

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NO.		PAGE 1 OF 182	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE		4. ORDER NO.		5. SOLICITATION NUMBER VA797N-13-R-0010	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME Hasael Roman		b. TELEPHONE NO. (No Collect Calls) 708-786-5243		6. SOLICITATION ISSUE DATE 04-30-2014	
9. ISSUED BY Department of Veterans Affairs OA&L / National Acquisition Center Building 37, NCS 003A4C2 1st Ave One Block North of Cermak Hines IL 60141				10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 334517 <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) SIZE STANDARD: 500 Employees			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING N/A	
15. DELIVER TO As indicated on individual delivery orders issued against this contract.  IL 60141				16. ADMINISTERED BY Department of Veterans Affairs OA&L / National Acquisition Center Building 37 1st Avenue, One Block North of Cermak Hines IL 60141			
17a. CONTRACTOR/OFFEROR CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY Department of Veterans Affairs CHIEF, FISCAL DIVISION (901A) HINES SERVICE AND DISTRIBUTION CENTER PO BOX 7005 HINES IL 60141-7005			
TELEPHONE NO.		DUNS:		DUNS+4:		PHONE: FAX:	
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	FSC Group 6525 - Radiation Therapy Systems, Upgrades, and Accessories to include Linear Accelerators, Simulators Therapy Information Systems, After loading Systems, Water Phantoms, and Installation.  See pages 6 through 13 (Continuation of SF 1449).  (Use Reverse and/or Attach Additional Sheets as Necessary)						
25. ACCOUNTING AND APPROPRIATION DATA					26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$0.00		
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 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 5 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	

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

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		
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE			32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE		
			32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE		
33. SHIP NUMBER		34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL	<input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
38. S/R ACCOUNT NUMBER		39. S/R VOUCHER NUMBER	40. PAID BY		
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT			42b. RECEIVED AT (Location)		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE			
			42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS

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## SECTION B - CONTINUATION OF SF 1449 BLOCKS

### B.1 CONTRACT ADMINISTRATION DATA

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

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

a. CONTRACTOR:

b. GOVERNMENT: **DLA Troop Support:** Contracting Officers identified on individual Delivery Order.

**VA Contracting Officer is as follows:** Contracting Officers identified on individual Delivery Order.

Department of Veterans Affairs

OA&L / National Acquisition Center

Building 37, NCS (003A4C2)

High Tech Medical Equipment Branch (003A4C2)

1st Avenue, One Block North of Cermak

Hines IL 60141

2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor will be made in accordance with (for delivery orders issued by DLA Troop Support, see DLA Troop Support Delivery Order Requirements):

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

☐ 52.232-36, Payment by Third Party

3. INVOICES: Invoices shall be submitted in arrears:

- a. Quarterly ☐
- b. Semi-Annually ☐
- c. Other ☒ See Section C.3 Commercial Interim Payment

4. GOVERNMENT INVOICE ADDRESS: All invoices from the contractor shall be mailed to the following address:

Contracting Officer identified on individual Delivery Order  
Department of Veterans Affairs  
OA&L / National Acquisition Center  
Building 37, NCS (003A4C)  
High Tech Medical Equipment Branch (003A4C2)  
1st Avenue, One Block North of Cermak  
Hines IL 60141

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

AMENDMENT NO	DATE
_____	_____
_____	_____
_____	_____

**Blocks 18a and 18b -- PAYMENT OF INVOICES****REMITTANCE ADDRESS**

Contractors shall submit VA invoices for payment to the office shown in Block 18a. In addition, the contractor shall send a copy of each such invoice to the Contracting Officer (00A4C2), VA National Acquisition Center, National Contracts Service, Post Office Box 76, Hines, IL 60141. **Please contact DLA Contracting Officer identified on individual delivery order for invoice payments address.**

**Blocks 19-24 SCHEDULE OF SUPPLIES/SERVICES and PRICES/COSTS****SUBMISSION OF OFFERS AND CONTRACT PERIOD**

This Multiple Award IDIQ solicitation will have a prescribed closing date. This solicitation will be an opportunity for new offers, which may be submitted to the Contracting Officer at any time prior to August 31, 2014. Contracts resulting hereunder shall cover the base contract period of one year beginning on September 1, 2014, or the date of award, whichever is later, through August 31, 2015 with the Government's option to renew for up to Four additional one-year periods. No contract period will extend beyond August 31, 2019. Offers will be evaluated on a first come basis.

**New offers will be accepted after May 30, 2014 for the contract Base Year period beginning 9/1/14 so there will not be a lapse in contacts.**

**NOTE: Interested contractors that didn't have the opportunity to respond to this solicitation may submit offers, during "Open Season" for option year of 9/2015, 9/2016, 9/2017 and 9/2018.**

**ESTIMATED QUANTITIES**

Previous sales for the last Fiscal Year (October 1, 2011, through September 30, 2012) to all contractors for **Radiation Therapy Systems, Upgrades, and Accessories, Including Installation for the VA and DLA Troop Support** were approximately **\$23,000,000**. The Government anticipates a similar total for the base year and each additional option year of awards from this solicitation. It is impossible to determine the exact quantities that will be required during the contract term. Each offeror whose offer is accepted wholly or in part will be required to deliver all articles that may be ordered during the contract term, except as otherwise indicated in the offer and except as otherwise provided herein.

**Offerors shall provide the systems identified herein with discounts from the offeror's published commercial price list. The published commercial price list shall be made a part of the ultimate contract, Offerors shall indicate "No Bid" if a certain type product/system is not offered.**

**BASE YEAR September 1, 2014 through August 31, 2015: RADIATION THERAPY SYSTEMS, UPGRADES, AND ACCESSORIES TO INCLUDE TRAINING AND INSTALLATION, AS SHOWN BELOW.**



**Pricing shall reflect F.O.B. Destination within the consignee's premises, within the 50 states, Washington, D.C., and Puerto Rico. Offerors are not required to provide OCONUS pricing but may be asked to provide OCONUS (Non- U.S.) pricing on a per delivery order basis.**

**Offeror hereby offers a percentage discount deducted from offeror's published commercial price list dated \_\_\_\_\_.**

**SYSTEM IDENTIFICATION**

<p><b>01. LINEAR ACCELERATOR SYSTEMS.</b> Base system shall include operator console, patient couch, table accessories, gantry, collimator assembly, patient positioning lasers, DICOM compliance, connectivity to treatment planning system (TPS) and record and verify system (R&amp;V), and training. <b>(Also See I-3, Networking/Interfacing)</b></p> <p>HIGH Energy Base: Photon energy levels shall be 6 and 18 MV and should have at least 5 selectable electron treatment beam energies, with nominal energies of 4-21 MeV.</p> <p>LOW Energy Base: Photon energy level shall be 4 or 6 MV and electron energies are optional.</p> <p><b><u>(ADD All Relevant Items in Contractor Price Book)</u></b></p>	Discount Percentage Offered	Price List Page Reference
01A. High (Dual) Energy Base System Components		
01B. Low Energy Base System Components		
01C. System Options. Identify available system options with pricing data.		
01D. Accessories. Provide listing of available accessories with pricing data.		
01E. Upgrades. Identify available upgrades with pricing data.		
01F. Portal Imaging System		

<p><b>02. SIMULATOR SYSTEMS.</b> Base system shall include operator console, patient couch, gantry, X-ray generator and tube, collimator assembly, DICOM compliance, connectivity to treatment planning system (TPS) and record and verify system (R&amp;V), and training.</p>	Discount Percentage Offered	Pricing Page Reference
02A. Radiation Simulator Base System Components		
02B. System Options:		
02C. Accessories:		
02D Upgrades:		

