

**SOLICITATION VA-797-08-RP-0047
REPLACEMENT GLASSWARE FOR MEDICAL EQUIPMENT
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PART I -- CONTINUATION OF STANDARD FORM 1449 (SF 1449)

Blocks 9-24 SCHEDULE OF SUPPLIES/SERVICES and PRICES/COSTS

BLOCK 9 ADDRESS FOR DELIVERY OF HAND-CARRIED OFFERS

For offers delivered by other than the U.S. Postal Service, use the following address:

VA National Acquisition Center
National Contracts Service (049A2-3a)
1st Avenue, One Block North of 22nd Street
Bldg. 37
Hines, IL 60141

BLOCK 18B ADDRESS FOR INVOICE SUBMISSION

Invoices for payment shall be submitted to the office indicated in "Mail Invoice To:" of the Purchase Order received.

INSTRUCTIONS REGARDING SCHEDULE COMPLETION:

Vendors may offer on any line items that are offered to commercial customers. Offerors are encouraged (but not required) to also offer installation and calibration of tubes, and any reduced-cost glassware membership programs that are offered to commercial customers and provide more favorable prices/terms & conditions than stated in the solicitation. For items not being offered identify as "NO BID". Offerors must provide Option year Discounts/Pricing also for offered base year items.

ITEM 0001 REPLACEMENT GLASSWARE FOR MEDICAL EQUIPMENT __ BASE YEAR

The contractor shall furnish replacement glass and tubes listed below. Installation and calibration shall be optional at the customer's request, and shall be priced separately. This line item will cover the period from July 1, 2010 through June 30, 2011.

Offered percentages are discount from Contractor's Published Pricelist dated _____

	<u>CONUS*</u>	<u>OCONUS* **</u>
000101 Mammography Tubes	_____ %	_____ %
000102 Single Tank Tubes	_____ %	_____ %
000103 R&F and RAD Tubes	_____ %	_____ %
000104 High Speed Tubes	_____ %	_____ %
000105 Cardiac and Vascular Tubes	_____ %	_____ %
000106 CT Tubes	_____ %	_____ %
000107 Therapy Tubes and Tetrodes	_____ %	_____ %
000108 Image Intensifier Assemblies	_____ %	_____ %
000109 Digital Detectors	_____ %	_____ %
000110 CT-Detector Assemblies	_____ %	_____ %
000111 CT Tubes with/HT Cables	_____ %	_____ %
000112 Camera Tubes	_____ %	_____ %
000113 Heat Exchangers	_____ %	_____ %

* CONUS is defined as the 48 contingent states & Washington DC and OCONUS, includes Puerto Rico, Alaska, Hawaii, and foreign locations.

** Please complete Solicitation Attachment 3 to indicate each OCONUS geographic location that can be serviced, and refer to SF Continuation 1449, Part I, I-3 (Scope Of Work) for OCONUS F.O.B. terms of CONUS & OCONUS locations.

ITEM 0002 INSTALLATION AND CALIBRATION -- BASE YEAR

For orders placed during the period of July 1, 2010 through June 30, 2011..

The stated rate is for replacement installation to be provided from Monday through Friday, 8:00 a.m. through 5:00 p.m., excluding Federal holidays. Indicate whether a quote is a % discount from the contractor's published price list or a Fixed Price per tube.

	CONUS* <u>% OR \$</u>	OCONUS* ** <u>% OR \$</u>
000201 Mammography Tubes	_____	_____
000202 Single Tank Tubes	_____	_____
000203 R&F and RAD Tubes	_____	_____
000204 High Speed Tubes	_____	_____
000205 Cardiac and Vascular Tubes	_____	_____
000206 CT Tubes	_____	_____
000207 Therapy Tubes and Tetrodes	_____	_____
000208 Image Intensifier Assemblies	_____	_____
000209 Digital Detectors	_____	_____
000210 CT-Detector Assemblies	_____	_____
000211 CT Tubes with/HT Cables	_____	_____
000212 Camera Tubes	_____	_____
000213 Heat Exchangers	_____	_____

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ITEM 0003 REDUCED-COST GLASSWARE MEMBERSHIP PROGRAM -- BASE YEAR

For orders placed during the period of July 1, 2010 through June 30, 2011.

Offerors may propose commercial programs under which all glassware required in an x-ray system is provided at a reduced price from the contract negotiated price for a one-year period based on payment of a membership fee. Offeror shall provide pricing and other specifics of its commercial program, including the method of tube housing exchange.

	<u>Membership Fee</u>	<u>Cost per Tube w/Exchange Tube*</u>	<u>Tube Model</u>
000301 Tomo	_____	_____	_____
000302 Chest	_____	_____	_____
000303 Mammo	_____	_____	_____
000304 Mobile C-Arm	_____	_____	_____
000305 RAD	_____	_____	_____
000306 R&F	_____	_____	_____
000307 Cardiac Single-plane	_____	_____	_____
000308 Cardiac Bi-plane	_____	_____	_____
000309 Angio Single-plane	_____	_____	_____
000310 Angio Bi-plane	_____	_____	_____
000311 CT	_____	_____	_____
000312 6" Image Intensifier	_____	_____	_____
000313 9" Image Intensifier	_____	_____	_____
000314 >9" Image Intensifier	_____	_____	_____
000315 TV Tube	_____	_____	_____

*Exchange tube includes housing.

ITEM 0004 REPLACEMENT GLASSWARE FOR MEDICAL EQUIPMENT – OPTION YEAR 1

The contractor shall furnish replacement glass and tubes listed below. Installation and calibration shall be optional at the customer's request, and shall be priced separately. This line item will cover the period from July 1, 2011 through June 30, 2012.

