render prompt and satisfactory services.

**TECHNICAL REQUIRENTS:**

**Sub Factor One (1):** Provide licenses/credentials/certifications of all personnel who will perform under this contract (including names, qualifications, and position title).

**Sub Factor Two (2):** Describe in detail recent and relevant experience with Plastic Surgery Services (to include a narrative detailing years of experience providing plastic surgery services).

**Sub Factor Three (3):** Describe in detail any ongoing training in relation to Plastic Surgery Services.

**Sub Factor Four (4):** Describe in detail how the Government’s workload needs will be met and how scheduling procedures will be accomplished. As well as provide a written management plan highlighting the abilities of meeting the Government’s variable workload.

**PAST PERFORMANCE:**

Past Performance:  Past performance and quality of services offered.  “Past performance evaluations will be conducted using information provided with the offer, information obtained from references, information obtained from the CPS or PPIRS, and information from any other sources deemed appropriate.  When evaluating past performance the government may consider the currency and relevancy of the information, the source of the information, the context of the data provided, and the general trends in the contractor’s performance.   The government may take into account past performance information regarding predecessor companies, key personnel who have relevant experience and/or subcontractors that will perform major or critical aspects of the requirement.  An offeror that has no available relevant past performance history will not be evaluated favorably or unfavorably.  Offeror is to provide the following:

1. Identify the type and scope of practice for the past (3) years addressing professional background, experience and level of professional competence.
2. Provide a list of three references including name, address and contract personal and telephone number.
3. Provide documentation of any past/pending malpractice/tort claims.

**PRICE:**

See Attachment A. Price will be evaluated based on total cost for base and all options.

 (b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

 (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.

**Technical and Past Performance are the non-price evaluation factors and are listed in descending order of importance. All sub factors identified under the listed evaluation factors are equal in importance and when combined, are significantly more important than price.**

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:

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| **FAR Number** | **Title** | **Date** |
| 52.217-5 | EVALUATION OF OPTIONS | JUL 1990 |

## E.1 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)

 (a) In accordance with Division H, sections 8124 and 8125 of P.L. 112-74 and sections 738 and 739 of P.L. 112-55 none of the funds made available by either Act may be used to enter into a contract with any corporation that—

 (1) Has an unpaid federal tax liability, unless the agency has considered suspension or debarment of the corporation and the Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

 (2) Has a felony criminal violation under any Federal or State law within the preceding 24 months, unless the agency has considered suspension or debarment of the corporation and Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

 (b) The Offeror represents that—

 (1) The offeror does [ ] does not [ ] have any unpaid Federal tax liability that has been assessed and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

 (2) The offeror, its officers or agents acting on its behalf have [ ] have not [ ] been convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

(End of Provision)

## E.2 52.216-1 TYPE OF CONTRACT (APR 1984)

 The Government contemplates award of a Firm Fixed Price, Indefinite Quantity contract resulting from this solicitation.

(End of Provision)

## E.3 52.233-2 SERVICE OF PROTEST (SEP 2006)

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

Nicole Lindstrom

 Contracting Officer

 Hand-Carried Address:

 Department of Veterans Affairs

 Service Area Office, Central Region 10F

 708 South 3rd Street

 Minneapolis MN 55415

 Mailing Address:

 Department of Veterans Affairs

 Service Area Office, Central Region 10F

 708 South 3rd Street

 Minneapolis MN 55415

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

(End of Provision)

## E.4 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)

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

 (1) Include the name, address, fax number, and telephone number of the protester;

 (2) Identify the solicitation and/or contract number;

 (3) Include an original signed by the protester or the protester's representative and at least one copy;

 (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;

 (5) Specifically request a ruling of the individual upon whom the protest is served;

 (6) State the form of relief requested; and

 (7) Provide all information establishing the timeliness of the protest.

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

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

(End of Provision)

## E.5 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)

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

(End of Provision)

 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

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| **FAR Number** | **Title** | **Date** |
| 52.225-25 | PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN-- REPRESENTATION AND CERTIFICATIONS | DEC 2012 |

## E.6 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

(End of Provision)

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| **FAR Number** | **Title** | **Date** |
| 52.232-38 | SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER | MAY 1999 |

## E.7 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)

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

(End of Provision)

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| **FAR Number** | **Title** | **Date** |
| 852.273-70 | LATE OFFERS | JAN 2003 |

## E.8 VAAR 852.273-74 AWARD WITHOUT EXCHANGES (JAN 2003)

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

(End of Provision)

 (End of Addendum to 52.212-1)

## E.9 52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

 (a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

 Technical Requirements

 Past Performance

 Technical and past performance, when combined, are significantly more important.