<b>03. RECORD AND VERIFY SYSTEMS.</b> Base system shall include network gateway to interface with hospital information system, computer workstation, station and interface for one linear accelerator and one simulator, interface with treatment planning system, printer, and training.	Discount Percentage Offered	Pricing Page Reference
03A. Base System Components.		
03B. Optional Software Modules. Provide listing of other available software modules with pricing data.		
03C. System Options		
03D. Additional Workstations. Identify available workstations, including hardware and software, with pricing data		
03E Accessories		
03F. Upgrades		

<b>04. TREATMENT PLANNING SYSTEMS.</b> Shall include computer workstation, printer, film digitizer and/or interface with CT scanner and training.	Discount Percentage Offered	Pricing Page Reference
04A. Base System Components		
04B. Optional Software Modules		
04C. System Options		
04D. Accessories		
04E. Upgrades		
04F. Digitizers. Identify available film digitizers with pricing data		

<b>05. ORTHOVOLTAGE SYSTEMS AND ACCESSORIES.</b> Shall include control console, treatment couch, applicator cones and filters, variable collimator and training.	Discount Percentage Offered	Pricing Page Reference
Orthovoltage Systems and Accessories		

<b>06. STEREOTACTIC RADIOSURGERY SYSTEMS AND ACCESSORIES.</b> Shall include computer controller, operator console and chair, treatment couch, head frame for surgery and treatment, accessories, collimator, planning capabilities, phantom pointer and training.	Discount Percentage Offered	Pricing Page Reference
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Stereotactic Radiosurgery Systems and Accessories		
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<b>07. HIGH DOSE RATE (HDR) BRACHYTHERAPY SYSTEMS AND ACCESSORIES.</b> Shall include treatment unit, control unit, radiation sources, applicators, accessories, integration with treatment planning system and training.	Discount Percentage Offered	Pricing Page Reference
High Dose Rate Brachytherapy Systems and Accessories		

  

<b>08. SCANNING WATER BATH PHANTOMS AND ACCESSORIES:</b> Identify the scanning water bath phantoms used in the radiation oncology department. Identify the various options and accessories.	Discount Percentage Offered	Pricing Page Reference
Scanning Water Bath Phantoms and Accessories		

  

<b>09. GAMMA KNIFE:</b> Shall include but not limited to treatment unit, helmets, collimators, accessories, integration with treatment planning system, and training.	Discount Percentage Offered	Pricing Page Reference
GAMMA KNIFE		

  

<b>10. CYBERKNIFE:</b> Shall include but not be limited to robotic manipulator, linear accelerator, image detectors, variable aperture collimator, integration with treatment planning system, and training.	Discount Percentage Offered	Pricing Page Reference
CYBER KNIFE.		

  

<b>11. OTHER RADIATION THERAPY SYSTEMS AND ACCESSORIES.</b>	Discount Percentage	Pricing
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Identify the other systems used in the radiation oncology department. Identify the various options and accessories.	Offered	Page Reference
OTHER RADIATION THERAPY SYSTEMS AND ACCESSORIES.		

<b>12. TRAINING.</b> Commercially available training <i>options</i> , both operator and maintenance, shall be provided as options to the users in addition to the minimum training requirements of this contract.	Discount Percentage Offered	Pricing Page Reference
12A. Operator/User Training		
12B. Advanced User Training		
12C. Maintenance Training		

Option Year Pricing/Discount Description
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**Offeror hereby offers for the option years shown below the same or better percentage discount, deducted from its published commercial price list as cited above for the Base Year.**

**Discount Percentage Offered**

Option Year One: September 1, 2015 through August 31, 2016 \_\_\_\_\_

Option Year Two: September 1, 2016 through August 31, 2017 \_\_\_\_\_

Option Year Three: September 1, 2017 through August 31, 2018 \_\_\_\_\_

Option Year Four: September 1, 2018 through August 31, 2019 \_\_\_\_\_

## B.2 DESCRIPTION/SPECIFICATIONS/SCOPE OF WORK

### PART 1

#### 1.1 SCOPE OF CONTRACT

This solicitation provides for the normal supply of radiation therapy systems, upgrades and accessories, linear accelerators, simulators, therapy information systems, therapy planning systems, after loading systems, water phantoms, and equipment installation for the Department of Veterans Affairs, Department of Defense, and

other Federal Agencies. Upon request for delivery, the contractor shall deliver radiation therapy equipment FOB Destination within consignee premises to The Department of Veterans Affairs and other Federal Agencies. The VA and Federal Agencies shall receive radiation therapy equipment within the 50 states, Washington, D.C., (CONUS), and Puerto Rico. **DLA Troop Support may issue orders for OCONUS locations.**

Federal Activities functioning in non-US (OCONUS) locations and sales to foreign governments are subject under the FMS Program (DFAR 252.225-7027). The resultant contracts will be used as sources for the articles or services listed herein. Articles or services will be ordered from time to time in such quantities as may be needed to fill any requirement determined in accordance with currently applicable procurement and supply procedures. It is anticipated that Other Government Agencies (OGA's) will participate in resultant contracts.

## 1.2 ITEMS OFFERED

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

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

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

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

(e) Proof of FDA 510(k) premarket notification, for all offered products that require this certification, must be provided with offer. Alternatively, the offeror may represent that all required certifications are available and may be produced individually on demand.

## 1-3 DELIVERY ORDER PRICING STRUCTURE

The purpose is to provide for COMPLETE functional systems. A particular item(s) may be combined with a compatible component(s) to develop a unique system. Therefore, prices quoted for each item shall include the price of ALL components, such as mounting hardware, electrical cable, adapting parts, etc., required to form a complete operational system when an item is installed with compatible items (offered under this solicitation) in the development of a system. System (or item) descriptions shall clearly identify component parts included in the unit price quoted. When more than one component is required to make up an item or system, all model and/or catalog numbers are to be shown and properly identified.

In addition to the item cost itself, the prices shown in the Schedule shall include charges for site visit and drawings, transportation, rigging, packing, unpacking with disposal of packing material, installation, applications training/instruction(s) and warranty for delivery within the 50 states and Washington, DC (CONUS) and Puerto Rico. Offeror shall indicate below, the percentage of offered price, for a complete system, that represents charges for:

Site visit and drawings:	_____ %
Transportation Charges, to include rigging, packing and unpacking with disposal of packing material:	_____ %
Installation:	_____ %
Warranty of equipment:	_____ %
Applications training/instructions:	_____ %

When delivery is for outside the 50 states, Washington, DC, or Puerto Rico (OCONUS), or when these services are not required, the percentages shown in the matrix above may be deducted at the discretion of the Contracting Officer from the prices shown in the Schedule. Further negotiation will be conducted on an individual delivery order basis to include these services and costs, or any other services required, for overseas orders or existing system upgrades, interfaces or add-ons.

#### REQUIREMENTS SPECIFIC TO NAVY DELIVERY ORDERS

##### [Navy Information Assurance Contract Requirements v1 \(dated 01-28-2013\)](#)

All Department of the Navy (DON) information systems as defined in Department of Defense Directive (DoDD) 8500.1 shall be certified and accredited (C&A) for operation. C&A is attained via the Defense Information Assurance Certification and Accreditation Process (DIACAP) and is applicable to all DON-owned or controlled information systems that receive, process, store, display or transmit Department of Defense (DoD) information, regardless of Mission Assurance Category (MAC) classification or sensitivity, *except*, per DoDD 8500.1 Paragraph 2.3; IT that is considered Platform Information Technology (PIT). Regardless of whether the system or device is considered PIT or whether it is determined that it requires a full accreditation, the following DIACAP artifacts shall be included with your proposal; System Identification Profile (SIP), DIACAP Implementation Profile (DIP), and Plan of Actions and Milestones (POA&M). A template has been included with this solicitation as “Appendix X”. Completion of this form in its entirety will satisfy the requirement for the SIP, DIP and POA&M.

The contractor shall establish appropriate administrative, technical, and physical safeguards to protect all government data, to ensure the confidentiality, integrity, and availability of government data under their control. At a minimum, this shall include provisions for personnel, electronic, and physical security.