Offered percentages are discount from Contractor's Published Pricelist dated _____

	<u>CONUS*</u>	<u>OCONUS* **</u>
000401 Mammography Tubes	_____ %	_____ %
000402 Single Tank Tubes	_____ %	_____ %
000403 R&F and RAD Tubes	_____ %	_____ %
000404 High Speed Tubes	_____ %	_____ %
000405 Cardiac and Vascular Tubes	_____ %	_____ %
000406 CT Tubes	_____ %	_____ %
000407 Therapy Tubes and Tetrodes	_____ %	_____ %
000408 Image Intensifier Assemblies	_____ %	_____ %
000409 Digital Detectors	_____ %	_____ %
000410 CT-Detector Assemblies	_____ %	_____ %
000411 CT Tubes with/HT Cables	_____ %	_____ %
000412 Camera Tubes	_____ %	_____ %
000413 Heat Exchangers	_____ %	_____ %

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ITEM 0005 INSTALLATION AND CALIBRATION – OPTION YEAR 1

For orders placed during the period from July 1, 2011 through June 30, 2012.

The stated rate is for replacement installation to be provided from Monday through Friday, 8:00 a.m. through 5:00 p.m., excluding Federal holidays. Indicate whether a quote is a % discount from the contractor's published price list or a Fixed Price per tube.

	CONUS* <u>% OR \$</u>	OCONUS* <u>% OR \$</u>
000501 Mammography Tubes	_____	_____
000502 Single Tank Tubes	_____	_____
000503 R&F and RAD Tubes	_____	_____
000504 High Speed Tubes	_____	_____
000505 Cardiac and Vascular Tubes	_____	_____
000506 CT Tubes	_____	_____
000507 Therapy Tubes and Tetrodes	_____	_____
000508 Image Intensifier Assemblies	_____	_____
000509 Digital Detectors	_____	_____
000510 CT-Detector Assemblies	_____	_____
000511 CT Tubes with/HT Cables	_____	_____
000512 Camera Tubes	_____	_____
000513 Heat Exchangers	_____	_____

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ITEM 0006 REDUCED-COST GLASSWARE MEMBERSHIP PROGRAM – OPTION YEAR 1

For orders placed during the period of July 1, 2011 through June 30, 2012.

Offerors may propose commercial programs under which all glassware required in an x-ray system is provided at a reduced price from the contract negotiated price for a one-year period based on payment of a membership fee. Offeror shall provide pricing and other specifics of its commercial program, including the method of tube housing exchange.

	<u>Membership Fee</u>	<u>Cost per Tube w/Exchange Tube*</u>	<u>Tube Model</u>
000601 Tomo	_____	_____	_____
000602 Chest	_____	_____	_____
000603 Mammo	_____	_____	_____
000604 Mobile C-Arm	_____	_____	_____
000605 RAD	_____	_____	_____
000606 R&F	_____	_____	_____
000607 Cardiac Single-plane	_____	_____	_____
000608 Cardiac Bi-plane	_____	_____	_____
000609 Angio Single-plane	_____	_____	_____
000610 Angio Bi-plane	_____	_____	_____
000611 CT	_____	_____	_____
000612 6" Image Intensifier	_____	_____	_____
000613 9" Image Intensifier	_____	_____	_____
000614 >9" Image Intensifier	_____	_____	_____
000615 TV Tube	_____	_____	_____

*Exchange tube includes housing.

ITEM 0007 REPLACEMENT GLASSWARE FOR MEDICAL EQUIPMENT – OPTION YEAR 2

The contractor shall furnish replacement glass and tubes listed below. Installation and calibration shall be optional at the customer's request, and shall be priced separately. This line item will cover the period from July 1, 2012 through June 30, 2013.

Offered percentages are discount from Contractor's Published Pricelist dated _____

	<u>CONUS*</u>	<u>OCONUS* **</u>
000701 Mammography Tubes	_____ %	_____ %
000702 Single Tank Tubes	_____ %	_____ %
000703 R&F and RAD Tubes	_____ %	_____ %
000704 High Speed Tubes	_____ %	_____ %
000705 Cardiac and Vascular Tubes	_____ %	_____ %
000706 CT Tubes	_____ %	_____ %
000707 Therapy Tubes and Tetrodes	_____ %	_____ %
000708 Image Intensifier Assemblies	_____ %	_____ %
000709 Digital Detectors	_____ %	_____ %
000710 CT-Detector Assemblies	_____ %	_____ %
000711 CT Tubes with/HT Cables	_____ %	_____ %
000712 Camera Tubes	_____ %	_____ %
000713 Heat Exchangers	_____ %	_____ %

* CONUS is defined as the 48 contingent states & Washington DC and OCONUS, includes Puerto Rico, Alaska, Hawaii, and foreign locations.

** Please complete Solicitation Attachment 3 to indicate each OCONUS geographic location that can be serviced, and refer to SF Continuation 1449, Part I, I-3 (Scope Of Work) for OCONUS F.O.B. terms of CONUS & OCONUS locations.

ITEM 0008 INSTALLATION AND CALIBRATION – OPTION YEAR 2

For orders placed during the period of July 1, 2012 through June 30, 2013.

The stated rate is for replacement installation to be provided from Monday through Friday, 8:00 a.m. through 5:00 p.m., excluding Federal holidays. Indicate whether a quote is a % discount from the contractor's published price list or a Fixed Price per tube.

	CONUS* <u>% OR \$</u>	OCONUS* <u>% OR \$</u>
000801 Mammography Tubes	_____	_____
000802 Single Tank Tubes	_____	_____
000803 R&F and RAD Tubes	_____	_____
000804 High Speed Tubes	_____	_____
000805 Cardiac and Vascular Tubes	_____	_____
000806 CT Tubes	_____	_____
000807 Therapy Tubes and Tetrodes	_____	_____
000808 Image Intensifier Assemblies	_____	_____
000809 Digital Detectors	_____	_____
000810 CT-Detector Assemblies	_____	_____
000811 CT Tubes with/HT Cables	_____	_____
000812 Camera Tubes	_____	_____
000813 Heat Exchangers	_____	_____

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** Please complete Solicitation Attachment 3 to indicate each OCONUS geographic location that can be serviced, and refer to SF Continuation 1449, Part I, I-3 (Scope Of Work) for OCONUS F.O.B. terms of CONUS & OCONUS locations.

