

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30</i>				1. REQUISITION NUMBER		PAGE 1 OF 72	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER W81K0223Q0071		6. SOLICITATION ISSUE DATE 16-Mar-2023
7. FOR SOLICITATION INFORMATION CALL:		a. NAME RONNIE T. SAKATA			b. TELEPHONE NUMBER (No Collect Calls) 808-438-5127		8. OFFER DUE DATE/LOCAL TIME 09:00 AM 30 Mar 2023
9. ISSUED BY W40M REGIONAL HEALTH CONTRACTING OF REGIONAL HEALTH CONTR OFC PACIFIC BLDG 339 CLARK ROAD FT SHAFTER HI 96858-5098 TEL: 808-655-2299 FAX:		CODE W81K02	10. THIS ACQUISITION IS <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS		<input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A) NAICS: 621511 SIZE STANDARD: \$36,500,000		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		<input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)	13b. RATING		
15. DELIVER TO SEE SCHEDULE		CODE	16. ADMINISTERED BY		CODE		
17a. CONTRACTOR/OFFEROR TELEPHONE NO.		CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY		CODE	
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				<input type="checkbox"/> 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
SEE SCHEDULE							
25. ACCOUNTING AND APPROPRIATION DATA					26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED.				ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED.				ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.				<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)		31c. DATE SIGNED	
				TEL: EMAIL:			

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
(CONTINUED)**

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
SEE SCHEDULE					

32a. QUANTITY IN COLUMN 21 HAS BEEN
 RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT (<i>Location</i>)	
		42c. DATE REC'D (<i>YY/MM/DD</i>)	42d. TOTAL CONTAINERS

Section SF 1449 - CONTINUATION SHEET

GENERAL INFORMATION

BPA Master Dollar Limit: \$2,500,000.00

BPA Call Limit: \$25,000.00

Period of Performance: 1 Jun 2023 – 31 May 2028

PSC Code:

Q301

TERMS AND CONDITIONS

**TERMS AND CONDITIONS FOR A BLANKET PURCHASE AGREEMENT (BPA)
BETWEEN**

XXXXXXXXX CONTRACTOR XXXXXXXXX

AND

MEDICAL READINESS CONTRACTING OFFICE -PACIFIC
TRIPLER ARMY MEDICAL CENTER

BLANKET PURCHASE AGREEMENT NO. **W81K02-##-A-####**

Authority:

In accordance with FAR Subpart 13.303, the subject BPA is established with

XXXX CONTRACTOR XXXXX

Description of Agreement:

- The agreement shall be effective for a term of 5 years or NTE \$2,500,000.00, whichever occurs first, starting on 1 June 2023.
- **XXX Contractor's XXX** published product descriptions and pricing is attached hereto and incorporated herein by reference. See Attachment 1, **XXX Contractor XXX** dated **xxxx** for current product pricing. It is the basis for all pricing.

Extent of Obligation:

The vendor's prices provided at time of award shall be in the awarded BPA. Vendors may submit BPA price revision requests in writing to the Contracting Officer 30 days, at minimum, prior to the proposed effective date. The revised price list, if approved by the Contracting Officer, shall be incorporated into the BPA via a bilateral modification to the BPA. The Government is obligated only to the extent of calls (i.e., orders) placed by Individuals Authorized to Place Calls and the purchase limitations of this BPA.

Purchase Limitations:

The BPA Master Dollar Limit is \$2,500,000.00 NTE a period of 5 Years, provided that the combined total dollar amount of all calls placed under BPA **[insert all BPA numbers]** does not exceed \$2,500,000.00. Otherwise, the BPA will expire upon reaching the master dollar limit. The BPA per call limit is as follows.

BPA Call Limit - \$25,000.00

BPA Master Dollar Limit - \$2,500,000.00

Ordering Procedures:

Fair opportunity amongst multiple BPA holders for the product class(es) incorporated into this BPA is provided at the MTF level. (if applicable; multiple BPA awards)

Individual(s) Authorized to Place Calls under the BPA:

The Contracting Office will provide the vendor a separate notification of the appointed Individuals Authorized to Place Calls. All MRCO-P Contracting Officers are also permitted to act as Individuals Authorized to Place Calls.

A call number will be provided by the authorized individual placing the call. Each order under this agreement will be assigned a call code/number. Call numbers will consist of a two-alphabetic position code. The alphabetic position code identifies who is placing the call against the BPA.

Orders will be placed on an as needed basis.

EQUIPMENT as defined herein as a non-expendable item that is maintenance significant and/or property-accountable, regardless of cost, SHALL NOT BE PURCHASED VIA THIS BPA.

Delivery Tickets:

All packing lists (delivery tickets) shall contain the following minimum information:

1. Name of supplier.
2. BPA number.
3. Date of purchase.
4. Call or purchase order number.
5. Name of authorized representative placing the call.
6. Itemized list of supplies furnished.
7. Quantity, unit price, extension of each item, less applicable discounts.
8. Date of delivery or shipment.

PAYMENT INFORMATION:

FOR PAYMENT BY GOVERNMENT PURCHASE CARD

Payment will be by the government purchase card cardholder who is the Individual Authorized to Place Calls.

The billing period shall be from the 20th through the 19th of each month. The firm shall submit itemized invoice(s) for all deliveries made during the billing period to the **Individual Authorized to Place Calls in the GPC Delegation Memo** placing the call.

In accordance with FAR 13.303-3(a)(6)(i):

A summary invoice shall be submitted at least monthly or upon expiration of this BPA, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipt copies of the delivery tickets.

INVOICING INFORMATION

In accordance with FAR 13.303-3(a)(6)(iii):

When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated, provided that—

(A) A consolidated payment will be made for each specified period; and

(B) The period of any discounts will commence on the final date of the billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later.

CLAUSES INCORPORATED BY REFERENCE

52.212-4 Contract Terms and Conditions--Commercial Products and Commercial Services DEC 2022

ADDENDUM TO 52.212-4

(w) UNILATERAL MODIFICATIONS

In addition to 52.212-4(c), the Government may make unilateral modifications considered administrative in nature. These include, but are not limited to, changes in the accounting and appropriation data, payment and issuing office addresses, and other corrections that have no effect on the terms and conditions of the contract.

(x) The non-FAR Part 12 discretionary FAR and DFARS clauses included herein are incorporated into this contract either by reference or in full text. If incorporated by reference, see clause 52.252-2 herein for locations where full text can be found.

CLAUSES INCORPORATED BY REFERENCE

52.204-13	System for Award Management Maintenance	OCT 2018
52.204-18	Commercial and Government Entity Code Maintenance	AUG 2020
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities	NOV 2021
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment	NOV 2021
52.222-3	Convict Labor	JUN 2003
52.222-21	Prohibition Of Segregated Facilities	APR 2015
52.222-41	Service Contract Labor Standards	AUG 2018
52.222-43	Fair Labor Standards Act And Service Contract Labor Standards - Price Adjustment (Multiple Year And Option Contracts)	AUG 2018
52.222-50	Combating Trafficking in Persons	NOV 2021
52.223-3	Hazardous Material Identification And Material Safety Data	FEB 2021
52.225-13	Restrictions on Certain Foreign Purchases	FEB 2021
52.232-36	Payment by Third Party	MAY 2014
52.232-39	Unenforceability of Unauthorized Obligations	JUN 2013
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	NOV 2021
52.233-3	Protest After Award	AUG 1996
52.233-4	Applicable Law for Breach of Contract Claim	OCT 2004
252.203-7000	Requirements Relating to Compensation of Former DoD Officials	SEP 2011
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	DEC 2022
252.204-7003	Control Of Government Personnel Work Product	APR 1992
252.204-7018	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services	JAN 2023
252.204-7020	NIST SP 800-171 DoD Assessment Requirements	JAN 2023
252.225-7048	Export-Controlled Items	JUN 2013

252.227-7015	Technical Data--Commercial Products and Commercial Services	JAN 2023
252.227-7037	Validation of Restrictive Markings on Technical Data	JAN 2023
252.232-7009	Mandatory Payment by Governmentwide Commercial Purchase Card	MAY 2018
252.232-7010	Levies on Contract Payments	DEC 2006
252.232-7017	Accelerating Payments to Small Business Subcontractors-- Prohibition on Fees and Consideration	JAN 2023

CLAUSES INCORPORATED BY FULL TEXT

52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)

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

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

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

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

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

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

(b) Safeguarding requirements and procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

52.209-10 Prohibition on Contracting With Inverted Domestic Corporations. (NOV 2015)

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

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

(b) If the contractor reorganizes as an inverted domestic corporation or becomes a subsidiary of an inverted domestic corporation at any time during the period of performance of this contract, the Government may be prohibited from paying for Contractor activities performed after the date when it becomes an inverted domestic corporation or subsidiary. The Government may seek any available remedies in the event the Contractor fails to perform in accordance with the terms and conditions of the contract as a result of Government action under this clause.

(c) Exceptions to this prohibition are located at 9.108-2.

(d) In the event the Contractor becomes either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation during contract performance, the Contractor shall give written notice to the Contracting Officer within five business days from the date of the inversion event.

(End of clause)

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (OCT 2022)

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern--

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause.

(2) Affiliates, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

(b) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, upon occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts--

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) If the Contractor represented that it was any of the small business concerns identified in 19.000(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, when the Contracting Officer explicitly requires it for an order issued under a multiple-award contract.

(d) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code(s) assigned to this contract. The small business size standard corresponding to this NAICS code(s) can be found at <https://www.sba.gov/document/support--table-size-standards>.

(e) The small business size standard for a Contractor providing an end item that it does not manufacture, process, or produce itself, for a contract other than a construction or service contract, is 500 employees if the acquisition--

(1) Was set aside for small business and has a value above the simplified acquisition threshold;

(2) Used the HUBZone price evaluation preference regardless of dollar value, unless the Contractor waived the price evaluation preference; or

(3) Was an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(f) Except as provided in paragraph (h) of this clause, the Contractor shall make the representation(s) required by paragraph (b) and (c) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause, or with its offer for an order (see paragraph (c) of this clause), that the data have been validated or updated, and provide the date of the validation or update.

(g) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (f) or (h) of this clause.

(h) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

(1) The Contractor represents that it [] is, [] is not a small business concern under NAICS Code assigned to contract number .

(2) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it [] is, [] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it [] is, [] is not a women-owned small business concern.

(4) Women-owned small business (WOSB) joint venture eligible under the WOSB Program. The Contractor represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: .]

(5) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The Contractor represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The Contractor shall enter the name and unique entity identifier of each party to the joint venture: .]

(6) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents that it [] is, [] is not a veteran-owned small business concern.

(7) [Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.] The Contractor represents that it [] is, [] is not a service-disabled veteran-owned small business concern.

(8) [Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.] The Contractor represents 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 changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It [] is, [] is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (h)(8)(i) of this clause is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The Contractor shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: .] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

[Contractor to sign and date and insert authorized signer's name and title.]

(End of clause)

52.222-26 EQUAL OPPORTUNITY (SEPT 2016)

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

Compensation means any payments made to, or on behalf of, an employee or offered to an applicant as remuneration for employment, including but not limited to salary, wages, overtime pay, shift differentials, bonuses, commissions, vacation and holiday pay, allowances, insurance and other benefits, stock options and awards, profit sharing, and retirement.

Compensation information means the amount and type of compensation provided to employees or offered to applicants, including, but not limited to, the desire of the Contractor to attract and retain a particular employee for the value the employee is perceived to add to the Contractor's profit or productivity; the availability of employees with like skills in the marketplace; market research about the worth of similar jobs in the relevant marketplace; job analysis, descriptions, and evaluations; salary and pay structures; salary surveys; labor union agreements; and Contractor decisions, statements and policies related to setting or altering employee compensation.

Essential job functions means the fundamental job duties of the employment position an individual holds. A job function may be considered essential if--

(1) The access to compensation information is necessary in order to perform that function or another routinely assigned business task; or

(2) The function or duties of the position include protecting and maintaining the privacy of employee personnel records, including compensation information.

Gender identity has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Sexual orientation has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b)(1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(5)(i) The Contractor shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This prohibition against discrimination does not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(ii) The Contractor shall disseminate the prohibition on discrimination in paragraph (c)(5)(i) of this clause, using language prescribed by the Director of the Office of Federal Contract Compliance Programs (OFCCP), to employees and applicants by--

(A) Incorporation into existing employee manuals or handbooks; and

(B) Electronic posting or by posting a copy of the provision in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(7) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(8) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(9) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(10) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(11) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(12) The Contractor shall take such action with respect to any subcontract or purchase order as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR part 60-1.