## Navy PIT Designation

Certain medical technologies may be designated as PIT by the Navy Operational Designated Accrediting Authority (ODAA); however the PIT designation itself does not constitute an Approval to Operate (ATO). The PIT system will require a PIT Risk Analysis (PRA). The DIACAP SIP, DIP, POA&M and Risk Analysis documents are required in order to complete a PRA. Contractors will be required to scan the PIT system for vulnerabilities prior to delivery.

- According to DoDD 85001, Paragraph E2.1.16.4; PIT refers to computer resources, both hardware and software, that are physically part of, dedicated to, or essential in real time to the mission performance of special-purpose systems. Medical technologies, and specifically medical imaging and monitoring systems are considered special-purpose mission technologies according to this definition.
- The PIT designation issued by the ODAA may be used by the Program Manager (PM) to complete a PRA in order to prove compliance with C&A requirements, but is cautioned that the appropriate IA controls must still be built into the IT to comply with acquisition requirements. The contractor shall work with Navy Program Managers to ensure their systems meet these requirements.
- The Contractor will be required to propose an acceptable approach to selecting IA controls starting from the baseline set on DoD Instruction 8500.2 B, commensurate with the system's Mission Assurance Category (MAC) and Confidentiality Level. For medical devices and systems the MAC level assigned is typically MAC III sensitive.
- If the system or device is determined to be PIT, the Contractor shall support Navy Medicine IA representatives in creation of the PIT designation request packages to include all relevant configuration, software and IA data. The following documents will assist in creating the PIT designation request package;
  - Digital Imaging and Communications in Medicine (DICOM) Conformance Statement (if applicable)
  - Food and Drug Administration (FDA) Certification (510k)
  - Integrating the Healthcare Enterprise (IHE) Integration Statement
  - International Organization for Standardization (ISO) Statement (if applicable)
  - Manufacturer Disclosure Statement for Medical Device Security (MDS2)
  - A full system diagram to include any PIT to PIT or other interconnections

## DIACAP

For those systems that do not meet the requirements for designation as PIT, the contractor shall comply with DIACAP requirements as specified by the DoD that meet appropriate DoD and Navy IA requirements. The contractor shall initiate the process by providing the required documentation necessary to receive an ATO. The contractor shall make their device or system delivered against this contract available for C&A testing and initiate the process well in advance of a contract delivery order. The requirements shall be met before the contractor's system is authorized to access DoD data or interconnect with any DoD network that receives, processes, stores, displays or transmits DoD data. An ATO, at a minimum, will be required before a device or system is installed. The contractor shall ensure that the proper contractor support staff is available to participate in all phases of the DIACAP process. They include but are not limited to;

- Completing and maintaining all documentation necessary to obtain an ATO.



- Attending and supporting DIACAP and C&A meetings with Navy IA representatives.
- Supporting/conducting the vulnerability mitigation process to comply with IA controls listed in DoD Instruction 8500.2.
- Supporting the C&A Team during system security testing.
- Contractors must confirm that their systems are locked down prior to initiating C&A testing.

## **Post-Accreditation Review**

An annual IA review shall be conducted that comprehensively evaluates existing policies and processes to ensure procedural consistency and that the IS continues to operate in the manner to which it was accredited. The annual review process should account for the analysis of projected policy needs, and produce a plan for development or implementation of new policies or processes.

## **Personnel Security and User Access Control**

The contractor shall comply with DoDD 8500.1, "Information Assurance (IA)", DoD Instruction (DODI) 8500.2 "Information Assurance (IA) Implementation", DoDD 5400.11, "DoD Privacy Program", DoD 6025.18-R, DoD Health Information Privacy Regulation and DoD 5200.2-R, "Personnel Security Program Requirements". Contractor responsibilities for ensuring personnel security include, but are not limited to meeting the following requirements:

Follow the Privacy Office guidelines for submittal of IT security clearances and ensure all contractor personnel are designated as IT-I, IT-II or IT-III where their duties meet the criteria of the position sensitivity designations.

Because of the unique circumstances presented by DoD and DON networks, personnel security requirements shall be followed to ensure appropriate precautions are taken prior to allowing vendor personnel access to the network. Any vendor personnel that will be accessing the medical device/system while installed on the hospital network will be required to have a National Agency Check (NAC) completed. Typically, this requires an investigation to support a "Public Trust Position" and requires the person(s) to complete and submit a Standard Form 85P (SF85P), Questionnaire for Public Trust Positions, via the Electronic Personnel Security Questionnaire (EPSQ). Questions relating to SF85Ps and the EPSQ process may be directed to 1-888-282-7682 or online at <http://www.dss.mil/index.htm>. Contractor personnel accessing equipment connected to the hospital network will be required to complete a System Authorization Access Request-Navy (SAAR-N) (form OPNAV 5239/14). Copies of this form can be obtained from the Navy PACS Office. Additionally, contractor personnel are required to complete the annual DoD IA training requirements.

The contractor shall initiate, maintain and document personnel security investigations appropriate to the individual's responsibilities and required access to Sensitive Information (SI).

Immediately report to the appropriate Navy POC and deny access to any automated information system (AIS), network, or information if a contractor employee filling a sensitive position receives an unfavorable adjudication, if information that would result in an unfavorable adjudication becomes available, or if directed to do so by the appropriate Navy representative for security reasons.

Ensure that all contractor personnel receive IA training before being granted access to DoD AIS's.

Access to the medical devices will be limited to authorized users as determined by local policy. Vendors whose systems do not yet meet the requirement for CAC authentication must indicate their willingness to do so, and offer a timeline for compliance.

Complete administrative system rights shall be provided to the government System Administrator for the purpose of conducting device vulnerability scans as needed.

### **Operating Systems**

To ensure that medical systems attain data confidentiality, integrity, and availability levels consistent with best industry practices, the use of current Operating Systems (OS) is highly recommended. Therefore preference shall be given to systems that employ modern operating systems, including closed source, open source, or proprietary. Medical systems will employ whenever possible, operating systems that are fully supported by the manufacturer and are commercially available.

### **Domain Name System Realm/Directory Services**

Contractor will be required to demonstrate, if applicable whether client/server topology based medical systems can integrate with Directory Services and support LDAP authentication.

### **Local Privileged and Administrative User/Local System Accounts**

Contractor shall create a single local user account with administrative/root level privileges for purposes of conducting system repairs and maintenance only. This account shall be separate and distinct from the built-in local administrative/root account provided by the Operating System and shall comply with DoD policy. All factors required to complete successful identification, authentication and authorization against the built-in local Administrative/Root level account shall be provided to the Naval Medical Treatment Facility Biomedical Engineering Department.

Complete administrative system rights shall be provided to the government System Administrator for the purpose of conducting device vulnerability scans as needed.

### **Antimalware**

**Medical systems that make use of a file system under direct control of an operating system instance whether physical and/or virtual shall provide the appropriate antimalware safeguards consistent with current security practices. Exemption from this requirement is applicable to medical systems which make use of a proprietary file system and/or operating system for which no commercially available antimalware application exists. This exemption should be documented in the C&A Initial Technical Questionnaire.**

**Preference may be given to medical systems capable of supporting antimalware applications, within tolerable specifications, that support the use of DISA approved McAfee, and/or Symantec solutions. Systems shall be configured as to allow for the update of malware definition signatures on a scheduled**

basis. Scanningshall encompass the entire system (filesystem, operating system, realtime processes), by default. In cases where the scanning of the entire system may negatively affect the operation of the system, the Contractor shall provide a detailed list of exclusions with justifications as part of the C&A Initial Technical Questionnaire.

### **Malware Handling and Threat Detection**

The contractor shall monitor systems for malware incidents, such as viruses, spyware, and adware and prepare incident reports to include the location of the malware, severity, and course of action taken for cleanup. In cases where complete malware removal cannot be achieved, the Contractor shall re-image the system to support cleanup efforts. The contractor will provide the Government with full access to the antimalware application logs.