ITEM 0009 REDUCED-COST GLASSWARE MEMBERSHIP PROGRAM – OPTION YEAR 2

For orders placed during the period of July 1, 2012 through June 30, 2013.

Offerors may propose commercial programs under which all glassware required in an x-ray system is provided at a reduced price from the contract negotiated price for a one-year period based on payment of a membership fee. Offeror shall provide pricing and other specifics of its commercial program, including the method of tube housing exchange.

	<u>Membership Fee</u>	<u>Cost per Tube w/Exchange Tube*</u>	<u>Tube Model</u>
000901 Tomo	_____	_____	_____
000902 Chest	_____	_____	_____
000903 Mammo	_____	_____	_____
000904 Mobile C-Arm	_____	_____	_____
000905 RAD	_____	_____	_____
000906 R&F	_____	_____	_____
000907 Cardiac Single-plane	_____	_____	_____
000908 Cardiac Bi-plane	_____	_____	_____
000909 Angio Single-plane	_____	_____	_____
000910 Angio Bi-plane	_____	_____	_____
000911 CT	_____	_____	_____
000912 6" Image Intensifier	_____	_____	_____
000913 9" Image Intensifier	_____	_____	_____
000914 >9" Image Intensifier	_____	_____	_____
000915 TV Tube	_____	_____	_____

*Exchange tube includes housing.

I-1 SCOPE OF CONTRACT PERIOD

Contracts resulting hereunder shall cover the base contract period of one year, with the option to renew for four additional one-year periods. No contract period will extend beyond 06/30/13.

It is anticipated that the initial contract period will run from 07/01/08 to 06/30/09. Offers for this initial period must be received before the closing date in this solicitation.

During the 4 option years of the contract the government intends to allow offers for this contract to be submitted. Open seasons are scheduled for March 1st to June 30th in 2009, 2010, 2011 and 2012.

A synopsis of the open season will be posted for the sole purpose of giving notice to the public that there is an open season and the period of time that offerors will have to submit a proposal to the government for consideration.

Contracts awarded to vendors based on being submitted as a result of the open season will potentially have a shortened base year for their first year, with follow on option years coinciding with the terms, conditions and requirements specified within the initial solicitation. Option years may be exercised by the government. For those contracts awarded to vendors based on award from an open season, contracts will therefore be renewed and expire coinciding to the performance period specified in the schedule (i.e. July 1-June 30). As with the vendors that originally were awarded a contract based on the original solicitation, contracts for vendors awarded a contract based on the open season will expire at the end of the performance period of the contract to include exercised option years, e.g.; if a contract is awarded in the 1st option years, as a result of an offer received in the base contract period the contract including options will not be in effect more than 4 years.

I-2 ESTIMATED QUANTITIES

Previous total annual purchased from all contractors are estimated at \$1,900,740.00 from 2007. The Government anticipates similar annual usage for the base year and each additional option year. It is impossible to determine the exact quantities that will be required during the contract term. Each offeror whose offer is accepted wholly or in part shall be required to deliver all articles that may be ordered during the contract term, except as otherwise indicated in the offer and except as otherwise provided herein.

Offerors shall provide the items identified herein with discounts from the Offeror's published commercial price list. The published commercial price list shall be provided with the offer and made a part of the ultimate contract.

I-3 SCOPE OF WORK

a. This solicitation provides for the normal supply requirements of the Department of Veterans Affairs and other Federal Agencies, upon their request, for delivery within the 48 contingent states & Washington DC in accordance with FAR Clause 52.247-35 F.O.B. Destination (within Consignee's Premises), and Federal Activities functioning in (OCONUS) locations including Puerto Rico, Alaska, Hawaii foreign locations in accordance with FAR Clauses 52.247-38 F.O.B. Inland carrier, Point of Exportation and 52.247-39 F.O.B. Inland Point, Country of Importation as set forth under the Terms and Conditions Section of this solicitation. For OCONUS please provide your discount based on F.O.B Point of Export. For those occasions where F.O.B. Inland Point is required, the government will allow the vendor to quote shipping charges at the time the order is solicited. The resultant contracts will be used as sources for the articles or services listed herein. Articles or services will be ordered from time to time in such quantities as may be needed to fill any requirement determined in accordance with terms of the contract. It is anticipated that orders placed by the activities identified in I-4 may include requirements from Other Government Agencies (OGA's).

b. The contractor shall provide, on an exchange basis, nonproprietary and proprietary glassware purchased by the Government to replace expired glassware in government-owned x-ray systems. The customer shall be responsible packing & shipping the expired glassware.

c. The contractor shall ensure the Government access to newly developed replacement glassware in conjunction with new product cycles. "Products" shall be complete tube housing assemblies and shall be compatible with combined Government and original equipment manufacturer (OEM) tube assemblies. Items offered for award under this contract shall be the contractor's standard commercial product line and shall conform to specifications defined in the manufacturer's published product and technical data.

d. Installation shall be provided from Monday through Friday, 8:00 a.m. through 5:00 p.m., excluding Federal holidays, at the negotiated rates. The contractor agrees to provide replacement installation outside these hours at the then negotiated discounted overtime rates for the applicable modality.

e. Installation service shall consist of the following:

1. The contractor shall coordinate in advance with the Government all installations, equipment calibrations, and inspections. The Government will make the equipment available for inspections for tube installations and equipment calibrations.

2. Upon receipt of notice from the medical center's contracting officer's representative (COR) to proceed with installation, the contractor shall verify the overall condition of the equipment immediately prior to glassware installation. It shall be the contractor's responsibility to inform the contracting officer's representative of any problems which may be anticipated in connection with installation or which will affect optimum performance once installation is completed. If the contractor determines that the equipment has a problem which has affected or could materially affect glassware option or usage, the contractor shall notify the contracting officer's representative before the replacement glassware is installed. The Government may, at its option, have corrective service performed prior to glassware installation. Should the Government decline to have corrective service performed, the product warranty will be void. Installation shall not proceed under such circumstances until authorized by the contracting officer's representative.