(End of clause)

52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020)

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

<u>Employee Class</u>	<u>Monetary Wage-Fringe Benefits</u>
GS 7 Step 4	\$24.43, \$47.1%

(End of clause)

52.222-55 MINIMUM WAGES FOR CONTRACTOR WORKERS UNDER EXECUTIVE ORDER 14026 (JAN 2022)

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

"United States" means the 50 states, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.).

"Worker"--

(1) (i) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 14026, and --

(A) Whose wages under such contract are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV);

(B) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541;

(C) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(ii) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

(iii) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(2)(i) A worker performs on a contract if the worker directly performs the specific services called for by the contract; and

(ii) A worker performs in connection with a contract if the worker's work activities are necessary to the performance of a contract but are not the specific services called for by the contract.

(b) Executive Order minimum wage rate.

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of \$15.00 per hour beginning January 30, 2022.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2023, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on <https://www.sam.gov> (or any successor Web site), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3)(i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Contractors shall consider any subcontractor requests for such price adjustment.

(iii) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Contractor warrants that the prices in this contract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this contract establishing a shorter pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Contractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 23.230, Deductions.

(7) The Contractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Contractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance or any applicable contract establishing a minimum wage higher than the E.O. 14026 minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Contractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Contractor shall follow the policies and procedures in 29 CFR 23.240(b) and 23.280 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

(c)(1) This clause applies to workers as defined in paragraph (a). As provided in that definition--

(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to--

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., i.e. those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to--

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a);

(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b); and

(C) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(d) Notice. The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/agencies/whd/government-contracts, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic

posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) Payroll Records. (1) The Contractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

- (i) Name, address, and social security number;
- (ii) The worker's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid;
- (iv) The number of daily and weekly hours worked by each worker;
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The Contractor shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Contractor shall also make such records available upon request of the Contracting Officer.

(3) The Contractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 23.260 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Contractor's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(f) Access. The Contractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(g) Withholding. The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Contractor under this or any other Federal contract with the same Contractor, sufficient to pay workers the full amount of wages required by this clause.

(h) Disputes. Department of Labor has set forth in 29 CFR 23.510, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 23. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(i) Antiretaliation. The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(j) Subcontractor compliance. The Contractor is responsible for subcontractor compliance with the requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

(k) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (k) in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

(End of clause)

52.222-62 PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 (JAN 2022)

(a) Definitions. As used in this clause (in accordance with 29 CFR 13.2)--

Child, domestic partner, and domestic violence have the meaning given in 29 CFR 13.2.

Employee--(1)(i) Means any person engaged in performing work on or in connection with a contract covered by Executive Order (E.O.) 13706; and

(A) Whose wages under such contract are governed by the Service Contract Labor Standards statute (41 U.S.C. chapter 67), the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV), or the Fair Labor Standards Act (29 U.S.C. chapter 8);

(B) Including employees who qualify for an exemption from the Fair Labor Standards Act's minimum wage and overtime provisions;

(C) Regardless of the contractual relationship alleged to exist between the individual and the employer; and

(ii) Includes any person performing work on or in connection with the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(2)(i) An employee performs "on" a contract if the employee directly performs the specific services called for by the contract; and

(ii) An employee performs "in connection with" a contract if the employee's work activities are necessary to the performance of a contract but are not the specific services called for by the contract.

Individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship has the meaning given in 29 CFR 13.2.

Multiemployer plan means a plan to which more than one employer is required to contribute and which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer.

Paid sick leave means compensated absence from employment that is required by E.O. 13706 and 29 CFR part 13.

Parent, sexual assault, spouse, and stalking have the meaning given in 29 CFR 13.2.

United States means the 50 States and the District of Columbia.

(b) Executive Order 13706. (1) This contract is subject to E.O. 13706 and the regulations issued by the Secretary of Labor in 29 CFR part 13 pursuant to the E.O.

(2) If this contract is not performed wholly within the United States, this clause only applies with respect to that part of the contract that is performed within the United States.

(c) Paid sick leave. The Contractor shall--

(1) Permit each employee engaged in performing work on or in connection with this contract to earn not less than 1 hour of paid sick leave for every 30 hours worked;

(2) Allow accrual and use of paid sick leave as required by E.O. 13706 and 29 CFR part 13;

(3) Comply with the accrual, use, and other requirements set forth in 29 CFR 13.5 and 13.6, which are incorporated by reference in this contract;

(4) Provide paid sick leave to all employees when due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 13.24), rebate, or kickback on any account;

(5) Provide pay and benefits for paid sick leave used no later than one pay period following the end of the regular pay period in which the paid sick leave was taken; and

(6) Be responsible for the compliance by any subcontractor with the requirements of E.O. 13706, 29 CFR part 13, and this clause.

(d) Contractors may fulfill their obligations under E.O. 13706 and 29 CFR part 13 jointly with other contractors through a multiemployer plan, or may fulfill their obligations through an individual fund, plan, or program (see 29 CFR 13.8).

(e) Withholding. The Contracting Officer will, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this or any other Federal contract with the same Contractor, so much of the accrued payments or advances as may be considered necessary to pay employees the full amount owed to compensate for any violation of the requirements of E.O. 13706, 29 CFR part 13, or this clause, including--

(1) Any pay and/or benefits denied or lost by reason of the violation;

(2) Other actual monetary losses sustained as a direct result of the violation; and

(3) Liquidated damages.

(f) Payment suspension/contract termination/contractor debarment. (1) In the event of a failure to comply with E.O. 13706, 29 CFR part 13, or this clause, the contracting agency may, on its own action or after authorization or by direction of the Department of Labor and written notification to the Contractor take action to cause suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(2) Any failure to comply with the requirements of this clause may be grounds for termination for default or cause.

(3) A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 13.52.

(g) The paid sick leave required by E.O. 13706, 29 CFR part 13, and this clause is in addition to the Contractor's obligations under the Service Contract Labor Standards statute and Wage Rate Requirements (Construction) statute, and the Contractor may not receive credit toward its prevailing wage or fringe benefit obligations under those Acts for any paid sick leave provided in satisfaction of the requirements of E.O. 13706 and 29 CFR part 13.

(h) Nothing in E.O. 13706 or 29 CFR part 13 shall excuse noncompliance with or supersede any applicable Federal or State law, any applicable law or municipal ordinance, or a collective bargaining agreement requiring greater paid sick leave or leave rights than those established under E.O. 13706 and 29 CFR part 13.

(i) Recordkeeping. (1) The Contractor shall make and maintain, for no less than three (3) years from the completion of the work on the contract, records containing the following information for each employee, which the Contractor shall make available upon request for inspection, copying, and transcription by authorized representatives of the Administrator of the Wage and Hour Division of the Department of Labor:

(i) Name, address, and social security number of each employee.

(ii) The employee's occupation(s) or classification(s).

(iii) The rate or rates of wages paid (including all pay and benefits provided).

(iv) The number of daily and weekly hours worked.

(v) Any deductions made.

(vi) The total wages paid (including all pay and benefits provided) each pay period.

(vii) A copy of notifications to employees of the amount of paid sick leave the employee has accrued, as required under 29 CFR 13.5(a)(2).

(viii) A copy of employees' requests to use paid sick leave, if in writing, or, if not in writing, any other records reflecting such employee requests.

(ix) Dates and amounts of paid sick leave taken by employees (unless the Contractor's paid time off policy satisfies the requirements of E.O. 13706 and 29 CFR part 13 as described in 29 CFR 13.5(f)(5), leave shall be designated in records as paid sick leave pursuant to E.O. 13706).

(x) A copy of any written responses to employees' requests to use paid sick leave, including explanations for any denials of such requests, as required under 29 CFR 13.5(d)(3).

(xi) Any records reflecting the certification and documentation the Contractor may require an employee to provide under 29 CFR 13.5(e), including copies of any certification or documentation provided by an employee.

(xii) Any other records showing any tracking of or calculations related to an employee's accrual or use of paid sick leave.

(xiii) The relevant contract.

(xiv) The regular pay and benefits provided to an employee for each use of paid sick leave.

(xv) Any financial payment made for unused paid sick leave upon a separation from employment intended, pursuant to 29 CFR 13.5(b)(5), to relieve the Contractor from the obligation to reinstate such paid sick leave as otherwise required by 29 CFR 13.5(b)(4).

(2)(i) If the Contractor wishes to distinguish between an employee's covered and noncovered work, the Contractor shall keep records or other proof reflecting such distinctions. Only if the Contractor adequately segregates the employee's time will time spent on noncovered work be excluded from hours worked counted toward the accrual of paid sick leave. Similarly, only if the Contractor adequately segregates the employee's time may the Contractor properly refuse an employee's request to use paid sick leave on the ground that the employee was scheduled to perform noncovered work during the time he or she asked to use paid sick leave.

(ii) If the Contractor estimates covered hours worked by an employee who performs work in connection with contracts covered by the E.O. pursuant to 29 CFR 13.5(a)(1)(i) or (iii), the Contractor shall keep records or other proof of the verifiable information on which such estimates are reasonably based. Only if the Contractor relies on an estimate that is reasonable and based on verifiable information will an employee's time spent in connection with noncovered work be excluded from hours worked counted toward the accrual of paid sick leave. If the Contractor estimates the amount of time an employee spends performing in connection with contracts covered by the E.O., the Contractor shall permit the employee to use his or her paid sick leave during any work time for the Contractor.

(3) In the event the Contractor is not obligated by the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, or the Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is exempt from the Fair Labor Standards Act's minimum wage and overtime requirements, and the Contractor chooses to use the assumption permitted by 29 CFR 13.5(a)(1)(iii), the Contractor is excused from the requirement in paragraph (i)(1)(iv) of this clause and 29 CFR 13.25(a)(4) to keep records of the employee's number of daily and weekly hours worked.

(4)(i) Records relating to medical histories or domestic violence, sexual assault, or stalking, created for purposes of E.O. 13706, whether of an employee or an employee's child, parent, spouse, domestic partner, or other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, shall be maintained as confidential records in separate files/records from the usual personnel files.

(ii) If the confidentiality requirements of the Genetic Information Nondiscrimination Act of 2008 (GINA), section 503 of the Rehabilitation Act of 1973, and/or the Americans with Disabilities Act (ADA) apply to records or documents created to comply with the recordkeeping requirements in this contract clause, the records and documents shall also be maintained in compliance with the confidentiality requirements of the GINA, section 503 of the Rehabilitation Act of 1973, and/or ADA as described in 29 CFR 1635.9, 41 CFR 60-741.23(d), and 29 CFR 1630.14(c)(1), respectively.

(iii) The Contractor shall not disclose any documentation used to verify the need to use 3 or more consecutive days of paid sick leave for the purposes listed in 29 CFR 13.5(c)(1)(iv) (as described in 29 CFR 13.5(e)(1)(ii)) and shall maintain confidentiality about any domestic abuse, sexual assault, or stalking, unless the employee consents or when disclosure is required by law.

(5) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(6) Nothing in this contract clause limits or otherwise modifies the Contractor's recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, the Family and Medical Leave Act, E.O. 14026, their respective implementing regulations, or any other applicable law.

(j) Interference/discrimination.