### **Navy Business to Business (B2B) Gateway**

All contractor systems that will communicate with DON systems will interconnect through the established Military Health System (MHS) Business to Business (B2B) gateway. For all Web applications, contractors will connect to the DISA-established Web DMZ.

- Contractors will connect to the B2B gateway via a contractor procured Internet Service Provider (ISP) connection and assume all responsibilities for establishing and maintaining their connectivity to the B2B gateway. This will include acquiring and maintaining the circuit to the B2B gateway and acquiring a FIPS-140-2 Virtual Private Network (VPN)/Firewall device compatible with the MHS VPN device. Maintenance and repair of contractor procured VPN equipment shall be the responsibility of the contractor.
- Contractors shall configure their network to support access to government systems (e.g., configure ports and protocols for access).
- Contractors shall provide full time connections to a TIER1 or TIER2 ISP. Dial-up ISP connections are not acceptable.
- Contractors will comply with DoD guidance regarding allowable ports, protocols and risk mitigation strategies

Prior to accessing DON, all contractors will be required to complete a DISA Form 2875 System Authorization Access Request form (SAAR) and submit it to NMLC, Code 03, Imaging Informatics Division for processing. The contractor will be required to complete applicable DoD IA training.

### **IPv6**

The proposed system shall be Internet Protocol version 6 (IPv6) capable or the vendor must provide a detailed project, migration or planning documentation to show when the proposed system shall be IPv6 capable.

Minimum IPv6 capabilities include:

- Conformance with the IPv6 standards profile contained in the DoD IT Standards Registry (DISR);
- Maintaining interoperability in heterogeneous environments with IPv4;
- Commitment to upgrade as the IPv6 standard evolves;
- Availability of vendor IPv6 technical support.

The contractor must be able to demonstrate or provide documentation to prove that their product is IPv6 capable. As described in the DISR IPv6 standards profile, application vendors are expected to scan and test their code for IPv6 compliance and provide a letter of compliance indicating to what degree they comply. The letter shall be in vendor format and describe the standards used for testing and the results of the scans. IPv6 'capable' is defined as having the capability of receiving, processing and forwarding IPv6 packets and/or interfacing with other IPv6 capable systems/devices and in a manner similar to IPv4. In order to demonstrate IPv6 compliance, the vendor should submit the following documentation:

- Provide a diagram showing IPv6 core configuration, to include IPv6 addressing, internal network connectivity and topology, external network connectivity, and IPv6 traffic flow;
- Submit a list of core components to include vendor/manufacturer IPv6 compliance;
- Submit a report that illustrates testing of IPv6 compliance, to include test scripting, logs and results.

### **Information Assurance Vulnerability Management (IAVM)**

IAVM is focused on maintaining a secure platform as new vulnerabilities and exploits are discovered and released through various software developers and security agencies. The core tool of successful IAVM is the Information Assurance Vulnerability Alert (IAVA). The DoD releases IAVAs for local action on the various platforms across the enterprise network. Each Navy Healthcare Facility is responsible for managing their local network. Most DoD IAVAs originate from a real world event such as a patch release or vulnerability notification from a software vendor (e.g. Windows or Sun patch release), or a US-CERT released from the CERT Coordination Center at Carnegie Mellon University. To have an effective IAVM program, vendors must be proactive in monitoring emerging threats. Some recommended sources for IAVM support are:

- General Vulnerability alerts, all platforms: [http://www.cert.org/nav/index\\_red.html](http://www.cert.org/nav/index_red.html)
- Microsoft security resources: <http://www.microsoft.com/technet/security/bulletin/notify.msp>
- SUN Microsystems Security resources: <http://sunsolve.sun.com/pub-cgi/show.pl?target=security/sec>

As part of the IAVM program, the contractor shall provide a primary and secondary point of contact for compliance actions. The point of contact shall provide, upon receipt of a vulnerability message, an acknowledgement of that receipt. The vendor shall thoroughly test all mitigations for the vulnerability, and upon applying the mitigation to the system, report compliance. Receipt and compliance messages shall occur within the stipulated time window, as stated in the vulnerability message or other official notification.

Any vendor interested in meeting this requirement shall have a documented process to demonstrate an organizational culture embracing security throughout the system lifecycle. The processes shall clearly demonstrate security's role in the product development phase, and the processes the vendor employs to react to vulnerabilities, validate required patches, communicate status and required actions to their customers, and the follow up service support to address patch implementation.

### **Health Insurance Portability and Accountability Act (HIPAA)**

The contractor shall comply with the HIPAA Act of 1996 (Public Law 104-191) requirements, specifically the administrative simplification provisions of the law and the associated rules and regulations published by the Secretary, Health and Human Services (HHS). This includes the Standards for Electronic Transactions, the Standards for Privacy of Individually Identifiable Health Information and the Security Standards.

### **Business Associate Agreement**

In accordance with DoD 6025.18-R "Department of Defense Health Information Privacy Regulation" the Contractor meets the definition of Business Associate. Therefore, a Business Associate Agreement is required to comply with both the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security regulations. This clause serves as that agreement whereby the Contractor agrees to abide by all applicable HIPAA Privacy and Security requirements regarding health information as defined in this clause, and DoD 6025.18-R and DoD 8580.02-R, as amended. Additional requirements will be addressed when implemented.

**(a) Definitions.** As used in this clause generally refer to the Code of Federal Regulations (CFR) definition unless a more specific provision exists in DODI 6025.18-R.

*Individual* has the same meaning as the term "individual" in 45 CFR 164.501 and 164.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

*Privacy Rule* means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

*Protected Health Information* has the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by The Contractor from or on behalf of The Government.

*Electronic Protected Health Information* has the same meaning as the term "electronic protected health information" in 45 CFR 160.103.

*Required by Law* has the same meaning as the term "required by law" in 45 CFR 164.501 and 164.103.

*Secretary* means the Secretary of the Department of Health and Human Services or his/her designee.

*Security Rule* means the Health Insurance Reform: Security Standards at 45 CFR part 160, 162 and part 164, subpart C.

Terms used, but not otherwise defined, in this Clause shall have the same meaning as those terms in 45 CFR 160.103, 164.501 and 164.304.

**(b)** The Contractor shall not use or further disclose Protected Health Information other than as permitted or required by the Contract or as Required by Law.

**(c)** The Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Contract.

**(d)** The Contractor shall use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits in the execution of this Contract.

**(e)** The Contractor shall mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of Protected Health Information by the Contractor in violation of the requirements of this Contract.

**(f)** The Contractor shall report to the Government any security incident involving protected health information of which it becomes aware.

**(g)** The Contractor shall report to the Government any use or disclosure of the Protected Health Information not provided for by this Contract of which the Contractor becomes aware of.

**(h)** The Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Contractor on behalf of the Government agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.

**(i)** The Contractor shall ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.

**(j)** The Contractor shall provide access, at the request of the Government, and in the time and manner designated by the Government to Protected Health Information in a Designated Record Set, to the Government or, as directed by the Government, to an Individual in order to meet the requirements under 45 CFR 164.524.

**(k)** The Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Government directs or agrees to pursuant to 45 CFR 164.526 at the request of the Government or an Individual, and in the time and manner designated by the Government.

**(l)** The Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Contractor on behalf of, the Government, available to the Government, or at the request of the Government to the Secretary, in a time and manner designated by the Government or the Secretary, for purposes of the Secretary determining the Government's compliance with the Privacy Rule.

**(m)** The Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

**(n)** The Contractor shall provide to the Government or an Individual, in time and manner designated by the Government, information collected in accordance with this Clause of the Contract, to permit the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

### **General Use and Disclosure Provisions**

Except as otherwise limited in this Clause, the Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the Government for treatment, payment, or healthcare operations purposes, in accordance with the specific use and disclosure provisions below, if such use or disclosure of Protected Health Information would not violate the Privacy Rule, the Security Rule, DoD 6025.18-R or DoD 8580.02-R if done by the Government.