3. After Installation, the contractor shall conduct baseline x-ray tube inspection for each unit supported under this Glassware Replacement Program (GRP). Information required to be recorded as part of this baseline inspection shall be, at a minimum:

Site Location: Hospital name, city, state

Where Installed: Room number and system type including manufacturer ID

Date of inspection and name of field engineer performing it

Hospital's engineering point of contact verifying completion of inspection

Provide part number and, or upgrade information

f. Installation shall be continuous until complete. In the event that progress of the installation is interrupted through no fault of the contractor, installation may be terminated until such time as the cause of delay has been eliminated, and then shall be resumed within twenty-four hours after the contractor has been notified that work may again proceed. Such termination of continuous installation shall be made only after notice has been given to the COR. The contractor shall notify the VA Service and Distribution Center, Service and Reclamation Division within 48 hours of termination of installation.

g. Installation and calibration shall be performed in accordance with the OEM instructions.

h. **TIME OF DELIVERY:**

1. Delivery will be within 1 day after receipt of delivery order (ARO). The required delivery date will be annotated on each individual delivery order.

2. Timeliness of delivery-prompt delivery (Delivery Available Overnight if done by 3pm)

I-4 ACTIVITY AUTHORIZED TO ISSUE ORDERS

The VAMCs and the Defense Supply Center Philadelphia (DSCP-MQXB), 700 Robbins Avenue, Philadelphia, PA 19111-5092 [(215)737-5753] are the only activities authorized to place delivery orders under this contract except as otherwise delegated in writing. Delivery orders shall be issued in writing only.

The contractor is required to provide one copy of its pricelist to any ordering activity upon request. Customers will follow FAR Part 8.405-1 in placing orders.

VAAR 852.211-72 Technical Industry Standards (JAN 2008)

The supplies or equipment required by this invitation for bid or request for proposal must conform to the standards of the : Medical Device Amendments of 1976; Safe Medical Device Amendments of 1998; National Fire Protection Association National Electrical Code, NFPA 70; Standard for the Protection of Electronic Computer/Data Processing Equipment, NFPA 75; Standard for Health Care Facilities, NFPA 99; Standard Method of Test of Surface Burning Characteristics of Building Materials, NFPA 255; Underwriters Laboratories (UL) 544, Medical and Dental Equipment; UL 1950, Safety of Information Technology Equipment, Including Electrical Business Equipment. The successful bidder or offeror will be required to submit proof that the item(s) he/she furnishes conforms to this requirement. This proof may be in the form of a label or seal affixed to the equipment or supplies, warranting that they have been tested in accordance with and conform to the specified standards. Proof may also be furnished in the form of a certificate from one of the above listed organizations certifying that the item(s) furnished have been tested in accordance with and conform to the specified standards.

(End of Provision)

AS215 PRE-MARKET APPROVAL (AUGUST 2000)

All offerors must be in compliance with Section 510(k) of the Federal Food, Drug, Cosmetic Act/CFR (Ch 21) for those medical device products intended to be delivered to the Government. Only devices that have received Premarket Notification Approval from the U.S. Food and Drug Administration (FDA) shall be considered for award under this solicitation. Items that have not been given Investigational Device Exemption shall not be considered for award.

FDA's address for Registration and Listing Materials:

U.S. Food and Drug Administration
Center for Devices and Radiological Health, HFZ-308
9200 Corporate Boulevard
Rockville, MD 20850-4015

Telephone No. (301) 827-4555 (Press 6, then 2 for registration and listing)

The Center for Devices and Radiological Health (CDRH) maintains a home page on the World Wide Web (<http://www.fda.gov/cdrh>). This page contains a wealth of information about medical devices.

PART II -- CONTRACT TERMS AND CONDITIONS

52.212-4 Contract Terms and Conditions--Commercial Items (Mar 2009)

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

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

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

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

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

(d) Disputes. This contract is subject to 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; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under that Act; 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 the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

Alternate I (Oct 2008). When a time-and-materials or labor-hour contract is contemplated, substitute the following paragraphs (a), (e), (i) and (l) for those in the basic clause.

(a) Inspection/Acceptance. (1) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government will perform inspections and tests in a manner that will not unduly delay the work.

(2) If the Government performs inspection or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(3) Unless otherwise specified in the contract, the Government will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the "hourly rate" attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required

to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. [Insert portion of labor rate attributable to profit.]

(5)(i) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may--

(A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause.

(ii) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute under the Disputes clause of the contract.

(6) Notwithstanding paragraphs (a)(4) and (5) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to--

(i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(ii) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(7) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(8) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(9) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(e) Definitions. (1) The clause at FAR [52.202-1](#), Definitions, is incorporated herein by reference. As used in this clause--

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor

category specified in the contract that are--

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control.

(iii) Materials means--

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: [Insert any subcontracts for services to be excluded from the hourly rates prescribed in the schedule.]; and

(E) Indirect costs specifically provided for in this clause.

(iv) Subcontract means any contract, as defined in FAR Subpart 2.1, entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(i) Payments. (1) Services accepted. Payment shall be made for services accepted by the Government that have been delivered to the delivery destination(s) set forth in this contract. The Government will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:

(i) Hourly rate.

(A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.

(B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(C) Invoices may be submitted once each month (or at more frequent

intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) Materials.

(A) If the Contractor furnishes materials that meet the definition of a commercial item at FAR [2.101](#), the price to be paid for such materials shall be the contractor's established catalog or market price, adjusted to reflect the--

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the Government will reimburse the Contractor the actual cost of materials (less any rebates, refunds, or discounts received by the contractor that are identifiable to the contract) provided the Contractor--

(1) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(2) Makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(C) To the extent able, the Contractor shall--

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) Other Costs. Unless listed below, other direct and indirect costs will not be reimbursed.