(1) The Contractor shall not in any manner interfere with an employee's accrual or use of paid sick leave as required by E.O. 13706 or 29 CFR part 13. Interference includes, but is not limited to--

- (i) Miscalculating the amount of paid sick leave an employee has accrued;
- (ii) Denying or unreasonably delaying a response to a proper request to use paid sick leave;
- (iii) Discouraging an employee from using paid sick leave;
- (iv) Reducing an employee's accrued paid sick leave by more than the amount of such leave used;

- (v) Transferring an employee to work on contracts not covered by the E.O. to prevent the accrual or use of paid sick leave;
- (vi) Disclosing confidential information contained in certification or other documentation provided to verify the need to use paid sick leave; or
- (vii) Making the use of paid sick leave contingent on the employee's finding a replacement worker or the fulfillment of the Contractor's operational needs.
- (2) The Contractor shall not discharge or in any other manner discriminate against any employee for--
- (i) Using, or attempting to use, paid sick leave as provided for under E.O. 13706 and 29 CFR part 13;
- (ii) Filing any complaint, initiating any proceeding, or otherwise asserting any right or claim under E.O. 13706 and 29 CFR part 13;
- (iii) Cooperating in any investigation or testifying in any proceeding under E.O. 13706 and 29 CFR part 13; or
- (iv) Informing any other person about his or her rights under E.O. 13706 and 29 CFR part 13.
- (k) Notice. The Contractor shall notify all employees performing work on or in connection with a contract covered by the E.O. of the paid sick leave requirements of E.O. 13706, 29 CFR part 13, and this clause by posting a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by employees. Contractors that customarily post notices to employees electronically may post the notice electronically, provided such electronic posting is displayed prominently on any Web site that is maintained by the Contractor, whether external or internal, and customarily used for notices to employees about terms and conditions of employment.
- (l) Disputes concerning labor standards. Disputes related to the application of E.O. 13706 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 13. Disputes within the meaning of this contract clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the employees or their representatives.
- (m) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (m), in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

(End of clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

<https://www.acquisition.gov/browse/index/far>
<https://www.acq.osd.mil/dpap/dars/dfarspgi/current/>

(End of clause)

52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (NOV 2020)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any DoD FAR Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of clause)

252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (JAN 2023)

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

Adequate security means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

Compromise means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

Contractor attributional/proprietary information means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

Controlled technical information means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

Covered contractor information system means an unclassified information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

Covered defense information means unclassified controlled technical information or other information, as described in the Controlled Unclassified Information (CUI) Registry at <http://www.archives.gov/cui/registry/category-list.html>, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is--

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

Cyber incident means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

Forensic analysis means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

Malicious software means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

Media means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

Operationally critical support means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

Rapidly report means within 72 hours of discovery of any cyber incident.

Technical information means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data--Other Than Commercial Products and Commercial Services, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) Adequate security. The Contractor shall provide adequate security on all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an information technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

(i) Cloud computing services shall be subject to the security requirements specified in the clause 252.239-7010, Cloud Computing Services, of this contract.

(ii) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract.

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (available via the internet at <http://dx.doi.org/10.6028/NIST.SP.800-171>) in effect at the time the solicitation is issued or as authorized by the Contracting Officer.

(ii)(A) The Contractor shall implement NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/resources/documents/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) Cyber incident reporting requirement.

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support and identified in the contract, the Contractor shall--

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at <https://dibnet.dod.mil>.

(2) Cyber incident report. The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <https://dibnet.dod.mil>.

(3) Medium assurance certificate requirement. In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <https://public.cyber.mil/eca/>.

(d) Malicious software. When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

(e) Media preservation and protection. When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this

clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) Access to additional information or equipment necessary for forensic analysis. Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) Cyber incident damage assessment activities. If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) DoD safeguarding and use of contractor attributional/proprietary information. The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) Use and release of contractor attributional/proprietary information not created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD--

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor ("recipient") that is directly supporting Government activities under a contract that includes the clause at 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) Use and release of contractor attributional/proprietary information created by or for DoD. Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) Other safeguarding or reporting requirements. The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) Subcontracts. The Contractor shall--

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial products or commercial services, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

(2) Require subcontractors to--

(i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and

(ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

(End of clause)

252.204-7015 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (JAN 2023)

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

Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.

Litigation support means administrative, technical, or professional services provided in support of the Government during or in anticipation of litigation.

Litigation support contractor means a contractor (including its experts, technical consultants, subcontractors, and suppliers) providing litigation support under a contract that contains the clause at 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

Sensitive information means controlled unclassified information of a commercial, financial, proprietary, or privileged nature. The term includes technical data and computer software, but does not include information that is lawfully, publicly available without restriction.

Technical data means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(b) Notice of authorized disclosures. Notwithstanding any other provision of this solicitation or contract, the Government may disclose to a litigation support contractor, for the sole purpose of litigation support activities, any information, including sensitive information, received—

(1) Within or in connection with a quotation or offer; or

(2) In the performance of or in connection with a contract.

(c) Subcontracts. Include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial products or commercial services.

(End of clause)

252.225-7056 PROHIBITION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (JAN 2023)

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

Agency or instrumentality of the government of Venezuela means an agency or instrumentality of a foreign state as defined in 28 U.S.C. 1603(b), with each reference in section 1603(b) to a foreign state deemed to be a reference to Venezuela.

Business operations means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

Government of Venezuela means the government of any political subdivision of Venezuela, and any agency or instrumentality of the government of Venezuela.

Person means--

(1) A natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and

(3) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in paragraph (1) or (2) of this definition.

(b) Prohibition. In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(c) The Contractor shall--

(1) Not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government; or

(2) Have a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial products.

(End of clause)

252.244-7000 SUBCONTRACTS FOR COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES (JAN 2023)

(a) The Contractor is not required to flow down the terms of any Defense Federal Acquisition Regulation Supplement (DFARS) clause in subcontracts for commercial products or commercial services at any tier under this contract, unless so specified in the particular clause.

(b) While not required, the Contractor may flow down to subcontracts for commercial products or commercial services a minimal number of additional clauses necessary to satisfy its contractual obligation.

(c)(1) In accordance with 10 U.S.C. 3457(c), the Contractor shall treat as commercial products any items valued at less than \$10,000 per item that were purchased by the Contractor for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract when purchased.

(2) The Contractor shall ensure that any items to be used in performance of this contract, that are treated as commercial products pursuant to paragraph (c)(1) of this clause, meet all terms and conditions of this contract that are applicable to commercial products in accordance with the clause at Federal Acquisition Regulation 52.244-6 and paragraph (a) of this clause.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (JAN 2023)

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

"Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

"Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

"Foreign-flag vessel" means any vessel that is not a U.S.-flag vessel.

"Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

"Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

"Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

"U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if--

(i) This contract is a construction contract; or

(ii) The supplies being transported are--

(A) Other than commercial products; or

(B) Commercial products that--

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it contracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of foreign-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(f) If this contract exceeds the simplified acquisition threshold, the Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all foreign-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on foreign-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL	_____	_____

(g) If this contract exceeds the simplified acquisition threshold and the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of foreign-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) If the Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies; however, after the award of this contract, the Contractor learns that supplies will be transported by sea, the Contractor--

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of this clause.

(i) Subcontracts. In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, including subcontracts for commercial products, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (i), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (i), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEVIATION 2018-00021) (DEC 2022)

(a) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (a) 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.

(b)(1) Notwithstanding the requirements of any other clauses of this contract, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (b) (1) in a subcontract for commercial products or commercial services. 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 (NOV 2021) (41 U.S.C. 3509).

- (ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
- (iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).
- (iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).
- (v) 52.219-8, Utilization of Small Business Concerns (OCT 2022) (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 \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
- (vii) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).
- (viii) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212).
- (ix) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).
- (x) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).
- (xi) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.
- (xii) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).
- (xiii)(A) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).
- (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (xiv) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (MAY 2014) (41 U.S.C. chapter 67).
- (xv) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (MAY 2014) (41 U.S.C. chapter 67).
- (xvi) 52.222-54, Employment Eligibility Verification (MAY 2022) (E.O. 12989).
- (xvii) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).
- (xviii) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).
- (xix)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).
- (B) Alternate I (JAN 2017) of 52.224-3.

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

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

(xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 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 products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

ADDITIONAL INSTRUCTIONS & INFO

A. EXCLUSION FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS (OCTOBER 2015)

1. The Contractor shall not employ or contract with any individual or entity (hereinafter collectively referred to as “person”) to provide items or services that will be included in invoices submitted to the Government under this contract if such person is listed on the Department of Health and Human Services (HHS) Office of the Inspector General (OIG) List of Excluded Individuals and Entities (LEIE) or the TRICARE Sanctioned Provider List. The Government is legally prohibited from paying for provision of items or services by such persons. The prohibition extends to services beyond direct patient care, such as services of persons in executive or leadership roles and administrative and management services, whether or not such services are billed separately. The LEIE may be found at <http://oig.hhs.gov/fraud/exclusions.asp>, and the TRICARE Sanctioned Provider list at <http://www.health.mil/Military-Health-Topics/Access-Cost-Quality-and-Safety/Quality-And-Safety-of-Healthcare/Program-Integrity/Sanctioned-Providers>. The LEIE and TRICARE Sanctioned Provider List are hereinafter collectively referred to as “the Lists.”
2. Prior to start of contract performance, the Contractor shall (a) query the Lists to determine whether the name of any person the Contractor employs or contracts with to provide services or items for which payment may be made under this contract appears on the Lists, and (b) certify to the Contracting Officer that the Contractor has queried the Lists and no such names appear on either of the Lists.
3. During performance of the contract, and prior to persons other than those whose names were queried in accordance with paragraph 2, above, (hereinafter “new persons”) providing services or items under the contract, the Contractor shall (a) query the Lists as in paragraph 2, and (b) certify to the Contracting Officer that the names of such new persons do not appear on either of the Lists.
4. The Contractor is advised that during performance of the contract, MTF personnel will periodically recheck of the names of contractor personnel working in the MTF against the Lists. The Government will notify the Contractor in the event any contractor personnel working in the MTF appear on either of the Lists.
5. Should any person providing items or services under the contract appear on either of the Lists at any time during contract performance, the Contractor shall promptly remove that person from the contract.
6. Violation of any aspect of the above paragraphs shall be considered a material breach of the contract and may result in termination of the contract.

7. The Contractor is further advised that, in accordance with Civil Monetary Penalties Law [CMP] (codified at 42 USC § 1320a-7a):

a. There are steep civil monetary penalties associated with billing the Government for providing items or services by a person on either of the Lists, and with failing to return to the Government any overpayments received for provision of such items or services.

b. Billing under the contract for provision of items or services by a person on either List may also result in exclusion of the person that employs or contracts with such person.

8. HHS OIG has issued a Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs with additional information on the CMP. The Special Advisory Bulletin may be found at <http://oig.hhs.gov/exclusions/files/sab-05092013.pdf>.

B. PERSONALLY IDENTIFIABLE INFORMATION, PROTECTED HEALTH INFORMATION, AND FEDERAL INFORMATION REQUIREMENTS (REVISED 10/27/2020)

1. General Requirements Overview - Personally Identifiable Information (PII), Protected Health Information (PHI) and Federal Information Laws

This Section addresses the Contractor's requirements under The Privacy Act of 1974 (Privacy Act), The Freedom of Information Act (FOIA), and The Health Insurance Portability and Accountability Act (HIPAA) as set forth in applicable statutes, implementing regulations and Department of Defense (DoD) issuances. In general, the Contractor shall comply with the specific requirements set forth in this Section and elsewhere in this Contract. The Contractor shall also comply with requirements relating to records management as described herein.

This Contract incorporates by reference the federal regulations and DoD issuances referred to in this Section. If any authority is amended or replaced, the changed requirement is effective when it is incorporated under contract change procedures. Where a federal regulation and any DoD issuance govern the same subject matter, the Contractor shall first follow the more specific DoD implementation unless the DoD issuance does not address or is unclear on that matter. DoD issuances are available at <http://www.dtic.mil/whs/directives>.

For purposes of this Section, the following definitions apply.

DoD Privacy Act Issuances means the DoD issuances implementing the Privacy Act, which are DoDI 5400.11, DoD Privacy and Civil Liberties Programs, January 29, 2019 and DoDI 5400.11-R, Department of Defense Privacy Program, May 14, 2007.

HIPAA Rules means, collectively, the HIPAA Privacy, Security, Breach and Enforcement Rules, issued by the U.S. Department of Health and Human Services (HHS) and codified at 45 Code of Federal Regulations (CFR) Part 160 and Part 164, Subpart E (Privacy), Subpart C (Security), Subpart D (Breach) and Part 160, Subparts C-E (Enforcement), as amended. Additional HIPAA rules regarding electronic transactions and code sets (45 CFR Part 162) are not addressed in this Section and are not included in the term HIPAA Rules.

DoD HIPAA Issuances means the DoD issuances implementing the HIPAA Rules in the DoD Military Health System (MHS). These issuances are DoDM 6025.18, "Implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in DoD Health Care Programs," March 13, 2019, DoDI 6025.18, Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Compliance in DoD Health Care Programs, March 13, 2019, and DoDI 8580.02, Security of Individually Identifiable Health Information in DoD Health Care Programs, August 12, 2015.

Defense Health Agency (DHA) Privacy Office is the DHA Privacy and Civil Liberties Office. The DHA Privacy Office Chief is the HIPAA Privacy and Security Officer for DHA.