### **Specific Use and Disclosure Provisions**

**(a)** Except as otherwise limited in this Clause, the Contractor may use Protected Health Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

**(b)** Except as otherwise limited in this Clause, the Contractor may disclose Protected Health Information for the proper management and administration of the Contractor, provided that disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.

**(c)** Except as otherwise limited in this Clause, the Contractor may use Protected Health Information to provide Data Aggregation services to the Government as permitted by 45 CFR 164.504(e)(2)(i)(B).

**(d)** Contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

## **Obligations of the Government**

### **Provisions for the Government to Inform the Contractor of Privacy Practices and Restrictions**

**(a)** Upon request the Government shall provide the Contractor with the notice of privacy practices that the Government produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

**(b)** The Government shall provide the Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect the Contractor's permitted or required uses and disclosures.

**(c)** The Government shall notify the Contractor of any restriction to the use or disclosure of Protected Health Information that the Government has agreed to in accordance with 45 CFR 164.522.

### **Permissible Requests by the Government**

The Government shall not request the Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Government, except for providing Data Aggregation services to the Government and for management and administrative activities of the Contractor as otherwise permitted by this clause.

## **Termination**

**(a)** Termination. A breach by the Contractor of this clause, may subject the Contractor to termination under any applicable default or termination provision of this Contract.

**(b)** Effect of Termination.

**(1)** If this contract has records management requirements, the records subject to the Clause should be handled in accordance with the records management requirements. If this contract does not have records management requirements, the records should be handled in accordance with paragraphs (2) and (3) below

**(2)** If this contract does not have records management requirements, except as provided in paragraph (3) of this section, upon termination of this Contract, for any reason, the Contractor shall return or destroy all Protected Health Information received from the Government, or created or received by the Contractor on behalf of the Government. This provision shall apply to Protected Health Information that is in

the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the Protected Health Information.

(3) If this contract does not have records management provisions and the Contractor determines that returning or destroying the Protected Health Information is infeasible, the Contractor shall provide to the Government notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Government and the Contractor that return or destruction of Protected Health Information is infeasible, the Contractor shall extend the protections of this Contract to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such Protected Health Information.

## Miscellaneous

(a) Regulatory References. A reference in this Clause to a section in DoD 6025.18-R, DoD 8580.02-R, Privacy Rule or Security Rule means the section as in effect or as amended, and for which compliance is required.

(b) Survival. The respective rights and obligations of Business Associate under the "Effect of Termination" provision of this Clause shall survive the termination of this Contract.

(c) Interpretation. Any ambiguity in this Clause shall be resolved in favor of a meaning that permits the Government to comply with DoD 6025.18-R, DoD 8580.02-R, Privacy Rule or Security Rule

## References:

- Public Law 107-347, E-Government Act, December 2002; Title III, Federal Information Security Management Act.
- Public Law 100-235, Computer Security Act of 1987
- National Institute for Standards and Technology Special Publication 800-70, Security Configuration Checklists Program for IT Products – Guidance for Checklist Users and Developers, May 2005
- CNSSI 4012, National Information Assurance Training Standard for Senior System Managers, June 2004
- CNSSI 4013, National Information Assurance Training Standard for System Administrators, March 2004
- CNSSI 4015, National Training Standard for System Certifiers, December 2000
- DoDD 8100.01, Global Information Grid (GIG) Overarching Policy, 19 September 2002
- DoDD 8500.01E, Information Assurance, 24 October 2002
- DoDI 5000.2, Operation of the Defense Acquisition System, 12 May 03
- DoDI 5200.1-R, Information Security Program, January 1997
- DoDI 8500.2, Information Assurance (IA) Implementation, 6 February 2003
- DoDI 8510.01, Department of Defense Information Assurance Certification and Accreditation Process (DIACAP), 28 November 2007
- DoD 8570.01-M, Information Assurance Workforce Improvement Program, 19 December 2005
- CJCSI 3170.01F, Joint Capabilities Integration and Development System, 1 May 2007
- CJCSI 6211.02B, Defense Information System Network (DISN): Policy, Responsibilities and Processes, 30 Aug 06
- CJCSI 6212.01B, Interoperability and Supportability of National Security Systems, and Information Technology Systems, 8 May 2000
- CJCSM 3170.01C, Operation of the Joint Capabilities Integration and Development System, 1 May 2007



- CJCSM 6510.01, Defense-in-Depth: Information Assurance (IA) and Computer Network Defense (CND), 8 March 2006
- DISA Enclave Security Technical Implementation Guide, Version 4, Release 2
- DON-CIO Memo 0-10, 26 Apr 2010 – Information Assurance Policy for Platform Information Technology
- TRICARE Systems Manual 7950.1-M
- SECNAV M-5239.1 Department of the Navy Information Assurance Program
- Department of the Navy DIACAP Handbook, Version 1.0
- DoD IPv6 Standard Profiles for IPv6 Capable Products – Supplemental Guidance v3.0.
- Federal Acquisition Regulation parts 7, 11, 12, and 39
- Defense Information Systems Agency (DISA) – <http://www.disa.mil>
- Military Health System Help Desk - <http://www.mhs-helpdesk.com>
- Department of the Navy IT resource - <http://www.DONCIO.navy.mil/policy.aspx>

## REQUIREMENTS SPECIFIC TO ARMY DELIVERY ORDERS

### **Document #1 - New Development Standard Contract Language and Instructions for All Government Data Including Protected Health Information**

#### **1. General Government Oversight Instructions**

- a. Program/Project Managers will follow the policies and procedures identified in the contract language. Specifically, Program/Project Managers will ensure compliance by periodically auditing for compliance. Examples of audits for this purpose include:
- b. Auditing invoices submitted by contractors to verify that only those personnel who have been processed for an appropriate background check are being billed against the contract (Personnel Security).
- c. Performing periodic audits of Vendor sites to ensure Vendor compliance to the requirements of the Physical Security Audit Matrix. Army personnel will monitor and re-inspect to check for resolution of identified deficiencies (Physical Security).
- d. Ensuring vendors acquire, develop, and maintain the Certification & Accreditation (C&A) documentation to ensure both initial and continued compliance with C&A requirements as specified by Army Information Assurance requirements for all contractor systems/networks that receive, process, store, display, or transmit Army data, or has a physical or logical connections to an Army certified network (Electronic Security). All contractor systems/networks that receive, process, maintain, store, or transmit Protected Health Information (PHI) will also have to comply with all C&A requirements (Electronic Security).
- e. Auditing all new systems at delivery to ensure all applicable electronic patches are installed on the system before the Army accepts the product (Electronic Security).
- f. Random security auditing of any Vendor sites where PHI files are collected, used, or stored. Prior to accessing PHI all Vendors must have an approved Business Associates Agreement (BAA). The audit will ensure the vendor has complied with all terms stated in the BAA regarding physical, personnel and electronic security measures as reflected in the Privacy Act (5 U.S.C. 55a et seq), HIPAA Privacy Rule (PL 104-191), and DoD Health Information Regulation Privacy Regulation (6025.18-R) (Protected Health Information Security).

## 2. Information Assurance Standard Contract Language

- a. **General Security Requirements.** The Contractor shall establish appropriate administrative, technical, and physical safeguards to protect any and all Army data, to ensure the confidentiality, integrity, and availability of Army data. As a minimum, this shall include provisions for personnel security, electronic security and physical security as listed in the sections that follow:
- b. **Health Insurance Portability and Accountability Act (HIPAA).** Health Insurance Portability and Accountability Act of 1996 (HIPAA) Requirement. The HIPAA standard contract language is mandatory whenever a business associate, (i.e., outside person or agency) creates, receives, maintains, or transmits electronic protected health information (PHI) on behalf of a covered entity. This contract or agreement requires the business associate to:
  - i. Implement administrative, physical, and technical safeguards that will protect the confidentiality, integrity, and availability of the PHI
  - ii. Ensure all agents or subcontractors to whom the business associate provides PHI will also implement reasonable and appropriate safeguards to protect the information.
  - iii. Report all security incidents.
  - iv. Authorize termination of the contract if the organization finds that the business associate has violated the terms of the contract.
- c. The standard HIPAA standard contract language is available at:  
[http://www.tricare.mil/tmaprivacy/hipaa/hipaacompliance/images/pdf/BAA\\_11Mar8\\_Final.pdf](http://www.tricare.mil/tmaprivacy/hipaa/hipaacompliance/images/pdf/BAA_11Mar8_Final.pdf).  
 Additional guidance can be found in DoD 8580.02 –R, Health Information Security Regulation.