(1) Other Direct Costs. The Government will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause: [Insert each element of other direct costs (e.g., travel, computer usage charges, etc. Insert "None" if no reimbursement for other direct costs will be provided. If this is an indefinite delivery contract, the Contracting Officer may insert "Each order must list separately the elements of other direct charge(s) for that order or, if no reimbursement for other direct costs will be provided, insert None'."]

(2) Indirect Costs (Material Handling, Subcontract Administration, etc.). The Government will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: [Insert a fixed amount for the indirect costs and payment schedule. Insert "\$0" if no fixed price reimbursement for indirect costs will be provided. (If this is an indefinite delivery contract, the Contracting Officer may insert "Each order must list separately the fixed amount for the indirect costs and payment schedule or, if no reimbursement for indirect costs, insert None'.")]

(2) Total cost. It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(3) Ceiling price. The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until

the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(4) Access to records. At any time before final payment under this contract, the Contracting Officer (or authorized representative) will have access to the following (access shall be limited to the listing below unless otherwise agreed to by the Contractor and the Contracting Officer):

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment--

(A) The original timecards (paper-based or electronic);

(B) The Contractor's timekeeping procedures;

(C) Contractor records that show the distribution of labor between jobs or contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost--

(A) Any invoices or subcontract agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) Overpayments/Underpayments. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The Government within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor's payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the Government has otherwise overpaid on an 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)(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, and then at the rate applicable for each six month period as established 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 in a timely manner;

(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 FAR [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.

(viii) Upon receipt and approval of the invoice designated by the Contractor as the "completion invoice" and supporting documentation, and upon compliance by the Contractor with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) Release of claims. The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the Contractor.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(8) 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.

(9) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.

(10) 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 that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(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 an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system that 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 that reasonably could have been avoided.

ADDENDA TO 52.212-4, CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS

The following clauses and provisions are addenda to Clause 52.212-4.

52.216-22 INDEFINITE QUANTITY (OCT 1995)

- (a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
- (c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractors and Governments rights and obligations with respect to that order to the same extent as if the order were completed during the contracts effective period; provided that the Contractor shall not be required to make any deliveries under this contract after June 30 2013.

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA—MODIFICATIONS (OCT 1997)

Alternate IV (Oct 1997)

(a) Submission of cost or pricing data is not required.

(B) For catalog items, the offeror must submit a copy of its commercial price list or identification of the catalog and its date, or the appropriate pages for the offered items. Provide a copy or describe current commercial discount policies and price lists (published or unpublished to customers or categories of customers), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities. (See attachment #1 Discount and Pricing Information Worksheet)

INTEREST (JUN 1996)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) 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 12 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 paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

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

- (1) The date fixed under this contract.
- (1) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.
- (2) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.
- (3) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

II-1 GUARANTEED MINIMUM

In accordance with FAR 16.504, the minimum quantity of supplies that the Government agrees to order during the base & option period (s) of this contract is \$2,500.00. If, at the conclusion of the contract period the contractor has received orders for less than \$2,500.00, the Government will pay (upon request) the difference between the amount ordered and the \$2,500.00.

The maximum value of all orders placed under the contract cannot exceed \$9,500,000.00 over the entire contract period (including option periods).

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

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

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 June 30 2013.

(End of clause)

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 \$500.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

- (1) Any order for a single item in excess of \$150,000.00;
- (2) Any order for a combination of items in excess of \$500,000.00; or
- (3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

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

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 1 day 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.

52.247-35 F.O.B. DESTINATION, WITHIN CONSIGNEE’S PREMISES (APR 1984)

(a) The term “f.o.b. destination, within consignee’s premises,” as used in this clause, means free of expense to the Government delivered and laid down within the doors of the consignee’s premises, including delivery to specific rooms within a building if so specified.

(b) The Contractor shall—

- (1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

(End of Clause)

52.247-38 F.O.B. Inland Carrier, Point of Exportation. (Feb 2006)

(a) The term "f.o.b. inland carrier, point of exportation," as used in this clause, means free of expense to the Government, on board the conveyance of the inland carrier, delivered to the specified point of exportation.

(b) The Contractor shall--

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;

(2) Prepare and distribute commercial bills of lading or other transportation receipt;

(3)(i) Deliver the shipment in good order and condition in or on the conveyance of the carrier on the date or within the period specified; and

(ii) Pay and bear all applicable charges, including transportation costs, to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point of delivery in the contract;
and

(5) At the Government's request and expense, assist in obtaining the documents required for--

(i) Exportation; or

(ii) Importation at destination.

(End of clause)

52.247-39 F.O.B. Inland Point, Country of Importation. (Apr 1984)

(a) The term "f.o.b. inland point, country of importation," as used in this clause, means free of expense to the Government, on board the indicated type of conveyance of the carrier, delivered to the specified inland point where the consignee's facility is located.

(b) The Contractor shall--

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods;

(2)(i) Deliver, in or on the inland carrier's conveyance, the shipment in good order and condition to the specified inland point where the consignee's facility is located; and

(ii) Pay and bear all applicable charges incurred up to the point of delivery, including transportation costs; export, import, or other fees or taxes; costs of landing; wharfage costs; customs duties and costs of certificates of origin; consular invoices; and other documents that may be required for importation; and

(3) Be responsible for any loss of and/or damage to the goods until their arrival on or in the carrier's conveyance at the specified inland point.

(End of clause)

AS214 PRODUCT MODIFICATION, REMOVAL OR RECALL (JAN 2008)

If any product awarded under this solicitation requires modification, is removed or recalled by the contractor or manufacturer due to defects in the product or potential dangers to patients, or if any required modification, removal or recall is suggested or mandated by a regulatory or official agency, the following steps will immediately be taken by the contractor or manufacturer:

a. Notify Assistant Director, Direct Delivery (049A2-3a), VA National Acquisition Center, P.O. Box 76, Building 37, Hines, IL 60141, in writing, by the most expeditious manner possible. Provide two copies of the notification, which shall include, but not be limited to the following:

(1) Complete item description and/or identification, order numbers from customers, and the contract number assigned as a result of an award on this solicitation.