2. Records Management

When creating and maintaining official government records, the Contractor shall comply with all federal requirements established by 44 United States Code (U.S.C.) Chapters 21, 29, 31, 33 and 35, and by 36 CFR, Chapter XII, Subchapter B – Records Management. The Contractor shall also comply with DoD Administrative Instruction No. 15 (DoD AI-15), “OSD Records and Information Management Program” (May 3, 2013) and Records Management requirements outlined in the current TRICARE Operations Manual (TOM).

3. Freedom of Information Act (FOIA)

The Contractor shall comply with the following procedures if it receives a FOIA request and immediately contact the DHA FOIA Officer for evaluation/action:

The Contractor shall inform beneficiaries that DHA FOIA procedures require a written request preferably sent via the National FOIA Portal at: www.FOIA.gov. However, requesters may also submit requests via email at DHA.FOIA@mail.mil; or via postal delivery addressed to the DHA Freedom of Information Service Center, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042-5101. All FOIA requests shall describe the desired record as completely as possible to facilitate its retrieval from files and to reduce search fees which may be borne by the requestor. Contract and/or Modification numbers must be included in all FOIA requests seeking DHA procurement records. Although the administrative time limit to grant or deny a request (ten working days after receipt) does not begin until the request is received by DHA, the Contractor shall act as quickly as possible and respond to DHA within ten working days.

In response to requests received by the Contractor for the release of information, unclassified information, documents and forms which were previously provided to the public as part of routine services shall continue to be made available in accordance with previously established criteria. All other requests from the public for release of DHA records and, specifically, all requests that reference FOIA shall be immediately forwarded to DHA, ATTENTION: Freedom of Information Officer, for appropriate action. Direct contact, including interim replies, between TRICARE contractors and such requestors is not authorized. The Contractor shall process requests by individuals for access to records about themselves in accordance with directions from the DHA Freedom of Information Service Center. If such a requestor specifically makes the request under the Privacy Act or does not make clear whether the request is made under FOIA or the Privacy Act, the Contractor shall process the request in accordance with directions from the DHA Privacy Office. If requestor specifically seeks PHI under HIPAA, the Contractor shall follow paragraph 8.1.6, relating to individual rights of access to PHI.

4. Systems of Records

In order to meet the requirements of the Privacy Act and the DoD Privacy Act Issuances, the Contractor shall identify to the DHA Contracting Officer (CO) systems of records that are or will be maintained or operated for DHA where records of PII collected from individuals are maintained and specifically retrieved using a personal identifier. Upon identification of such systems to the CO, and prior to the lawful operation of such systems, the Contractor shall coordinate with the DHA Privacy Office to complete systems of records notices (SORNs) for submission and publication in the Federal Register as coordinated by the Defense Privacy, Civil Liberties, and Transparency Division, and as required by the DoD Privacy Act Issuances.

Following proper SORN publication and Government confirmation of Contractor authority to operate the applicable system(s), the Contractor shall also comply with the additional systems of records and SORN guidance, in coordination with the DHA Privacy Office, regarding periodic system review, amendments, alterations, or deletions set forth by the DoD Privacy Act Issuances, Office of Management and Budget (OMB) Memorandum 99-05, Attachment B, OMB Circular A-130, and Privacy Act of 1974 requirements applicable to contractors operating systems of records on behalf of federal agencies. The Contractor shall promptly advise the DHA Privacy Office of changes in systems of records or their use that may require a change in the SORN.

5. Privacy Impact Assessment (PIA)

If DHA data is stored on a Contractor owned system, a PIA is required from the Contractor.

6. Data Sharing Agreement (DSA)

6.1. (Applies if contract requirements involve the use of DHA data (including PII/PHI, a limited data set, or de-identified data))

The Contractor shall consult with the DHA Privacy Office to determine if the Contractor must obtain a DSA or Data Use Agreement (DUA), when DHA data will be accessed, used, disclosed or stored, to perform the requirements of this Contract.

The Contractor shall comply with the permitted uses established in a DSA/DUA to prevent the unauthorized use and/or disclosure of any PII/PHI, in accordance with the HIPAA Rules and DoD HIPAA Issuances. Likewise, the Contractor shall comply with the DoD Privacy Act Issuances.

Prior to using any data involving PHI for research purposes, as defined by HIPAA, the Contractor must gain approval from the DHA Privacy Board. Thus, the Contractor shall comply with DHA Privacy Board requests for additional documentation.

To begin the DSA request process, the Contractor shall submit a DSA Application (DSAA) to the DHA Privacy Office. Upon approval, the requestor shall enter into one of the following agreements, depending on the data involved:

- DSA for De-Identified Data
- DSA for PHI
- DSA for PII Without PHI
- DUA for Limited Data Set

DSAs executed for contract support will expire after 1 year or at the end of the contract option year, whichever comes first. If the contractual use of DHA data will continue after the DSA expiration date, the Contractor shall submit a DSA Renewal Request template to the Privacy Office; however, if the DSA will not be renewed, the Contractor shall close the DSA by providing a Certificate of Data Disposition (CDD) to the DHA Privacy Office.

6.2. (Applies if contract requirements may include human subject research)

This Contract incorporates by reference the Protection of Human Subject Research clause in the Defense Federal Acquisition Regulation Supplement (DFARS) at 48 CFR 252.235-7004. A separate DFARS provision, 48 CFR 235.072(e), requires that the clause be incorporated in contracts that include or may include research involving human subjects in accordance with 32 CFR 219, DoDI 3216.02, and 10 U.S.C. 980, including research that meets exemption criteria under 32 CFR 219.101(b), the clause applies to solicitations and contracts awarded by any DoD component, regardless of mission or funding Program Element Code. Thus, in the event a contractor participates in a study or demonstration project or other activity that involves human subject research, then the contractor shall comply with Protection of Human Subject Research clause. COs may not determine whether an activity is exempt from human subject research requirements. If contractor activity appears to involve human subject research, then the contractor shall consult the DHA Privacy Office, which may contact the Research Regulatory Oversight Office in the Office of the Under Secretary of Defense for Personnel and Readiness (OUSDP&R).

7. Privacy Act and HIPAA Training

The Contractor shall ensure that its entire staff, including subcontractors and consultants that perform work on this Contract receive training on the Privacy Act, HIPAA, and the federal regulations on confidentiality of substance use disorder patient records, 42 CFR Part 2. Refer to FAR 52.224-3 regarding specific requirements for Privacy Training appropriate to the Contractor's scope of involvement with DHA's PHI and its regulatory responsibilities as either a Covered Entity, or Business Associate.

The Contractor shall ensure all employees and subcontractors supply a certificate of all training completion to the Contracting Officer's Representative (COR) within 30 days of being assigned and on an annual basis based on the trainee's birth month thereafter.

8. HIPAA Business Associate Provisions

8.1. Business Associate – General Provisions

The Contractor meets the definition of Business Associate, and DHA meets the definition of a covered entity under the HIPAA Rules and the DoD HIPAA Issuances. Therefore, a Business Associate Agreement (BAA) between the Contractor and DHA is required to comply with the HIPAA Rules and the DoD HIPAA Issuances. The contractor shall use the DoD BAA, which shall be used by all organizational entities within the DoD, referred to collectively as the "DoD Components", located at, <https://www.health.mil/Military-Health-Topics/Privacy-and-Civil-Liberties/Privacy-Contract-Language/HIPAA-Compliant-Business-Associate-Agreement-for-the-MHS>. b.i. and (3)b.ii

9. Breach Response

[This paragraph 9 is inoperative, and all references herein to "paragraph 9" shall be deemed to refer to the TOM breach responses provisions, if the contract incorporates the TOM by reference]

9.1. Definitions Related to Breach response

9.1.2 Breach means a loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where: (1) a person other than an authorized user accesses or potentially accesses PII; or (2) an authorized user accesses or potentially accesses PII for an other than authorized purpose. The foregoing definition is based on the definition of breach in DoDM 6025.18. Breaches are classified as either possible or confirmed (see the following two definitions) and as either cyber or non-cyber (i.e., involving either electronic PII/PHI or paper/oral PII/PHI).

9.1.3 A possible breach is an incident where the possibility of unauthorized access is suspected (or should be suspected) and has not been ruled out. For example, if a laptop containing PII/PHI is lost, and the contractor does not initially know whether or not the PII/PHI was encrypted, then the incident must initially be classified as a possible breach, because it is impossible to rule out the possibility of unauthorized access to the PII/PHI. In contrast, that possibility can be ruled out immediately, and a possible breach has not occurred, when misdirected postal mail is returned unopened in its original packaging. However, if the intended recipient informs the contractor that an expected package has not been received, then a possible breach exists until and unless the unopened package is returned to the contractor. In determining whether unauthorized access should be suspected, the contractor shall consider at least the following factors:

- How the event was discovered;
- Did the information stay within the covered entity's control;
- Was the information actually accessed/viewed; and
- Ability to ensure containment (e.g., recovered, destroyed, or deleted).

9.1.4. A confirmed breach is an incident in which it is known that unauthorized access could occur. For example, if a laptop containing PII/PHI is lost and the contractor knows that the PII/PHI is unencrypted, then the contractor should classify and report the incident as a confirmed breach, because unauthorized access could occur due to the lack of encryption (the contractor knows this even without knowing whether or not unauthorized access to the PII/PHI has actually occurred). If the laptop is subsequently recovered and forensic investigation reveals that files containing PII/PHI were never accessed, then the possibility of unauthorized access can be ruled out, and the contractor should re-classify the incident as a non-breach incident.

9.1.5. A HHS breach is an incident that satisfies the definition of breach in Section 164.402 of the HIPAA Breach Rule. The text of the HHS definition states:

Breach means the acquisition, access, use, or disclosure of PHI in a manner not permitted under subpart E of this part [i.e. the HIPAA Privacy Rule] which compromises the security or privacy of the PHI.

HHS breach excludes:

Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a DoD covered entity or a business associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the HIPAA Privacy Rule.

Any inadvertent disclosure by a person who is authorized to access PHI at a DoD covered entity or business associate to another person authorized to access PHI at the same DoD covered entity or business associate, or organized health care arrangement in which the DoD covered entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted the HIPAA Privacy Rule.

A disclosure of PHI where a DoD covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

Except as provided in this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under this issuance is presumed to be a breach unless the DoD covered entity or business associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

The unauthorized person who used the PHI or to whom the disclosure was made;

Whether the PHI was actually acquired or viewed; and

The extent to which the risk to the PHI has been mitigated.

9.1.6. A cybersecurity incident is a violation or imminent threat of violation of computer security policies, acceptable use policies, or standard security practices, with respect to electronic PII/PHI. A cybersecurity incident may or may not involve a breach of PII/PHI. For example, a malware infection would be a possible breach if it could cause unauthorized access to PII/PHI. However, if the malware only affects data integrity or availability (not confidentiality), then a non-breach cybersecurity incident has occurred.

9.2. General

9.2.1 The breach response requirements shall be followed for all unauthorized use or disclosure of information regardless of whether the information is PHI or solely PII.

9.2.2 Because DoD defines “breach” to include possible (suspected), as well as actual (confirmed) breaches, the Contractor shall implement these breach response requirements immediately upon the Contractor’s discovery of a possible breach. These procedures focus on the first two steps (breach identification and reporting) of a comprehensive breach response program, but also require addressing the remaining steps: containment, mitigation (which includes individual notification), eradication, recovery, and follow-up.

9.2.3 The contractor shall establish internal processes for carrying out the procedures set forth below. These processes shall assign responsibility for investigating, classifying, reporting and otherwise responding to breaches

and cybersecurity incidents. The contractor should consult with the DHA Privacy Office where guidance is needed, such as when the contractor is uncertain whether a discovered breach is the contractor's responsibility (e.g., if the contractor discovers a breach not caused by the contractor), or how the contractor is to classify an incident (breach vs. non-breach, confirmed vs. possible, cyber vs. non-cyber). Under no circumstances will a contractor delay reporting a confirmed or possible breach to the DHA Privacy Office beyond the 24-hour deadline. In conjunction with its initial investigation, the contractor shall immediately take steps to minimize any impact from the occurrence, proceed with further investigation of any relevant details (such as root causes, vulnerabilities exploited), and initiate further breach response steps.

9.2.4 In the event of a cybersecurity incident not involving a PII/PHI breach, the contractor shall follow applicable DoD cybersecurity and NIST requirements, which include United States- Computer Emergency Readiness Team (US-CERT) reporting (see paragraph 9.3). If at any point a contractor finds that a cybersecurity incident involves a PII/PHI breach (possible or confirmed), the contractor shall immediately initiate the reporting procedures set forth below. The contractor shall also continue to follow any required cybersecurity incident response procedures and other applicable DoD cybersecurity requirements.