## 3. Personnel Security

- a. The contractor shall comply with Army Regulation 25–2, "Information Assurance" (IA), Army Regulation 25–1, "Army Knowledge Management and Information Technology," and" DoD Health Information Privacy Regulation."
- b. Contractor responsibilities for ensuring personnel security include, but are not limited to, meeting the following requirements:
  - i. Follow the Army guidelines for submittal of Information Technology (IT) security background checks and ensure all contractor personnel are designated as IT-I, IT-II, or IT-III where their duties meet the criteria of the position sensitivity designations. Contact the <type in Activity's name> for guidance on the appropriate IT levels for personnel on the contract.
  - ii. Initiate, maintain, and document personnel security investigations appropriate to the individual's responsibilities and required access to MEDCOM Sensitive Information (SI).
  - iii. Immediately report to the <type in Activity's name> and deny access to any automated information system (AIS), network, or MEDCOM SI information if a contractor employee filling a sensitive position receives an unfavorable adjudication, if information that would result in an unfavorable adjudication becomes available, or if directed to do so by the appropriate Army representative for security reasons.
  - iv. Ensure that all contractor personnel receive information assurance (IA) training before being granted access to Army AISs/networks, and/or MEDCOM SI information.

## 4. Electronic Security.

- a. Contractor Information Systems (IS)/networks that are involved in the operation of systems in support of the Army's Health System shall operate in accordance with controlling laws, regulations, and Army policy.
- b. Certification & Accreditation (C&A) requirements apply to all Army and contractor's IS/networks that receive, process, display, store or transmit Army information. The contractor shall comply with the C&A process for safeguarding SI. Certification is the determination of the appropriate level of protection required for IS/networks. Certification also includes a comprehensive evaluation of the technical and non-technical security features and countermeasures required for each system/network.
- c. Accreditation is the formal approval by the Army to operate the contractor's IS/networks in a particular security mode using a prescribed set of safeguards at an acceptable level of risk. In addition, accreditation allows IS/networks to operate within the given operational environment with stated interconnections; and with appropriate level of protection for the specified period.
- d. The contractor shall comply with C&A requirements, as specified by the Army that meet appropriate Army Information Assurance requirements. The C&A requirements shall be met before the contractor's system is authorized to access Army data or interconnect with any Army IS/network that receives, processes, stores, displays or transmits Army data. The contractor shall initiate the C&A process by providing the Contracting Officer, within 60 days following contract award, the required documentation necessary to receive an Approval to Operate (ATO). The contractor shall make their IS/networks available for testing, and initiate the C&A testing four months (120 days) in advance of accessing Army data or interconnecting with Army IS/networks. The contractor shall ensure the proper contractor support staff is available to participate in all phases of the C&A process. They include, but are not limited to:
  - i) Attending and supporting C&A meetings with the Army
  - ii) Supporting/conducting the vulnerability mitigation process
  - iii) Supporting the C&A Team during system security testing
- e. Contractors must confirm that their IS/networks are locked down prior to initiating testing.
- f. Conformation of system lock down shall be agreed upon during the definition of the Certification and Accreditation (C&A) boundary and be signed and documented as part of the Department of Defense Information Assurance Certification and Accreditation Process (DIACAP) or Certificate of Networkiness (CoN) process.
- g. Locking down the system means that there shall be no changes made to the configuration of the system (within the C&A boundary) during the C&A process
- h. Any re-configuration or change in the system during the C&A testing process will require a re-baselining of the system and documentation of system changes.
- i. Vulnerabilities that have been identified by the Army as "must-fix" issues during C&A process must be mitigated according to the timeline identified by the Army Representative. C&A Checklists are provided for complying Army C&A requirements. Reference material and C&A tools may be obtained at the USAMITC IA Document Library (Portal): <https://mitc.amedd.army.mil/IA>.

- j. A request for a waiver to the C&A requirements may be submitted for temporary testing and other usual circumstances. A waiver request must be submitted, in writing, to the Designated Approving Authority (DAA). The request must include mitigation strategies that ensure adequate protection measures and security controls are in place (for example: air gapping a testing network).
- k. Information Assurance Vulnerability Management (IAVM). The contractor shall implement an information assurance vulnerability management program. The Army IAVM program provides electronic security protections against known threats and vulnerabilities. The IAVM program requires the registration of AIS system assets, which then allows for the timely dissemination of critical vulnerability information. It also assists in the documentation and tracking of compliance, providing increased electronic security to MEDCOM systems. As part of the program, the contractor shall provide a primary and secondary point of contact in the Asset & Vulnerability Tracking Resource (A&VTR). The point of contact shall provide, upon receipt of a vulnerability message, an acknowledgment of receipt via the A&VTR. The contractor shall thoroughly test all mitigations for the vulnerability, and upon applying the mitigation to the system, report compliance in the A&VTR. Receipt and compliance messages to the Army shall occur within the stipulated time window, as stated in the vulnerability message or in the A&VTR.
- l. The contractor shall ensure AIS assets that are under development are registered in the A&VTR and have all applicable electronic patches installed for the system (1) when the system is delivered to MEDCOM, or (2) if the AIS assets are used to store or process Army data prior to delivery (such as when being used in testing and development).
- m. Guidance regarding the requirement for IAVM is contained in the Army Regulation 25–2, "Information Assurance" and Army Regulation 25–1, "Army Knowledge Management and Information Technology." An asset is defined as any hardware device, such as a router, firewall, server, or an operating system image accessed by more than one user. Primary servers and the workstations that they support are assets that must be registered in the A&VTR. The "**Army IAVM Community**" website: (URL: <https://www.us.army.mil/suite/personalization/grouppage.do?groupid=16822>) is used to disseminate IAVAs, Information Assurance Vulnerability Bulletins (IAVBs), and Information Assurance Technical Advisories down to the System Administrator (SA) and applicable personnel throughout the chain of command.
- n. The contractor shall maintain any development environments in accordance with MEDCOM Information Assurance (IA) best practices and operational requirements. During product development for the Army, the contractor shall ensure that all IA mitigation strategies have been applied to the development environment prior to any Army data being loaded onto any assets or software for testing or delivery.
- o. IA mitigation strategies include security updates, service packs, and changes to operating procedures as physical and cyber vulnerabilities are detected. Operating system, routers, servers, development platforms and the application being delivered to the Army shall be in compliance with all known applicable Army Computer Emergency Response Team (ACERT) Alert, Bulletin, and Technical Advisory Notices published during the past 36 months.
- p. Disposing of Electronic Media. Vendors shall follow the Army standards, procedures, and use approved products to dispose of unclassified hard drives and other electronic media, as appropriate, in

accordance with Army Regulation 25–2, "Information Assurance" and Army Best Business Practices (BBP), "Reuse of Computer Hard Drives."

- q. Ports Protocols and Services. Vendors shall follow all current Army standards and requirements for acceptable Ports, Protocols, and Services. Any requests for exception to using the current Army Ports, Protocols, and Services standards requires an request for exception sent through the Program Manager to the DAA.
- r. Public Key Infrastructure and Encryption. Vendors shall follow the Army standards, policies, and procedures related to the use of Public Key Infrastructure (PKI) certificates and biometrics for positive authentication. Where interoperable PKI is required for the exchange of unclassified information between the Army and its vendors and contractors, industry partners shall obtain all necessary certificates. Vendors must turn over to the Army all encryption keys for deployed systems, backdoor algorithms, and procedures for their use in remote support. The Vendor must provide a written report detailing all of the above, prior to task order expiration, regardless of modifications or extensions.