(2) Reasons for modifications, removal or recall.

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

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

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

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

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 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)

852.203-71 Display of Department of Veterans Affairs Hotline Poster (DEC 1992)

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

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

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

(End of Clause)

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 thirty days before the contract expires; 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 years.

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items. (Feb 2010)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of [52.222-50](#) (22 U.S.C. 7104(g)).

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

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

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

(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 (Dec 2008) (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 (MAR 2009) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

___ (4) [52.204-11](#), American Recovery and Reinvestment Act--Reporting Requirements (Mar 2009) (Pub. L. 111-5).

___ (5) [52.219-3](#), Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).

___ (6) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (July 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

___ (7) [Reserved]

- (8)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of [52.219-6](#).
- (iii) Alternate II (Mar 2004) of [52.219-6](#).
- (9)(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](#).
- (10) [52.219-8](#), Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
- (11)(i) [52.219-9](#), Small Business Subcontracting Plan (Apr 2008) (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](#).
- (12) [52.219-14](#), Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- (13) [52.219-16](#), Liquidated Damages--Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (14)(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](#).
- (15) [52.219-25](#), Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (Apr 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (16) [52.219-26](#), Small Disadvantaged Business Participation Program--Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (17) [52.219-27](#), Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).
- (18) [52.219-28](#), Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).
- (19) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- (20) [52.222-19](#), Child Labor--Cooperation with Authorities and

Remedies (Aug 2009) (E.O. 13126).

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

(22) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(23) [52.222-35](#), Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(24) [52.222-36](#), Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(25) [52.222-37](#), Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(26) [52.222-54](#), Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)

(27)(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.)

(28) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

(29)(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](#).

(30) [52.225-1](#), Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

(31)(i) [52.225-3](#), Buy American Act--Free Trade Agreements--Israeli Trade Act (June 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

(ii) Alternate I (Jan 2004) of [52.225-3](#).

(iii) Alternate II (Jan 2004) of [52.225-3](#).

(32) [52.225-5](#), Trade Agreements (Aug 2009) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

(33) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008)

(E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

 (34) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

 (35) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

 (36) [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)).

 (37) [52.232-30](#), Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

 X (38) [52.232-33](#), Payment by Electronic Funds Transfer--Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

 X (39) [52.232-34](#), Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

 X (40) (40) [52.232-36](#), Payment by Third Party (FEB 2010) (31 U.S.C. 3332).

 (41) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

 (42)(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.).

(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) (41 351, et seq.).

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

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

___ (8) [52.237-11](#), Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

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

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

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) [52.219-8](#), Utilization of Small Business Concerns (May 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

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

(v) [52.222-35](#), Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(vi) [52.222-36](#), Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(vii) [Reserved]

(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](#), Employment Eligibility Verification (Jan 2009).

(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)

Alternate I (Feb 2000). As prescribed in [12.301](#)(b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause."

Alternate II (Dec 2009). As prescribed in [12.301](#)(b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate

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

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than--

(i) Paragraph (d) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) Those clauses listed in this paragraph (e)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

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

(C) [52.219-8](#), Utilization of Small Business Concerns (May 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

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

(E) [52.222-35](#), Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(F) [52.222-36](#), Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

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

(H) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

(I) [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.).

(J) [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.).

(K) [52.222-54](#), Employment Eligibility Verification (Jan 2009).

(L) [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](#).

(M) [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](#).

ADDENDA TO 52.212-5, CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS

The following clauses and provisions are addenda to Clause 52.212-5.

52.219-9 -- Small Business Subcontracting Plan. Small Business Subcontracting Plan (APR 2008) ALTTERNAT 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).

“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 Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), 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 PRO-Net 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 PRO-Net 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 \$550,000 (\$1,000,000 for construction of any public facility) to adopt a plan similar to the 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 Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
- (iv) Ensure that its subcontractors agree to submit SF 294 and 295.

(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., PRO-Net), 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 \$100,000, 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.
- (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. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (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) 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.
- (j) The Contractor shall submit the following reports:
- (1) *Standard Form 294, Subcontracting Report for Individual Contracts*. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.
 - (2) *Standard Form 295, Summary Subcontract Report*. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall

include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. 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 PART II)

PART III -- INSTRUCTIONS TO OFFERORS

52.212-1 Instructions to Offerors--Commercial Items (June 2008)

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

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

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

provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

*** TAILORING OF PARAGRAPH (c), PERIOD FOR ACCEPTANCE OF OFFERS**

The offeror agrees to hold the prices in its offer firm for 120 calendar days from the date specified for receipt of offers.

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

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

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

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

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

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

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

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

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

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation

on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

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

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

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

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

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

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

GSA Federal Supply Service Specifications Section Suite 8100 470 East L'Enfant Plaza, SW Washington, DC 20407

Telephone (202) 619-8925 Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in

this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

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

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

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

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

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

(i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);

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

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

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

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

(k) Central Contractor Registration. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or

269-961-5757.

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

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

ADDENDA TO 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS

The following clauses and provisions are addenda to Clause 52.212-1.

52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates multiple awards of Fixed Price, Indefinite-Delivery Indefinite-Quantity (IDIQ) contracts resulting from this solicitation.

AS3029 REQUIRED REGISTRATION WITH CONTRACTOR PERFORMANCE SYSTEM (CPS) (NOV 2004)

(a) 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 System (CPS), which is maintained by the National Institutes of Health (NIH). The CPS database information is shared with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies.

(b) Each contractor whose contract award is estimated to exceed \$100,000 is required to register with the NIH CPS database at the following web address: <https://cpscontractor.nih.gov>. Help in registering can be obtained by contacting CPS Support E-mail (cps-support-l@list.nih.gov) or by calling (301) 451-2771. 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.

(c) 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.

(d) 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.

III-1 VA TASK AND DELIVERY ORDER OMBUDSMAN

The following individual has been designated as the agency's task order contract and delivery order contract ombudsman, who shall be responsible for reviewing complaints from contractors on task order contracts and delivery order contracts. The ombudsman shall review complaints from the contractors and ensure that all contractors are afforded a fair opportunity to be considered, consistent with the procedures in the contract.