9.2.5 Contractors shall require subcontractors who discover a possible breach or cybersecurity incident to initiate the incident response requirements herein by reporting the incident to the contractor immediately after discovery. The time of that report to the contractor shall trigger the contractor's DHA Privacy Office reporting deadline (24 hours) under paragraph 9.3.2. If a cybersecurity incident is involved, the contractor's deadline for US-CERT reporting (1 hour) runs from the time the incident is confirmed. The contractor shall require the subcontractor to cooperate as necessary to meet these deadlines, maintain records, and otherwise enable the contractor to complete the breach response requirements herein. Alternatively, the contractor and subcontractor may agree that the subcontractor shall report directly to US-CERT and the DHA Privacy Office, and that the subcontractor shall be responsible for completing the response process, provided that such agreement requires the subcontractor to inform the contractor of the incident and the subsequent response actions.

9.2.6 Contractors shall maintain records of all breach and cybersecurity incident investigations, regardless of the outcome. Investigations identifying unauthorized disclosures must be logged for HIPAA and Privacy Act disclosure accounting purposes, whether or not individual notification is required under the HIPAA Breach Rule.

9.2.7 Contractors, when acting as HIPAA-covered entities, and not as business associates, are not subject to the breach response requirements herein. However, such contractors are subject to both the HIPAA Breach Rule (applicable to them in their capacity as covered entities) and DoD cybersecurity requirements (applicable to them in their capacity as DoD contractors).

9.3. Reporting Provisions

9.3.1 Immediately upon discovery of a possible or confirmed breach or cybersecurity incident, the contractor shall initiate an investigation. If the incident involves electronic PII/PHI, and if the investigation finds a confirmed breach or cybersecurity incident, the contractor shall report it, within 1 hour of confirmation, to the US-CERT Incident Reporting System at <https://forms.us-cert.gov/report/>, as required by the Department of Homeland Security (DHS).

Note: DHS no longer requires US-CERT reporting of non-cyber breaches or unconfirmed electronic breaches. However, DHS permits US-CERT reporting of unconfirmed cyber-related incidents on a voluntary basis. Thus, if a contractor is uncertain whether a possible cyber-related incident should be treated as confirmed and thus reportable, the contractor may voluntarily report the incident.

Before submission to US-CERT, the contractor shall save a copy of the on-line report. After submitting the report, the contractor shall record the US-CERT incident reporting number, which shall be included in the initial report to the DHA Privacy Office as described in paragraph 9.3.2.

Note: Regardless of whether or not an incident is confirmed as a breach, the contractor must also investigate whether or not the incident impacts data integrity or availability of PII/PHI. If such impact is confirmed, then the

incident is reportable to US-CERT as a cybersecurity incident. For guidance on investigating the impact on data integrity and availability, refer to DoD cybersecurity and NIST guidance.

The contractor shall provide any updates to the initial US-CERT report by email to soc@us-cert.gov, with the Reporting Number in the subject line. The contractor shall provide a copy of the initial or updated US-CERT report to the DHA Privacy Office if requested. Contractor questions about US-CERT reporting shall be directed to the DHA Privacy Office, not the US-CERT office.

9.3.2 In addition to US-CERT reporting, the contractor shall report to the DHA Privacy Office by submitting the form specified below within 24 hours of discovery of a breach (possible or confirmed), unless the breach falls within a category that the Privacy Office has determined to be not reportable. This 24-hour period runs from the time of discovery, unlike the 1 hour US-CERT reporting period, which runs from the time a cybersecurity incident is confirmed. Thus, depending on the time period needed to confirm, the report to the DHA Privacy Office may be due either before or after the US-CERT report.

The breach report form required within the 24-hour deadline shall be sent by e-mail to: DHA.PrivacyOfficer@mail.mil. The contractor shall also e-mail the report to the CO, the COR and its usual point of contact at the applicable Program Office. Encryption is not required, because reports and notices shall not contain PII/PHI. If electronic mail is not available, telephone notification is also acceptable (at 703-275-6363), but all notifications and reports delivered telephonically must be confirmed in writing as soon as technically feasible.

Contractors shall prepare the breach reports required within the 24-hour deadline by completing the Breach Reporting Department of Defense Form DD 2959 (Breach of PII Report), available at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd2959.pdf>. For non-cyber incidents without a US-CERT number, the contractor shall assign an internal tracking number and include that number in Box 1.e of the DD Form 2959. The contractor shall coordinate with the DHA Privacy Office for subsequent action, such as beneficiary notification, and mitigation. The contractor must promptly update the DD Form 2959 as new information becomes available.

When a Breach Report Form initially submitted is incomplete or incorrect due to unavailable information, or when significant developments require an update, the Contractor shall submit a revised form or forms promptly after the new information becomes available, stating the updated status and previous report date(s) and showing any revisions or additions in red text. The Contractor shall provide updates to the same parties as required for the initial Breach Report Form.

9.4 Individual Notification Provisions

9.4.1 If the DHA Privacy Office determines that individual notification is required, the Contractor shall provide written notification to beneficiaries affected by the breach as soon as possible, but no later than 10 working days after the breach is discovered and the identities and addresses of the beneficiaries are ascertained. The 10 day period begins when the Contractor is able to determine the identities (including addresses) of the beneficiaries whose records were impacted. If notification cannot be accomplished within 10 working days, the contractor shall notify the DHA Privacy Office.

9.4.2. The Contractor's proposed notification to be issued to the affected beneficiaries shall be submitted to the DHA Privacy Office for approval. The notification to beneficiaries shall include, at a minimum, the following:

- Specific data elements,
- Basic facts and circumstances,
- Recommended precautions the beneficiary can take,
- Federal Trade Commission (FTC) identity theft hotline information, and
- Any mitigation support services offered, such as credit monitoring.

Contractors shall ensure any envelope containing written notifications to affected individuals are clearly labeled to alert the recipient to the importance of its contents, e.g., “Data Breach Information Enclosed,” and that the envelope is marked with the identity of the Contractor and/or subcontractor organization that suffered the breach.

If media notice is required, the contractor will submit a proposed notice and suggested media outlets for the DHA Privacy Office review and approval (which will include coordination with the DHA Communications Division).

9.5 In the event the Contractor is uncertain on how to apply the above requirements, the Contractor shall consult with the CO, who will consult with the Privacy Office as appropriate when determinations on applying the above requirements are needed.

The Contractor shall, at no cost to the government, bear any costs associated with a breach of PII/PHI that the Contractor has caused or is otherwise responsible for addressing.

C. TOBACCO FREE MEDICAL CAMPUS (TFMC)

In accordance with Army Regulation 600-63, paragraph 7-3, 14 April 2015; Operations Order 15-48 (Army Medical Command (MEDCOM) Tobacco Free Living – USAMEDCOM), 8 May 2015; and any Operations Order, regulation or other instruction implementing, defining or otherwise addressing the Tobacco Free Medical Campus (TFMC) on any military installation or DoD-controlled location, Contractor personnel are prohibited from using any tobacco product on or within any TFMC while performing under this contract. TFMCs are established at each installation or DoD-controlled location and include: (1) any property or non-residential building that is operated, maintained or assigned to support medical activities, including but not limited to, hospitals, medical laboratories, outpatient clinics (including medical, dental, and veterinary facilities), or aid stations operating for the primary purpose of delivering medical care and services for DOD eligible beneficiaries and /or meeting the mission of the Army Medical Command; (2) all other facilities in which medical activities or administration take place, to include HQ MEDCOM and Defense Health Headquarters; (3) all internal roadways, sidewalks and parking lots; and (4) all sidewalks, parking lots and grounds external but adjacent to the building or related to the migratory corridors surrounding the medical facility. The Contractor shall obtain from the COR (or Government Representative) any orders, regulations, instructions or other documents implementing, defining or otherwise addressing the TFMC for any given installation or DoD-controlled location where Contractor personnel may perform under this contract and shall instruct Contractor personnel on the TFMC limitations for installations or DoD-controlled locations where they may perform under this contract.

PWS

PERFORMANCE WORK STATEMENT
REFERENCE LABORATORY TESTING SERVICES
BLANKET PURCHASE AGREEMENT
AT TRIPLER ARMY MEDICAL CENTER, HONOLULU, HAWAII

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1.0. INTRODUCTION.

1.1. The contractor shall provide the non-personal services of clinical Reference Laboratory Testing services for Tripler Army Medical Center (TAMC), Department of Pathology which shall contribute to a stable workforce tasked with providing quality health care services to a diverse beneficiary population.

1.2. All services shall be provided in accordance with established standards, principles and ethics of the profession and applicable professional specialty organizations, The Joint Commission (JC) standards, applicable Department of Defense (DoD) and Army specific regulations, directives, and policies, and military treatment facilities (MTF) specific policies, procedures, and job descriptions.

1.2.1. All tests shall be executed at the Contractor's premises, or within the Contractor's network of laboratories [affiliate(s) or qualified subcontractor(s)].

1.3. This agreement is a non-personal services agreement under which the personnel rendering the services are not subject, either by the agreement's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the government and its employees.

2.0. BACKGROUND.

2.1. The mission of the military healthcare system (MHS) is to ensure the nation has available at all times a healthy military force supported by a combat ready healthcare system. Health care services for eligible MHS beneficiaries are provided at military treatment facilities (MTFs) located on or near military installations or posts. The military treatment facility may be a clinic, Hospital, or Medical Center. Clinics are outpatient facilities offering primary care or simple specialty care (routine exams, tests, treatments). The Clinic may be a stand-alone site or a satellite of a larger Clinic, Hospital, or Medical Center. Army Community Hospitals (ACH) offer more complex, resource-intensive secondary care (e.g. inpatient care, surgery under anesthesia) and primary care at outpatient clinics inside and outside the hospital. Army Medical Centers (MEDCENS) offer tertiary (sophisticated diagnosis/treatment of any ailment), secondary, and primary care, hospital services, preventive services, blood bank, and other services. In addition, all MEDCENS offer graduate medical education programs for physicians.

2.2. Tripler Army Medical Center is the headquarters of the Pacific Regional Medical Command of the armed forces administered by the Defense Health Agency (DHA). It is the largest military hospital in the Asian and Pacific Rim region and serves a military sphere of jurisdiction. During a single day of operations at Tripler Army Medical Center, personnel serve an average of 1,728 meals, tend to 2,248 clinic visits and 110 emergency room visits, fill 1,193 prescriptions, complete 25,000 pathology procedures and deliver eight (8) infants. On a typical day, 32 new patients are admitted as 159 beds are occupied. Of those patients, 19 go through ambulatory surgery.

3.0. SCOPE OF WORK.

3.1. The Contractor's reference laboratory shall provide all reference laboratory testing services to aid in the diagnosis and treatment for specimens submitted by the Tripler Army Medical Center, Department of Pathology. Work includes the testing of specimens, and communication of results back to TAMC to include electronic and hard copy results. Services shall be in accordance with the established principles, practices and ethics of the laboratory profession.

3.2. Administrative.

3.2.1. Contractor Representative. The Contractor shall designate, in writing, a primary point of contact for coordination and implementation not later than five business days after receiving notice of agreement. Changes in the primary point of contact (POC), at any time, shall require the Contractor to notify the Contracting Officer (KO) of the new representative at least five working days prior to the change. This notification shall be in writing and shall state the name and contact information for the new point of contact.

3.2.2. The Individual Authorized to Place Calls (IAP) will be the KO's authorized representative in administering the agreement at the MTF level. The Contractor's representative shall be available to discuss any problems that the Contractor's personnel may be experiencing during the performance of this agreement. Problems experienced by the Government with the Contractor's performance will be discussed and resolved. Unresolved problems will be referred to the KO for resolution.

3.2.3. Media and Other Inquiries. The Contractor shall not respond to any media inquiries. Any inquiries from the media, third parties, or public agencies shall be immediately relayed to the IAP, who will relay them to the MTF Public Affairs Officer or, after duty hours, to the Administrative Officer of the Day (AOD). There shall be no interviews, comments, or any other response without the knowledge and approval of the MTF Commander. Other than routine inquiries from external agencies, all other inquiries and complaints shall be brought to the attention of the IAP.