## **5. Information Systems (IS)/Networks Physical Security.**

- a. The contractor shall employ physical security safeguards for IS/Networks involved in processing or storage of Army Data to prevent the unauthorized access, disclosure, modification, destruction, use, etc., and to otherwise protect the confidentiality and ensure use conforms with Army regulations. In addition, the contractor will support a Physical Security Audit performed by the Army of the contractor's internal information management infrastructure. The MHS Physical Security Audit Matrix is available at: [http://www.tricare.mil/tmis\\_new/Policy/PSA\\_Matrix\\_%20012304%200930%20clean%20version.xls](http://www.tricare.mil/tmis_new/Policy/PSA_Matrix_%20012304%200930%20clean%20version.xls).
- b. The contractor shall correct any deficiencies identified by the Army of the contractor's physical security posture. The contractor shall be required to follow all requirements in the Army's Information Assurance Policy. New Army policies will be posted to the following website: <http://www.apd.army.mil/>.
- c. The contractor shall ensure that data which contains PHI is continuously protected from unauthorized access, use, modification, or disclosure. The contractor shall comply with all previously stated requirements for HIPAA, Personnel Security, Electronic Security, and Physical Security.

## **Document #2 - Department of Defense**

### **Standard Contract Clause for Business Associates**

#### **Introduction**

In accordance with DoD 6025.18-R "Department of Defense Health Information Privacy Regulation," January 24, 2003, the Contractor meets the definition of Business Associate. Therefore, a Business Associate Agreement is required to comply with both the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security regulations. This clause serves as that agreement whereby the Contractor agrees to abide by all applicable HIPAA Privacy and Security requirements regarding health information as defined in this clause, and in DoD 6025.18-R and DoD 8580.02-R, as amended. Additional requirements will be addressed when implemented.

- (a) **Definitions.** As used in this clause generally refer to the Code of Federal Regulations (CFR) definition unless a more specific provision exists in DoD 6025.18-R or DoD 8580.02-R.

**Individual** has the same meaning as the term “individual” in 45 CFR [160.103](#) and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

**Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

**Protected Health Information** has the same meaning as the term “protected health information” in 45 CFR [160.103](#), limited to the information created or received by the Contractor from or on behalf of the Government pursuant to the Contract.

**Electronic Protected Health Information** has the same meaning as the term “electronic protected health information” in 45 CFR 160.103.

**Required by Law** has the same meaning as the term “required by law” in 45 CFR 164.103.

**Secretary** means the Secretary of the Department of Health and Human Services or his/her designee.

**Security Rule** means the Health Insurance Reform: Security Standards at 45 CFR part 160, 162 and part 164, subpart C.

Terms used, but not otherwise defined, in this Clause shall have the same meaning as those terms in 45 CFR 160.103, 160.502, 164.103, 164.304, and 164.501.

- (b) The Contractor shall not use or further disclose Protected Health Information other than as permitted or required by the Contract or as Required by Law.
- (c) The Contractor shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Contract.
- (d) [The Contractor agrees to use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits in the execution of this Contract.](#)
- (e) The Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to the Contractor of a use or disclosure of Protected Health Information by the Contractor in violation of the requirements of this Clause.
- (f) The Contractor shall report to the Government any security incident involving protected health information of which it becomes aware.
- (g) The Contractor shall report to the Government any use or disclosure of the Protected Health Information not provided for by this Contract of which the Contractor becomes aware.

- (h) The Contractor shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.
- (i) The Contractor shall ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.
- (j) The Contractor shall provide access, at the request of the Government, and in the time and manner reasonably designated by the Government to Protected Health Information in a Designated Record Set, to the Government or, as directed by the Government, to an Individual in order to meet the requirements under 45 CFR 164.524.
- (k) The Contractor shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Government directs or agrees to pursuant to 45 CFR 164.526 at the request of the Government, and in the time and manner reasonably designated by the Government.
- (l) The Contractor shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, available to the Government, or at the request of the Government to the Secretary, in a time and manner reasonably designated by the Government or the Secretary, for purposes of the Secretary determining the Government's compliance with the Privacy Rule.
- (m) The Contractor shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- (n) The Contractor shall provide to the Government or an Individual, in time and manner reasonably designated by the Government, information collected in accordance with this Clause of the Contract, to permit the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

### **General Use and Disclosure Provisions**

Except as otherwise limited in this Clause, the Contractor may use or disclose Protected Health Information on behalf of, or to provide services to, the Government for treatment, payment, or healthcare operations purposes, in accordance with the specific use and disclosure provisions below, if such use or disclosure of Protected Health Information would not violate the HIPAA Privacy Rule, the HIPAA Security Rule, DoD 6025.18-R or DoD 8580.02-R if done by the Government.

### **Specific Use and Disclosure Provisions**

- (a) Except as otherwise limited in this Clause, the Contractor may use Protected Health Information for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.



- (b) Except as otherwise limited in this Clause, the Contractor may disclose Protected Health Information for the proper management and administration of the Contractor, provided that disclosures are required by law, or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached.
- (c) Except as otherwise limited in this Clause, the Contractor may use Protected Health Information to provide Data Aggregation services to the Government as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (d) Contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

### **Obligations of the Government**

#### Provisions for the Government to Inform the Contractor of Privacy Practices and Restrictions

- (a) The Government shall provide the Contractor with the notice of privacy practices that the Government produces in accordance with 45 CFR 164.520.
- (b) The Government shall provide the Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect the Contractor's permitted or required uses and disclosures.
- (c) The Government shall notify the Contractor of any restriction to the use or disclosure of Protected Health Information that the Government has agreed to in accordance with 45 CFR 164.522.

### **Permissible Requests by the Government**

The Government shall not request the Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Privacy Rule, [the HIPAA Security Rule, or any applicable Government regulations \(including without limitation, DoD 6025.18-R and DoD 8580.02-R\)](#) if done by the Government, except for providing Data Aggregation services to the Government and for management and administrative activities of the Contractor as otherwise permitted by this clause.

### **Termination**

- (a) Termination. A breach by the Contractor of this clause, may subject the Contractor to termination under any applicable default or termination provision of this Contract.
- (b) Effect of Termination.

- (1) If this contract has records management requirements, the records subject to the Clause should be handled in accordance with the records management requirements. If this contract does not have



records management requirements, the records should be handled in accordance with paragraphs (2) and (3) below

- (2) If this contract does not have records management requirements, except as provided in paragraph (3) of this section, upon termination of this Contract, for any reason, the Contractor shall return or destroy all Protected Health Information received from the Government, or created or received by the Contractor on behalf of the Government. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of the Contractor. The Contractor shall retain no copies of the Protected Health Information.
- (3) If this contract does not have records management provisions and the Contractor determines that returning or destroying the Protected Health Information is infeasible, the Contractor shall provide to the Government notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Government and the Contractor that return or destruction of Protected Health Information is infeasible, the Contractor shall extend the protections of this Contract to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Contractor maintains such Protected Health Information.

### **Miscellaneous**

- (a) Regulatory References. A reference in this Clause to a section in DoD 6025.18-R, DoD 8580.02-R, Privacy Rule or Security Rule means the section currently in effect or as amended, and for which compliance is required.
- (b) Survival. The respective rights and obligations of under the "Effect of Termination" provision of this Clause shall survive the termination of this Contract.
- (c) Interpretation. Any ambiguity in this Clause shall be resolved in favor of a meaning that permits the Government to comply with DoD 6025.18-R, DoD 8580.02-R, the HIPAA Privacy Rule or the HIPAA Security Rule.