Mr. Efrain Fernandez, ADAS for Acquisitions
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, D.C. 20420
Telephone: (202) 461-6901

III-2 INSTRUCTIONS FOR SUBMITTING PROPOSAL

NOTE: Failure to submit complete information in the manner described below may be considered a "no response" and exclude the proposal from further consideration.

Proposal Organization: The offeror shall submit its proposal in two volumes in the format and quantities described below:

<u>Volume</u>	<u>Volume Title</u>	<u>No. of Copies</u>
I	Business Proposal	3
II	Technical Proposal	3

The volumes shall be submitted in a sealed envelope. The envelope shall be addressed to the office specified in the solicitation and shall show the time specified for receipt, the solicitation number, and the name and address of the offeror.

1. Business Proposal Content:

- a. The offeror shall submit a pricing proposal consisting of a properly completed and signed solicitation document (SF 1449).
- b. Offeror shall submit two (2) printed copies of a dated, published commercial price list of all glassware and services offered in the proposal. This includes price list catalogs or other documentation setting forth the prices charged the general public.
- c. Each offeror shall submit a completed Discount & Pricing Information Worksheet (Part VI, Attachment 1), as described in that attachment, providing information that supports the discount(s) offered. Offerors are to include information on which manufacturers, its tubes, and other products are compatible with.
- d. If offering a reduced cost glassware membership program the offeror is to provide a detailed description of the program, including the method of housing exchange.
- e. Each offeror shall submit to the government a copy of its offered warranty for consideration. Offerors will provide supporting information that demonstrates that the warranty being offered the government is at least as extensive as the warranty being offered to commercial customers.
- f. Offerors that are a large business shall submit, for approval, a Small Business Subcontracting Plan or a copy of the current approved plan.
- g. For each of its (7) seven most recently completed contracts and three (3) current contracts for glassware, the offeror shall submit the following information on past performance:
 - (1) Contract number and contract period
 - (2) Customer (company or agency) and location information where glassware was installed, to include a POC, phone number, fax number, and email address.
 - (3) Type and model of glassware provided/installed
 - (4) Approximate dollar value of contract
- h. Offerors are not authorized to edit any part of the solicitation document to identify any exceptions to the contract terms & conditions. Offerors taking exceptions to any terms, conditions, or requirements of the solicitation shall list them separately in a letter addressed to the government. Any exceptions not provided within the context of this letter will not be considered by the government. In the letter in response to the solicitation which cites the offeror's exceptions, offerors are to cite exceptions in sequential order starting from the first page of the 1449 continuation to the last page that an exception is being taken to the solicitation. Exceptions should be cited by page number, and by clause or terms and conditions of concern to the offeror. If an offeror is not taking any exceptions to the solicitation, offerors shall cite this in the letter instead of citing any exceptions. For either scenario the letter from offerors shall be signed by a person from the offeror's company authorized to negotiate with the government. Offerors are cautioned that it is the

government's intent to only award contracts that are in full compliance with the solicitation's Terms & Conditions. Taking exceptions may result in a rejection of the offer.

2. Technical Proposal Content:

The technical volume shall contain two (2) copies of technical data, performance specifications, and descriptive literature of each item proposed, and include information regarding which manufacturers' equipment the offered item(s) are compatible to. Submit documentation that demonstrates the offered items meet the following requirements:

1. Industry Standards as listed in clause VAAR 852.211-72
(See Part 1 – Continuation of SF1449)
2. Manufacturers technical data and OEM Specification Standards
3. 510K/ CFR (Ch 21) Pre-Market Approval

Provide the technical information listed below which is applicable to the items your company is offering. As a minimum, the following information should be provided:

- (1) Radiology Tubes: (Item 0001- 000102, 000103, 000104, 000105 & 000107)

- Make of housings
- Model of housings
- Horn angle
- Heat Exchanger (if required)
- Hose Length and type of connectors (if required)
- Pressure Switch (if required)
- Stator electrical and thermal rating characteristics

- (2) Mammography Tubes: (Item 0001- 000101,)

- Make of housings
- Model of housings
- Horn angle
- Heat Exchanger (if required)
- Hose Length and type of connectors (if required)
- Pressure Switch (if required)
- Stator electrical and thermal rating characteristics

- (3) CT Tubes: (Item 0001- 000106, 000111)

- Make of housings
- Model of housings
- Horn angle
- Heat Exchanger (if required)
- Hose Length and type of connectors (if required)
- Pressure Switch (if required)
- Stator electrical and thermal rating characteristics

- (4) Image Intensifiers: (Item 0001- 000108)

- Make of housing
- System used on/Compatibility with OEM Specifications:

Tube Manufacturer
Model
No. artifact
Gain
Contrast ratio
Size
Replacement or retrofit in customer's housing?
Is power supply change needed?
Interface requirements (single and mechanical interface requirement)

(5) Camera Tubes: (Item 0001- 000112)

Model
All medical grade
Vidicons
Plumbicons
Newvicons
Pasecons
Saticon
CCD Camera systems (single and mechanical interface requirement)

(6) Heat Exchangers: (Item 0001- 000113)

Model
System used on/Compatibility with OEM specifications
Cooling Rate
Size
Volume/Gallons per minute

(7) Digital Detectors: (Item 0001- 000109)

Model
All medical grade
System used on/compatibility with OEM specifications
Description
Size

(8) Detector Assemblies: (Item 0001- 000110, 000108)

Model
All medical grade
System used on/compatibility with OEM specifications
Description

52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997)

Alternate IV (Oct 1997)

(a) Submission of cost or pricing data is not required.

(B) For catalog items, the offeror must submit a copy of its commercial price list or identification of the catalog and its date, or the appropriate pages for the offered items. Provide a copy or describe current commercial discount policies and price lists (published or unpublished to various customers or categories of customers), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities. (See attachment #1 Discount and Pricing Information Worksheet)

52.232-35 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (MAY 1999)

Note: Applicable only for VA orders.