3.3. Security.

3.3.1. Safeguarding Material. The contractor personnel shall be responsible for safeguarding all Government property. The Contractor shall safeguard information of a confidential or sensitive nature. All patient related information is considered confidential and sensitive. If working remotely, Contractors are prohibited from reproducing patient information in any way. This includes printing. Neither the Contractor nor any of its employees shall disclose or cause to be disseminated any information concerning the operation of the MTF that could result in or increase the possibility of a breach in security or interrupt the continuity of operations or which breach the requirements of the Federal Privacy Act of 1974. However, the Contractor may be required to provide testimony or disposition in cases of due process action.

3.4. RESERVED

3.5. MTF HOURS OF OPERATION

3.5.1. ACH's and MEDCEN's provide services 24 hours a day, 365 days a year (366 days during leap years) including holiday. Clinics have designated operating hours.

3.6. HOURS OF PERFORMANCE.

3.6.1. Department of Pathology Shipping Hours are: Monday – Friday 0730 - 1600 Hawaii-Aleutian Standard Time

3.6.2. The contractor shall complete work within 1 day of published turnaround times in their test menu, and notification shall be given if there is a delay.

3.6.3. The Contractor is responsible for submitting an accurate, itemized invoice electronically. The invoice will contain the agreement number, date and time of collection, specimen number, test name, and amount billed.

3.7. CONDUCT.

3.7.1. Contractor personnel shall abide by federal, state, and local MTF regulations and requirements concerning the nature of limited privileged communication between patients and the contractor personnel as may be necessary for security and personnel reliability programs. They shall also abide by federal, state, and local MTF regulations concerning the confidentiality of patient records, as embodied in federal statutes including the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act (HIPAA) of 1996. All medical records and reports will remain the property of the Government.

3.8. QUALITY MANAGEMENT

3.8.1. The Contractor shall have a planned and systematic quality management process for monitoring and analyzing its performance.

4.0. QUALITY ASSURANCE:

4.1. Inspection. The inspection and acceptance point for all services rendered under this agreement will be the IAP. The performance by the contractor personnel, the quality of services rendered, and any documentation or written material in support of same, shall be subject to continuous inspection, surveillance and review for acceptance by the KO or IAP.

5.0. DESCRIPTION OF SERVICES.

5.1. Required Services: The Contractor shall provide Reference Laboratory Testing services to include but not limited to, clinical and anatomic testing, treponema pallidum particle agglutination, Hepatitis B Surface Antibody Neutralization, renal biopsy and muscle biopsy testing, Huntington's Disease Genetic testing, and pass through testing services. Services provided shall include the Contractor providing testing, supplies, labor, customer services, courier services, software, information technology, reporting/interpreting, result reporting, and management reports.

5.1.1. Reports to: POC Shipping Lead Tech, ph (808) 433-6044 or Shipping Supervisor, ph (808) 433-4895, or IAP, Supervisor of Clinical Client Services, phone (808) 433-4119. Secure Shipping Fax number is (808) 433-5008.

5.1.2. Qualifications

5.1.2.1. Licensure/Certification/Registration: Contractor shall be accredited by Clinical Laboratory Improvement Amendments (CLIA) and/or College of American Pathologists (CAP) and shall provide a copy of current CLIA and/or CAP certificate with their offer.

5.1.3. Specific Duties/Tasks:

5.1.3.1. The Contractor's laboratory shall provide a turnaround time as stated in the Test Directory on the laboratory web site. Any delay in testing shall be communicated within 1 day of the turnaround time specification.

5.1.3.2. The Government will package specimens for shipment and ensure specimens are accompanied by a electronic or manual order specifying the tests to be performed, specimen type, collection date and time.

5.1.3.3. The Government will package specimens for shipment and ensure specimens are accompanied by a written order specifying the tests to be performed.

5.1.3.4. Contractor shall provide all packing materials (e.g. cardboard shipping containers, and packing inserts) to ship specimens to the Contractor's testing facility at no cost to the Government.

5.1.3.5. Contractor shall provide a traceable means of shipping specimens required for testing from the Department of Pathology, Tripler Army Medical Center to the Contractor's testing facility.

5.1.3.6. Complete tests ordered and return results within 1 day of published turnaround times in test menu (see laboratory test menu.) FAX results to (808) 433-5008. Mailed copies can be sent to Tripler Army Medical Center, Department of Pathology, Room 2G-008, ATTN: MCHK-DP, 1 Jarrett White Road, Tripler AMC, HI 96859-5000. The reference laboratory will provide access to a secured website to retrieve laboratory reports. If the Contractor anticipates a delay in sample testing they must contact the Department of Pathology, Tripler Army Medical Center at (808) 433-6044 Point of Contact is Lynn Bourgeois, Shipping Technician. Abnormal results (results outside the reference range) shall be flagged by some indication on the reports to differentiate them from normal results (results within the reference range). Amended results must also be flagged and copies of revised reports must be provided to the SAs.

5.1.3.7. Contractor shall provide Department of Pathology, TAMC with a list of all laboratory tests performed with Reference Ranges and test interpretations. Specimen handling instructions, minimum volumes, alias names, and any special instructions, such as required patient information or consent. Contractor shall notify Department of

Pathology, TAMC within 2 weeks of any test interpretations changes and amended results reflecting those changes. Notification shall be made in writing.

5.1.3.8. Contractor shall notify Department of Pathology, TAMC Shipping Section of any testing discrepancies identified after initial reporting of patient results. Documentation shall include the affected specimen(s), description of the discrepancy, and the corrective action(s) taken to remedy the situation.

5.1.3.9. The Contractor shall provide a toll-free number for customer services. The services shall be available 24 hours per day, 7 days per week. Through this service Government staff at each SA shall be assisted with the following: tracking test results, modifying test requests, obtaining information regarding specimen requirements, requesting emergency courier service, technical support for use of Contractor's computer system, and other applicable related issues/problems that may arise in the performance of work under this agreement. The Contractor shall ensure that Government personnel receive quality customer service through the assistance of knowledgeable and responsive laboratory professionals. Proper phone numbers should be provided so transfers are kept at a minimum. Hold times should be minimized.

5.1.3.10. Routine Clinical Reference Laboratory Testing Services. The Contractor shall provide routine local courier pick-up services at each SA on a daily basis (Monday – Friday, excluding federal holidays) at a time mutually agreed upon by the Government and the Contractor or Shipping services (FedEx) at no expense to the Government. Transport of specimens shall be under required conditions to ensure viability and stability for testing.

5.1.3.11. The Contractor shall ensure work meets quality and timeliness requirements specified in this agreement, to include scheduling change(s) of technicians, courier services and responding to critical requirements such as emergency contingencies.

5.1.3.12. The Contractor shall ensure all laboratory facilities used to perform the requirements of this agreement meet and maintain all state, federal and occupational standards, certification(s), accreditation(s), license(s), etc., required when executing performance under this agreement.

5.1.3.13. The Contractor shall ensure all testing and supervisory personnel at all Contractor-owned, affiliate, or subcontracted laboratories assigned to work under this agreement meet and maintain the applicable personnel qualifications set forth under the Clinical Laboratory Improvement Amendments (CLIA) of 1988 regulations, the College of American Pathology (CAP) accreditation standards, and/or other accrediting organizations' and State standards.

5.1.4. TEST DESCRIPTIONS

5.1.4.1. The Contractor shall provide the full range of clinical and anatomic pathology diagnostic testing capabilities to execute required tests defined in the Contractor's Price list, and reference laboratory pass through services to other laboratories. All clinical reference laboratory testing shall be executed in accordance with standard industry practices.

5.1.4.2. Test Menu. Commercial Catalog. On-line access to detailed reference data, such as might be normally available through a hardcopy Contractor reference manual, is required. Such data shall include all items listed in paragraph 5.1.3.7. and must include updates as described in paragraph 5.1.3.7. The commercial catalog will be used by the government as a reference to determine the specimen requirements, methodology and clinical utility of the tests offered by the contractor. The catalog will not serve as a test price list or comprehensive list of tests available to the government. See Appendix A for test menu.

5.2. Requirements for all positions.

5.2.1. The Contractor shall ensure that all contract personnel providing services under this agreement shall be able to read, write, and speak English well enough to effectively communicate with all parties and other health care providers. In addition, if the position requires the use of computers, the contract personnel shall be computer literate.

5.2.2. The contract personnel shall possess sufficient initiative, interpersonal relationship skills and social sensitivity such that he/she can relate constructively to a variety of patients from diverse backgrounds.

5.2.3. The contract personnel shall have the required education, training, experience and documented current competence in the required specialty position description.

5.3. If services are provided remotely, the Contractor must adhere to all IT requirements for utilizing Government equipment and accessing Government systems. Supporting equipment will be at the vendor's expense. i.e. interfaces, hardware, and software.

6.0. APPLICABLE TECHNICAL ORDERS, SPECIFICATIONS, REGULATIONS, AND MANUALS.

Following is a list of basic publications applicable to this performance based statement of work. Additional publications may be listed by call. The Contractor is obligated to follow these publications. Current issues of Army publications and links to other service publications can be accessed at <http://www.apd.army.mil/>. Army publications not on the internet or MTF policies and procedures can be obtained from the MTF. Department of Defense publications can be found at www.defenselink.mil/pubs or www.dtic.mil/whs/directives.

The Publications have been coded as mandatory or advisory. The Contractor is obligated to follow those coded as mandatory only to the extent that they apply to this agreement. Supplements, amendments, or changes to these mandatory publications may be issued during the life of the agreement. Advisory publications may be used for information and guidance but are not binding for compliance.

Mandatory Publications:

Public Law 91-596	29 Dec 70 Occupational Safety and Health Administration
Public Law 104-191	21 Aug 96 Health Insurance Portability and Accountability Act of 1996
	Current Edition Joint Commission for Accreditation of Healthcare Organizations (JCAHO) Manual
AR 25-2	Information Assurance
AR 40-1	Composition, Mission, and Functions of the Army Medical Department
AR 40-3	Medical Services: Medical, Dental, and Veterinary Care
AR 40-4	Army Medical Department Facilities/Activities
AR 40-5	Preventive Medicine
AR 40-66	Medical Records Administration and Health Care Documentation
AR 40-330	Rates Codes, Expense and Performance Reporting Systems, Centralized, Billing, and Medical Service Accounts
AR 40-400	Patient Administration
AR 40-407	Nursing Records and Reports
AR 40-501	Standards of Medical Fitness
AR 40-562	Immunizations and Chemoprophylaxis
AR 340-21	The Army Privacy Program
AR 380-5	Department of Army Information Security Program
AR 380-53	Information Systems Security Monitoring
AR 380-67	The Department of the Army Personnel Security Program
AR 385-40	Accident Reporting and Records and HSC Supplements
AR 608-18	Army Family Advocacy Program
AR 600-85	Alcohol & Drug Abuse Prevention and Control Program
MEDCOM Pam 25-31	Index of Command Administrative Publications
DA PAM 40-11	Preventive Medicine
DoD 6055.5-M	Occupational Medical Surveillance Manual
TG 149	Guidelines for Controlling Occupational Exposure to Hazardous Drugs
TG 190	Guide to Managing Exposure to Bloodborne Pathogens

TB MED 510	Guidelines for the Recognition Evaluation, and Control of Occupational Exposure to Waste Anesthetic Gases Advisory Publications.
AMA CPT	Physician's Current Procedural Terminology, updated annually See https://catalog.ama-assn.org
TB Med 2	Sterilizing Medical, Surgical, Dental, and Veterinary Material
AR 40-501	Medical Examinations
AR 190-13	The Army Physical Security Program
AR 608-1	Army Community Service Program
DA Pam 25-51	The Army Privacy Program: System Notices and Exemptions Rule
DHA-PM 6025.13	Clinical Quality Management in the Military Health System
DoD 1341.2-M	DEERS Program Manual
DoD 5200.2	DoD Personal Security
DoD 6010.8-R	Civilian Health and Medical Program of the Uniformed Services CHAMPUS, Ch 9, 1 Jul 1991
FM 3-19.30	Physical Security
PL 89-614	Chapter 55, 10 U.S.C. (1071-1088)
Title 29, CFR	Occupational Safety and Health Standards
DoDD 6459.01	Sexual Assault and Response (SAPR) Program

Current issues of many forms can be accessed at <http://www.usapa.army.mil/forms>

7.0. ACRONYMS AND DEFINITIONS.

ADM	-	Ambulatory Data Module
ADS	-	Ambulatory Data System
AHA	-	American Hospital Association
AHLTA	-	Armed Forces Health Longitudinal Technology Application
AKO	-	Army Knowledge Online
AMA	-	American Medical Association
AOD	-	Administrative Officer of the Day
AR	-	Army Regulation
CAC	-	Common Access Card
CAMH	-	Comprehensive Accreditation Manual for Hospitals
CFR	-	Code of Federal Regulations
CHCS	-	Composite Health Care System
CLIN	-	Contract Line Item Number
COR	-	Contracting Officer's Representative
COTR	-	Contracting Officer's Technical Representative
CPT	-	Current Physicians Terminology
DA	-	Department of the Army
DoD	-	Department of Defense
DODI	-	Department of Defense Instruction
EFT	-	Electronic Funds Transfer
FAR	-	Federal Acquisition Regulation
FSO	-	Facility Security Officer
FTE	-	Full Time Equivalent
HCP	-	Healthcare Provider
HIPAA	-	Health Insurance Portability & Accountability Act of 1996
LADS	-	Labor and Delivery Statistics System
MEDCENs	-	Army Medical Centers
MEDCOM	-	Medical Command
MHS	-	Military Healthcare System
JC	-	The Joint Commission
KO	-	Contracting Officer

MTF	-	Medical Treatment Facility
OIC	-	Officer in Charge
OSHA	-	Occupational Safety and Health Administration
PAM	-	Pamphlet
PAR	-	Performance Assessment Report
POC	-	Point of Contact
PWS	-	Performance Work Statement
PL	-	Public Law
QASP	-	Quality Assurance Surveillance Plan
QC	-	Quality Control
RVU	-	Relative Value Units
SF	-	Standard Form
TA	-	Trusted Agent
TAMC	-	Tripler Army Medical Center
TASS	-	Trusted Associated Sponsorship System
UCAPERS	-	Uniform Charts of Accounts Personnel System

END OF PERFORMANCE WORK STATEMENT

WAGE DETERMINATION

The applicable Wage Determination will be added to the award.