 (b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

 (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.

(End of Provision)

## E.10 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (DEC 2012)

 An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <https://www.acquisition.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (o) of this provision.

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

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

 "Forced or indentured child labor" means all work or service--

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

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

 "Inverted domestic corporation", as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), i.e., a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 26 U.S.C. 7874.

 "Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999, except--

 (1) FSC 5510, Lumber and Related Basic Wood Materials;

 (2) Federal Supply Group (FSG) 87, Agricultural Supplies;

 (3) FSG 88, Live Animals;

 (4) FSG 89, Food and Related Consumables;

 (5) FSC 9410, Crude Grades of Plant Materials;

 (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;

 (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

 (8) FSC 9610, Ores;

 (9) FSC 9620, Minerals, Natural and Synthetic; and

 (10) FSC 9630, Additive Metal Materials.

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

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

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

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

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

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

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

 (6) Have been voluntarily suspended.

 "Sensitive technology"--

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

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

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

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

 "Service-disabled veteran-owned small business concern"--

 (1) Means a small business concern--

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

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

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

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

 "Subsidiary" means an entity in which more than 50 percent of the entity is owned--

 (1) Directly by a parent corporation; or

 (2) Through another subsidiary of a parent corporation.

 "Veteran-owned small business concern" means a small business concern--

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

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

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

 "Women-owned small business concern" means a small business concern--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (10) [*Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.*]

 (i) *General.* The offeror represents that either--

 (A) It [ ] is, [ ] is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

 (B) It [ ] has, [ ] has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

 (ii) [ ] *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*]

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

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

 (ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:\_\_\_\_\_\_\_\_\_\_\_\_.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

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

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

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

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

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

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

 (2) Foreign End Products:

 Line Item No Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

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

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

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

 Line Item No. Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

 Other Foreign End Products:

 Line Item No. Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

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

 Canadian End Products:

 Line Item No.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

 Canadian or Israeli End Products:

 Line Item No. Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

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

 Line Item No. Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

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

 Other End Products:

 Line Item No. Country of Origin

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[List as necessary]*

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

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

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

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

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

 (4) [ ] Have, [ ] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

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

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

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

 (ii) *Examples.*

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

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

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

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

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

 (1) *Listed end products.*

Listed End Product Listed Countries of Origin

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

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

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

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

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

 (2) \_\_ Outside the United States.

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

 [ ] (1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror [ ] does [ ] does not certify that--

 (i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

 (ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003- 4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

 (iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

 [ ] (2) Certain services as described in FAR 22.1003- 4(d)(1). The offeror [ ] does [ ] does not certify that--

 (i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

 (ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

 (iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

 (iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

 (3) If paragraph (k)(1) or (k)(2) of this clause applies--

 (i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

 (ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

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

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

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

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

 [ ] TIN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 [ ] TIN has been applied for.

 [ ] TIN is not required because:

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

 [ ] Offeror is an agency or instrumentality of a foreign government;

 [ ] Offeror is an agency or instrumentality of the Federal Government.

 (4) *Type of organization.*

 [ ] Sole proprietorship;

 [ ] Partnership;

 [ ] Corporate entity (not tax-exempt);

 [ ] Corporate entity (tax-exempt);

 [ ] Government entity (Federal, State, or local);

 [ ] Foreign government;

 [ ] International organization per 26 CFR 1.6049-4;

 [ ] Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 (5) *Common parent.*

 [ ] Offeror is not owned or controlled by a common parent;

 [ ] Name and TIN of common parent:

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

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

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

 (n) Prohibition on Contracting with Inverted Domestic Corporations

 (1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.

 (2) *Representation.* By submission of its offer, the offeror represents that--

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

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

 (o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

 (2) *Representation and certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

 (i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

 (ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

 (iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds $3,000 with Iran’s Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC’s Specially Designated Nationals and Blocked Persons List at [*http://www.treasury.gov/ofac/downloads/t11sdn.pdf*](http://www.treasury.gov/ofac/downloads/t11sdn.pdf)).

 (3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

 (i) This solicitation includes a trade agreements certification (*e.g.,* 52.212–3(g) or a comparable agency provision); and

 (ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(End of Provision)