(a) As provided in paragraph (b) of the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information, and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office, or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) Designated Office:

Name: Department of Veterans Affairs, FSC Austin (0474F)
Mailing Address: 1615 Woodward St., Austin, TX 78772
Telephone Number: (512)460-5049 or 877-353-9791
Person to Contact: FSC Vendorizing Section
Electronic Address: lynn.britt@mail.va.gov

52.233-2 Service of Protest (Sept 2006)

(a) 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:

*Contracting Officer (049A2-3A)
National Contracts Service
VA National Acquisition Center
P.O. Box 76
Hines, IL 60141*

(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)

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)

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 Facilities Management, the Chief Facilities Management Officer, Office of 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 PART III)

PART IV EVALUATION OF OFFERS AND METHOD OF AWARD OF CONTRACT

PART IV -- EVALUATION OF OFFERS and
METHOD OF AWARD**IV-1 EVALUATION OF OFFERS AND METHOD OF AWARD OF CONTRACT**

(a) The Government intends to make multiple awards to those responsible offerors whose offers are in compliance with the solicitation, meet the criteria listed below, and whose prices are determined to be fair and reasonable. The following evaluation factors shall be used on the basis of pass/fail to determine whether the offer meets minimum requirements for being awarded a contract with the government.

1. Technical Capability. Items offered must meet the Government's purchase descriptions as stated in the solicitation. Proof of CFR (Ch21)/FDA 510(k) premarket approval for all products that require this certification will also be required. All offered items must be in compliance with the Industry Standards listed in VAAR 852.211-72 and with I-3 Scope of Work, paragraph c. All items must meet the original OEM Specification Standards.

2. The contracting officer will make a subjective determination regarding the acceptability of the warranty offered to the Government, and retains the right to reject any warranty that does not adequately protect the Government's interests. Its terms and conditions must be equal to or better than the offeror's and/or manufacturer's standard commercial warranty.

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

(b) Price. The Government will evaluate the offered discounts from the offeror's published list prices as compared to the best discounts or prices offered to its commercial customers. The discounts offered for the base contract period and all option years will be evaluated.

(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.

IV-2 SELECTION CRITERIA FOR PLACING DELIVERY ORDERS UNDER MULTIPLE AWARD CONTRACTS

(a) Each awardee shall be provided a fair opportunity to be considered for each delivery order in excess of \$3,000.

(b) The contracting officer may consider any of the following evaluation factors prior to placing each delivery order, which have been identified in this solicitation:

(1) Availability of reliable service to the hospital/using facility

PART IV EVALUATION OF OFFERS AND METHOD OF AWARD OF CONTRACT

- (2) Ability of the contractor to meet specified delivery times
- (3) Price
- (4) Quality/Past performance

IV-3 EVALUATION OF METRIC PRODUCTS

Products manufactured to metric dimensions will be evaluated on an equal basis with those manufactured using inch-pound units, providing they fall within the tolerances specified using conversion tables contained in the latest revision of Federal Standard No. 376, and all other requirements of this document are met.

(END OF PART IV)

PART V -- OFFEROR REPRESENTATIONS AND CERTIFICATIONS

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (MAY 2008)

An offeror shall complete only paragraph (l) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (b) through (k) of this provision.

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

“Emerging small business” means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

“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.

“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.

“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.

“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

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

(b) *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 (b)(3) through (b)(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 _____.

(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.

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) *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.

(7) *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: _____

(8) Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the designated industry groups (DIGs).] The offeror represents as part of its offer that it is, is not an emerging small business.

(ii) [Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or designated industry groups (DIGs).] Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

Number of Employees Average Annual Gross Revenues

- | | |
|--------------------------------------|--|
| <input type="checkbox"/> 50 or fewer | <input type="checkbox"/> \$1 million or less |
| <input type="checkbox"/> 51–100 | <input type="checkbox"/> \$1,000,001–\$2 million |
| <input type="checkbox"/> 101–250 | <input type="checkbox"/> \$2,000,001–\$3.5 million |
| <input type="checkbox"/> 251–500 | <input type="checkbox"/> \$3,500,001–\$5 million |
| <input type="checkbox"/> 501–750 | <input type="checkbox"/> \$5,000,001–\$10 million |
| <input type="checkbox"/> 751–1,000 | <input type="checkbox"/> \$10,000,001–\$17 million |
| <input type="checkbox"/> Over 1,000 | <input type="checkbox"/> Over \$17 million |

(9) [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 database maintained by the Small Business Administration (PRO-Net), 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)(9)(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: _____.]

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

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

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

of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

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

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

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

(e) *Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352)*. (Applies only if the contract is expected to exceed \$100,000.) 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 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. The terms “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 the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian or Moroccan end product,” “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 or Moroccan 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 or Moroccan 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.

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) *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)(4)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

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

Other End Products:

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

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#). For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American 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. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

(i) Certification Regarding Knowledge of Child Labor for *Listed End Products (Executive Order 13126)*. [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at [22.1503\(b\)](#).]

(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.) [*The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

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

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror 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)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (l)(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 at <http://orca.bpn.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 _____.

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

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

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

(End of provision)

AS1526 AUTHORIZED NEGOTIATORS (JAN 1998)

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

AS1108 CONTACT FOR CONTRACT ADMINISTRATION (MAY 1992)

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

NAME _____

TITLE _____

ADDRESS _____

_____ ZIP CODE _____

PHONE NO. (____) _____ 800 NO. _____

FAX NO. (____) _____

EMAIL _____

PART VI -- ATTACHMENTS TO THE SOLICITATION

LIST OF ATTACHMENTS:

1. Discount & Pricing Information Worksheet
2. SF 3881, ACH Vendor/Miscellaneous Payment Enrollment Form
NOTE: Refer to Clause 52.232-35 for instructions.
3. Service Facility Locations List
4. Prior Experience/Past Performance