CLAUSES INCORPORATED BY REFERENCE

52.212-1	Instructions to Offerors--Commercial Products and Commercial Services	NOV 2021
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ADDENDUM TO 52.212-1

Replace Paragraph 52.212-1(b) with the following:

INSTRUCTIONS FOR PREPARATION OF QUOTES:

Quoters shall submit signed and dated quotes to the office indicated in Block 9 of the Standard Form (SF) 1449, Solicitation/Contract/order for commercial Items, to arrive no later than the date and time specified in Block 8, SF 1449. The quoter shall have a title page identifying the quoter, the full address, phone/fax number, contacts (POCs) with email addresses, the solicitation number and its contents.

Acceptable Quote Submission:

Quotes shall be submitted via E-mail to: ronnie.t.sakata.civ@health.mil

All submissions must clearly identify this notice and the name of the contract specialist on the first page or subject line. Submitters bear the burden of ensuring that the quote reached the designated contracting office on time and should allow reasonable time for transmission to be completed. Large e-mail files may not transmit properly so it is advised to send large attachments in several separate e-mails. All pages of the transmission and attachments must reach the office before the deadline specified. Any part of the quote that arrives after the specified deadline may not be considered. The submitter bears the risk of non-receipt of quotes and should confirm by telephone that the quote was received. The point of contact for this requirement is Ronnie Sakata, 808-438-5127.

Questions Concerning the Solicitation: Direct questions regarding this solicitation to ronnie.t.sakata.civ@health.mil.

All questions must be received no later than three calendar days after the solicitation issue date established in SF 1449 block 6. The Government reserves the right to not answer questions that do not meet this timeline.

WRITTEN DOCUMENTATION: Quotes shall be prepared in four separate volumes as follows:

VOLUME I - ADMINISTRATIVE
VOLUME II - TECHNICAL
VOLUME III - PAST PERFORMANCE
VOLUME IV - PRICE

The quoter shall submit 1 copy of its entire quote. The submission of an incomplete quote may render the quote unacceptable and will not be considered. (NOTE: quotes submitted through sam.gov are unacceptable)

WRITTEN DOCUMENTATION, shall include the following:

VOLUME I – ADMINISTRATIVE

a. Request for Quotation. A copy of the Solicitation (SF 1449) with signatures of a corporate officer authorized to negotiate for the company. Include name of the company, phone, fax numbers, and email address(es).

b. Acknowledged and signed copies of amendment(s) if applicable. The number of copies required will be shown on the SF 30/amendment.

c. Completed copy of the Representations and Certifications at FAR 52.212-3. The quoter shall complete only paragraph (b) of this provision if the quoter has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the quoter has not completed the annual representations and certifications electronically, the quoter shall complete only paragraphs (c) through (u) of this provision.

d. The quoter shall complete the fill-in sections for the following FAR provisions:

52.204-24
52.204-26
52.209-2
52.209-11
52.222-22
52.222-25

e. The quoter shall include a statement that the quoter and all subcontractors shall be in compliance with the Service Contract Labor Standard (SCLS), as amended. For certain labor categories, the FAR Clause 52.222-42, Statement of Equivalent Rates for Federal Hires, provides the government's assessment of the corresponding titles and occupational codes from the Service Contract Labor Standards Directory of Occupations. The minimum qualification requirements set forth in the PWS allow the quoter to propose either SCLS or non-SCLS covered personnel for certain labor categories. The government is not making a predetermination of whether or not a particular labor category is subject to the SCLS; or, if covered, which category from the Directory of Occupations applies. It is the responsibility of the quoter and the subsequent BPA awardee to comply with the SCLS.

f. The quoter shall provide points of contact for administration of the BPA during the quoter's normal business hours and after normal business hours. The POC for other than normal business hours will be contacted only in the event of emergencies. Accordingly, the named individual(s) should possess sufficient corporate authority to effectively deal with emergency situations and the telephone number provided should be functioning at all times other than normal business hours. If there are different POCs for different conditions, such as weekdays, weekends, holidays, etc., please furnish and explain:

(1) Quoter's normal business hours/days:

- (2) POC(s) during normal business hours:
- (3) POC(s) for other than normal business hours:

VOLUME II – TECHNICAL

This part of the quote shall be addressed in sufficient written detail for the Government to determine if quoters understand this aspect of the Government's requirement. Quoters shall provide the following:

Subfactor 1A: Copy of current Clinical Laboratory Improvement Amendments (CLIA) and/or College of American Pathologists (CAP) certificate.

Subfactor 1B: **A full price list of all** reference laboratory testing capabilities to include but not limited to:

1. Clinical and anatomic testing
2. Treponema pallidum particle agglutination
3. Hepatitis B Surface Antibody Neutralization
4. Renal biopsy and muscle biopsy testing
5. Huntington's Disease Genetic testing
6. Pass through testing services

Subfactor 1C: Documentation of a planned and systematic quality management process for monitoring and analyzing your performance.

VOLUME III – PAST PERFORMANCE

The Government will evaluate each supplier's past performance history in CPARS for the PSC of the services being purchased at www.cpars.gov. The Government may also use information from its own records, information provided by the quoters or their customers, or from any other source it deems appropriate and consider them for past performance evaluation.

VOLUME IV - PRICE

a. Pricing for Requirements. The quoter shall submit proposed pricing **for all testing capabilities** to include but not limited to:

1. Clinical and anatomic testing
2. Treponema pallidum particle agglutination
3. Hepatitis B Surface Antibody Neutralization
4. Renal biopsy and muscle biopsy testing
5. Huntington's Disease Genetic testing
6. Pass through testing services

b. The quoter shall submit a price list which will be included as an attachment to the BPA. The government is seeking maximum discounts and any discounts offered to the government shall be as low as, or lower than, those charged to the contractors' most favored customers for comparable quantities of similar items or services. For the purposes of determining the prices fair and reasonable, the quoter shall also submit appropriate pricing data, other than certified cost and pricing data, to support the prices listed (e.g., prices listed for the same or similar items that have been previously sold to non-governmental and governmental entities).

(m) Protests received at a level higher than the contracting officer will be referred to the contracting officer. Protestor may request a review by the contracting officer or an independent review at a level higher than the contracting officer. Requests for independent review will be addressed to the contracting officer for referral to the review authority. Questions on this process will be referred to the cognizant contracting officer identified in the solicitation.

(n) The non-FAR Part 12 discretionary FAR, DFARS, AFARS, and MEDCOM provisions included herein are incorporated into this solicitation either by reference or in full text. If incorporated by reference, see provision 52.252-1 for locations where full text can be obtained.

(End of Addendum to 52.212-1)

CLAUSES INCORPORATED BY REFERENCE

52.204-7	System for Award Management	OCT 2018
52.204-16	Commercial and Government Entity Code Reporting	AUG 2020
52.204-17	Ownership or Control of Offeror	AUG 2020
52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-- Representation and Certifications.	JUN 2020
252.204-7016	Covered Defense Telecommunications Equipment or Services -- Representation	DEC 2019
252.204-7017	Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services -- Representation	MAY 2021
252.204-7019	Notice of NIST SP 800-171 DoD Assessment Requirements	MAR 2022

CLAUSES INCORPORATED BY FULL TEXT

52.204-20 Predecessor of Offeror (AUG 2020)

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

Commercial and Government Entity (CAGE) code means--

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

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

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

(b) The Offeror represents that it [] is or [] is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(c) If the Offeror has indicated "is" in paragraph (b) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: ____ (or mark "Unknown").

Predecessor legal name: ____.

(Do not use a "doing business as" name).

(End of provision)

52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services-- Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-- Commercial Products and Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

(a) Definitions. As used in this provision-

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to--

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to--

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services."

(d) Representations. The Offeror represents that--

(1) It [___] will, [___] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that--

It [___] does, [___] does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures.

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment--

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services--

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment--

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services--

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES--REPRESENTATION (OCT 2020)

(a) Definitions. As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c) Representations.

(1) The Offeror represents that it [___] does, [___] does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it [___] does, [___] does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)

52.209-2 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS--REPRESENTATION (NOV 2015)

(a) Definitions. Inverted domestic corporation and subsidiary have the meaning given in the clause of this contract entitled Prohibition on Contracting with Inverted Domestic Corporations (52.209-10).

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

(c) Representation. The Offeror represents that--

(1) It [] is, [] is not an inverted domestic corporation; and

(2) It [] is, [] is not a subsidiary of an inverted domestic corporation.

(End of provision)

52.209-11 REPRESENTATION BY CORPORATIONS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (FEB 2016)

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that--

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that--

(1) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(2) It is [] is not [] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(End of provision)

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

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

(b) () It has, () has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

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

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

(End of provision)

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

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

<https://www.acquisition.gov/browse/index/far>
<https://www.acq.osd.mil/dpap/dars/dfarspgi/current/>

(End of provision)

52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (NOV 2020)

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in this solicitation of any DoD FAR Supplement (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(End of provision)

252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (SEP 2022)

(a) Definition. Covered DoD official is defined in the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the Offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the Offeror, and who are expected to undertake activities on behalf of the Offeror for any resulting contract, are presently in compliance with all applicable post-employment restrictions, including those contained in 18 U.S.C. 207, 41 U.S.C. 2101-2107, 5 CFR part 2641, section 1045 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), and Federal Acquisition Regulation 3.104-2.

(End of provision)

252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (OCT 2016)

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

Controlled technical information, covered contractor information system, covered defense information, cyber incident, information system, and technical information are defined in clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting.

(b) The security requirements required by contract clause 252.204-7012 shall be implemented for all covered defense information on all covered contractor information systems that support the performance of this contract.

(c) For covered contractor information systems that are not part of an information technology service or system operated on behalf of the Government (see 252.204-7012(b)(2))--

(1) By submission of this offer, the Offeror represents that it will implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations" (see <http://dx.doi.org/10.6028/NIST.SP.800-171>) that are in effect at the time the solicitation is issued or as authorized by the contracting officer not later than December 31, 2017.

(2)(i) If the Offeror proposes to vary from any of the security requirements specified by NIST SP 800-171 that are in effect at the time the solicitation is issued or as authorized by the Contracting Officer, the Offeror shall submit to the Contracting Officer, for consideration by the DoD Chief Information Officer (CIO), a written explanation of—

(A) Why a particular security requirement is not applicable; or

(B) How an alternative but equally effective, security measure is used to compensate for the inability to satisfy a particular requirement and achieve equivalent protection.

(ii) An authorized representative of the DoD CIO will adjudicate offeror requests to vary from NIST SP 800-171 requirements in writing prior to contract award. Any accepted variance from NIST SP 800-171 shall be incorporated into the resulting contract.

(End of provision)

252.225-7055 REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME
(MAY 2022)

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

Agency or instrumentality of the government of Venezuela, business operations, government of Venezuela, and person have the meaning given in the clause 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime, of this solicitation.

(b) Prohibition. In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(c) Representation. By submission of its offer, the Offeror represents that the Offeror is a person that--

(1) Does not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government; or

(2) Has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(End of provision)

CLAUSES INCORPORATED BY REFERENCE

52.212-2

Evaluation - Commercial Items

NOV 2021

ADDENDUM TO 52.212-2

Paragraph (a) is hereby replaced with the following:

(a) The Government intends to issue multiple pre-priced Blanket Purchase Agreements (BPAs) to the responsible suppliers of goods and/or services whose quotation conforming to the solicitation is technically acceptable, whose past performance is acceptable, and provides fair and reasonable prices. BPAs will be established in accordance with FAR 13.303, Blanket Purchase Agreements and FAR 13.501, Simplified Procedures for Certain Commercial Items.

Except communications conducted for the purpose of minor clarifications, the Government intends to evaluate quotes and establish BPAs without discussions. Therefore, each initial quote should contain the quoter's best terms from a technical and pricing standpoint. However, the Government reserves the right to conduct discussions if it is later determined by the Contracting Officer to be necessary.

EVALUATION FACTORS. The following factors shall be used to evaluate quotations:

Factor 1. Technical Capability

Factor 2. Past Performance
Factor 3. Price

TECHNICAL CAPABILITY (FACTOR 1). This part of the quote shall be addressed in sufficient written detail for the Government to determine if quoters understand this aspect of the Government's requirement. Quoters shall provide the following:

Subfactor 1A: Copy of current Clinical Laboratory Improvement Amendments (CLIA) and/or College of American Pathologists (CAP) certificate.

Subfactor 1B: **A full price list of all** reference laboratory testing capabilities to include but not limited to:

1. Clinical and anatomic testing
2. Treponema pallidum particle agglutination
3. Hepatitis B Surface Antibody Neutralization
4. Renal biopsy and muscle biopsy testing
5. Huntington's Disease Genetic testing
6. Pass through testing services

Subfactor 1C: Documentation of a planned and systematic quality management process for monitoring and analyzing your performance.

The quote should consist of written documentation to provide sufficient narrative and supporting data to address how the quote meets Technical Subfactors 1A, 1B, and 1C. The following ratings will be used in evaluating each quote:

ADJECTIVE	DEFINITION
Acceptable	Quote clearly meets the minimum qualifications/requirements of the solicitation.
Unacceptable	Quote does not clearly meet the minimum qualifications/requirements of the solicitation.

Note: To receive consideration for award, a rating of "Acceptable" must be achieved for all technical requirements.

PAST PERFORMANCE (FACTOR 2). Performance Confidence Assessment provides insight into a quoter's probability of successfully completing the solicitation requirements based on the quoter's performance record on recent, relevant, and similar contract efforts. The number and severity of problems (if any), the demonstrated effectiveness of corrective actions taken (if required) and the overall performance record are taken into consideration.

Each quoter's Past Performance will be evaluated and assigned an adjectival rating. The following rating scheme for Performance Risk will be used:

ADJECTIVE	DEFINITION
Acceptable	Based on the quoter's performance record and the confidence assessment, the Government has a reasonable expectation that the quoter will successfully perform the required effort, or the quoter's performance record is unknown. (See note below.)

Unacceptable	Based on the quoter's performance record and the confidence assessment, the Government has no reasonable expectation that the quoter will be able to successfully perform the required effort.
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Note: A quoter with a rating of "Unacceptable" will not be considered for award.

Evaluation of past performance will be subjective based on consideration of all relevant facts and circumstances. The currency, content, general trends, and relevance of the information in contractor's performance will be considered.

The Government may also consider and use any additional information from its own files, databases, references provided by the quoter, or from any source, as it deems appropriate. The Government may survey references to verify information provided and may survey other sources known to the Government.

If adverse past performance information is obtained, the respective point of contact will be contacted to obtain additional information about the circumstances surrounding the situation. Quoters will be given an opportunity to address unfavorable reports of past performance to which the quoter has not had a previous opportunity to respond.

If a quoter does not have a past performance history relating to the solicitation, the quoter will not be evaluated favorably or unfavorably, and a neutral rating will be given for this factor. A neutral rating is considered acceptable.

PRICE (FACTOR 3) is not rated. Price and/or cost analysis will be used to evaluate a quoter's price and the extent to which it is fair and reasonable. The Government may determine that a quotation is unacceptable if prices are significantly unbalanced.

BPAs will be established with suppliers who submit quotes possessing all of the following characteristics:

- 1) Meets the acceptability standards for non-price factors (e.g., Technical and Past Performance),
- 2) Conforms to the solicitation,
- 3) Is from a prospective contractor who is responsible (as defined in Federal Acquisition Regulation Part 9). (As part of a responsibility determination and pre-award risk assessment, the Contracting Officer will review the Federal Awardee Performance and Integrity Information Systems (FAPIIS) and System for Award Management (SAM)), and,
- 4) Provides prices that are determined to be fair and reasonable.

Paragraph (b) is hereby addended and reads as follows:

(b) If the Government establishes a BPA with a supplier, the supplier shall indicate acceptance of the BPA by written notice to the Government. The Government may, by written notice to the supplier, at any time before acceptance occurs, withdraw, amend, or cancel the BPA. Note that once a BPA is established, the Government is obligated only to the extent of authorized purchases actually made under the BPA.

(End of Addendum to FAR 52.212-2)

CLAUSES INCORPORATED BY FULL TEXT

52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEVIATION 2023-O0002) (DEC 2022)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through

<https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

(a) Definitions. As used in this provision -

Covered telecommunications equipment or services has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

Forced or indentured child labor means all work or service -

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

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

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

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

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

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

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

(2) Product or Service Group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

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

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

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

(8) PSC 9610, Ores;

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

(10) PSC 9630, Additive Metal Materials.

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

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

Reasonable inquiry has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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

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

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

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

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

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

(6) Have been voluntarily suspended.

Sensitive technology -

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

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

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

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

Service-disabled veteran-owned small business concern -

(1) Means a small business concern -

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

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

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

Small business concern –

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

(2) Affiliates, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

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

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

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

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$850,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

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

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

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

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

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

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

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

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

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.

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

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM 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 Products and Commercial Services, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs ____.

[Offeror to identify the applicable paragraphs at (c) through (v) 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 electronically on SAM.]

(c) Offerors must complete the following representations when the resulting contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied part 19 in accordance with 19.000(b)(1)(ii). Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that -

(i) It [] is, [] is not a small business concern; or

(ii) It [] is, [] is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.]

(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 -

(i) It [] is, [] is not a service-disabled veteran-owned small business concern; or

(ii) It [] is, [] is not a joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2).

[The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.] Each service-disabled veteran-owned small business concern participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

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

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

(6) WOSB joint venture eligible under the WOSB Program. The offeror represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.]

(7) Economically disadvantaged women-owned small business (EDWOSB) joint venture. The offeror represents that it [] is, [] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c).

[The offeror shall enter the name and unique entity identifier of each party to the joint venture: ____.]

Note to paragraphs (c)(8) and (9):

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

- (8) Women-owned business concern (other than small business concern). [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [___] is, a women-owned business concern.
- (9) Tie bid priority for labor surplus area concerns. If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:
- (10) 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, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see 13 CFR 126.200(e)(1)); and
- (ii) It [___] is, [___] is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: ___ .] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.
- (d) Representations required to implement provisions of Executive Order 11246 -
- (1) Previous contracts and compliance. The offeror represents that -
- (i) It [___] has, [___] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and
- (ii) It [___] has, [___] has not filed all required compliance reports.
- (2) Affirmative Action Compliance. The offeror represents that -
- (i) It [___] has developed and has on file, [___] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or
- (ii) It [___] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.
- (e) Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.
- (f) Buy American Certificate. (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American - Supplies, is included in this solicitation.)
- (1)(i) The Offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component.
- (ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select "no".
- (iii) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).
- (iv) The terms "commercially available off-the-shelf (COTS) item," "critical component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Supplies."
- (2) Foreign End Products:

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)
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[List as necessary]

(3) Domestic end products containing a critical component:

Line Item No.

[List as necessary]

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

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

(i)(A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (iii) of this provision, is a domestic end product and that each domestic end product listed in paragraph (g)(1)(iv) of this provision contains a critical component.

(B) The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American - Free Trade Agreements - Israeli Trade Act.”

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

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

Line Item No.	Country of origin
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[List as necessary]

(iii) The Offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American - Free Trade Agreements - Israeli Trade Act.” The Offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

Other Foreign End Products:

Line Item No.	Country of origin	Exceeds 55% domestic content (yes/no)
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[List as necessary]

(iv) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

Line Item No.

[List as necessary]

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

(2) Buy American - Free Trade Agreements - Israeli Trade Act Certificate, Alternate 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 Israeli end products as defined in the clause of this solicitation entitled “Buy American - Free Trade Agreements - Israeli Trade Act”:

Israeli End Products:

Line Item No.

[List as necessary]

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

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

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

Line Item No.	Country of origin
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[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)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements".

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

Other End Products:

Line Item No.	Country of origin
—	—
—	—
—	—

[List as necessary]

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

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

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

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

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

(4) [___] Have, [___] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) 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 Labor Standards. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

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

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

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

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

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

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

- (ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));
- (iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and
- (iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.
- (3) If paragraph (k)(1) or (k)(2) of this clause applies -
- (i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and
- (ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.
- (l) Taxpayer Identification Number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to SAM to be eligible for award.)
- (1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).
- (2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.
- (3) Taxpayer Identification Number (TIN).
- [] TIN: _____.
- [] TIN has been applied for.
- [] TIN is not required because:
- [] Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- [] Offeror is an agency or instrumentality of a foreign government;
- [] Offeror is an agency or instrumentality of the Federal Government.
- (4) Type of organization.
- [] Sole proprietorship;
- [] Partnership;
- [] Corporate entity (not tax-exempt);
- [] Corporate entity (tax-exempt);
- [] Government entity (Federal, State, or local);
- [] Foreign government;
- [] International organization per 26 CFR 1.6049-4;
- [] Other _____.
- (5) Common parent.
- [] Offeror is not owned or controlled by a common parent;
- [] Name and TIN of common parent:
- Name _____.
- TIN _____.
- (m) Restricted business operations in Sudan. By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.
- (n) Prohibition on Contracting with Inverted Domestic Corporations. (1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.
- (2) Representation. The Offeror represents that -
- (i) It [] is, [] is not an inverted domestic corporation; and

- (ii) It [] is, [] is not a subsidiary of an inverted domestic corporation.
- (o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran. (1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov. (2) Representation and certifications. Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror -
- (i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;
- (ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and
- (iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).
- (3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if -
- (i) This solicitation includes a trade agreements certification (e.g., 52.212-3(g) or a comparable agency provision); and
- (ii) The offeror has certified that all the offered products to be supplied are designated country end products.
- (p) Ownership or Control of Offeror. (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation).
- (1) The Offeror represents that it [] has or [] does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.
- (2) If the Offeror indicates "has" in paragraph (p)(1) of this provision, enter the following information:
 Immediate owner CAGE code: .
 Immediate owner legal name: .
 (Do not use a "doing business as" name)
 Is the immediate owner owned or controlled by another entity: [] Yes or [] No.
- (3) If the Offeror indicates "yes" in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:
 Highest-level owner CAGE code: .
 Highest-level owner legal name: .
 (Do not use a "doing business as" name)
- (q) Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that -
- (i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.
- (2) The Offeror represents that -
- (i) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (ii) It is [] is not [] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- (r) Predecessor of Offeror. (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it [___] is or [___] is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated “is” in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: ___ (or mark “Unknown”).

Predecessor legal name: ___ .

(Do not use a “doing business as” name).

(s) [Reserved]

(t) Public Disclosure of Greenhouse Gas Emissions and Reduction Goals. Applies in all solicitations that require offerors to register in SAM (12.301(d)(1)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner) [___] does, [___] does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

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

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

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

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

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

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

(v) Covered Telecommunications Equipment or Services - Representation. Section 889(a)(1)(A) and section 889(a)(1)(B) of Public Law 115-232.

(1) The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(2) The Offeror represents that -

(i) It [___] does, [___] does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(ii) After conducting a reasonable inquiry for purposes of this representation, that it [___] does, [___] does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)