### **Document #3**

MCID-IM

SUBJECT: Memorandum of Agreement for a Virtual Private Network

DEPARTMENT OF THE ARMY

PROGRAM

LOCATION

REPLY TO

ATTENTION OF

MEMORANDUM OF AGREEMENT

BETWEEN

**CLINIC**

AND

**VENDOR**

SUBJECT: Memorandum of Agreement for a Virtual Private Network

1. References.
  - a. DoD Regulation 8580.02 Health Information Privacy (HIPAA) Security.
  - b. DoD 6025.18-R Health Insurance Portability and Accountability Act (HIPAA) and Security Regulation (the DoD implementation of the HIPAA Law).
  - c. AR 25-2, Information Assurance.
2. Purpose. To establish a Virtual Private Network (VPN) tunnel to facilitate encryption of electronic Protected Health Information (e-PHI) through which **<insert the reason for the VPN, e.g. conduct remote maintenance between <the clinic> and < The Contractor >, transmit or access data, etc via the (application, etc).**
3. Problem. **Define the problem, e.g. The (Clinic) authorized providers and personnel working in administrative areas that support patient care require access to (The Contractor) inpatient medical records for the purposes of monitoring and updating inpatient records for surgical and other inpatient admissions and retrieving emergency room and other patient care and workload reporting documentation to support the administrative areas supporting patient care such as but not limited to Patient Administration, Medical Records, Patient Liaison, Managed Care, and Referrals office activity.** This involves the transmission and access of e-PHI, which in accordance with (IAW) references a and b requires a secure method to accommodate the outbound transmission from government furnished equipment (GFE) devices on the **Clinic's** internal network.
4. General Security Requirements. **The Contractor** shall establish appropriate administrative, technical, and physical safeguards to protect any and all government data to ensure the confidentiality, integrity, and availability of the encrypted tunnel for this data to traverse. At a minimum, this shall include provisions for personnel security for network personnel, electronic security and physical security as listed in the sections that follow.

## 5. Personnel Security.

- a. **The Contractor** responsibilities for ensuring personnel security for any and all network personnel who have access to **the Contractor's** firewall and VPN equipment include, but are not limited to, meeting the following requirements:
  - (1) Follow the Army guidelines for submittal of Information Technology (IT) security background checks and ensure all contractor personnel are designated as IT-I, IT-II, or IT-III where their duties meet the criteria of the position sensitivity designations. Contact the <type in Activity's name> for guidance on the appropriate IT levels for personnel on the contract.
  - (2) Initiate, maintain, and document personnel security investigations appropriate to the individual's network responsibilities and required access to information systems within the logical boundaries of the (Vendor) facility local area network (LAN).
  - (3) Immediately report to the <type in Activity's name> and deny access to any automated information system (AIS), network, or MEDCOM SI information if a contractor employee filling a sensitive position receives an unfavorable adjudication, if information that would result in an unfavorable adjudication becomes available, or if directed to do so by the appropriate Army representative for security reasons.
  - (4) Ensure that all contractor personnel receive appropriate information assurance (IA) training before being granted access to the firewall/VPN equipment that supports this Army AIS/network device and data transmission function.

## 6. Electronic Security.

- a. Contractor Information Systems (IS)/networks that are involved in the operation of or are part of this VPN in support of the **Clinic-Vendor** BPN tunnel shall operate in accordance with controlling laws, regulations, DoD, Army, and local policy.
- b. **The Contractor** shall agree to safeguard their point of presence for this for this VPN tunnel and provide a comprehensive evaluation of the technical and non-technical security features and countermeasures employed for their system/network configuration.
- c. **The Contractor** must confirm that their IS/networks are locked down prior to initiate testing.
  - (1) Confirmation of system lock down shall be agreed upon during the definition of the VPN boundary and be signed and documented as part of the testing implementation.
  - (2) Locking down the system means that there shall be no changes made to the configuration of the VPN tunnel system without the approval from **Clinic** Information Assurance Security Officer and/or the Information Assurance Manager and with appropriate testing.

- d. Any reconfiguration or change in the system during the initial or subsequent testing process will require a re-baselining of the system and documentation of system changes.
  - e. Information assurance mitigation strategies include security updates, service packs, and changes to operating procedures as physical and cyber vulnerabilities are detected. Operating system, routers, firewall and VPN equipment shall be in compliance with all known applicable Army Computer Emergency Response Team (ACERT) Alert, Bulletin, and Technical Advisory Notices published during the past 36 months.
  - f. Disposing of Electronic Media. Contractor will be required to follow the DoD standards, procedures and use approved products to dispose of unclassified hard drives and other electronic media, as appropriate, in accordance with DoD Memorandum "Disposition of Unclassified Computer Hard Drives," June 4, 2001. Contracts are required to follow DoD guidance on sanitization of other internal and external media components in DODI 8500.2 "Information Assurance (IA) Implementation," 6 Feb 2003 (see PECS-1 in enclosure 4 attachment 5 and DoD 5220.22-M "Industrial Security Program Operating Manual 9NISPOM)," (Chapter 8).
7. Information Systems (IS)/Networks Physical Security. **The contractor** shall employ physical security safeguards for IS/Networks involved in processing or transmission of government data to prevent the unauthorized access, disclosure, modification, destruction, use, etc., and to otherwise protect the confidentiality and ensure use conforms with Army, MEDCOM and HIPAA regulations. In addition, **the contractor** will support a Physical Security Audit performed by the government of **the contractor's** internal information management infrastructure. **The contractor** shall correct any deficiencies identified by the government of **the contractor's** physical security posture.
8. Special Requirements for PHI. Since this agreement centers on the ability of government providers to access PHI on government beneficiaries whose data is stored in **the Contractor's** medical systems, the **Clinic** specifies that **the Contractor** monitor, regulate, and limit the number of and extent to which their staff have access to this VPN and /or the data traffic passing through it. Any deviation to the above agreement will need to be communicated to the **Clinic** Information Assurance Security Officer and/or the Information Assurance Manager and additional baselines will need to be reestablished.
9. Department of Defense Business Associate Agreement.
- a. Introduction. In accordance with DoD 6025.18-R "Department of Defense Health Information Privacy Regulation," January 24, 2003, **the Contractor** meets the definition of Business Associate. Therefore, a Business Associate Agreement is required to comply with both the HIPAA Privacy and Security regulations. This clause serves as that agreement whereby **the Contractor** agrees to abide by all applicable HIPAA Privacy and Security requirements regarding health information as defined in this clause, and in DoD 6025.18-R and DoD 8580.02-R, as amended. Additional requirements will be addressed when implemented.

(1) **Definitions.** As used in this clause generally refer to the Code of Federal Regulations (CFR) definition unless a more specific provision exists in DoD 6025.18-R or DoD 8580.02-R.

**Individual** has the same meaning as the term “individual” in 45 CFR [160.103](#) and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

**Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

**Protected Health Information** has the same meaning as the term “protected health information” in 45 CFR [160.103](#), limited to the information created or received by the Contractor from or on behalf of the Government pursuant to the Contract.

**Electronic Protected Health Information** has the same meaning as the term “electronic protected health information” in 45 CFR 160.103.

**Required by Law** has the same meaning as the term “required by law” in 45 CFR 164.103.

**Secretary** means the Secretary of the Department of Health and Human Services or his/her designee.

**Security Rule** means the Health Insurance Reform: Security Standards at 45 CFR part 160, 162 and part 164, subpart C.

Terms used, but not otherwise defined, in this Clause shall have the same meaning as those terms in 45 CFR 160.103, 160.502, 164.103, 164.304, and 164.501.

#### REQUIREMENTS SPECIFIC TO ARMY DELIVERY ORDERS - CONTINUED

(2) **The Contractor** shall not use or further disclose Protected Health Information other than as permitted or required by the Contract or as Required by Law.

(3) **The Contractor** shall use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Contract.

(4) [The Contractor agrees to use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits in the execution of this Contract.](#)

(5) **The Contractor** agrees to mitigate, to the extent practicable, any harmful effect that is known to **the Contractor** of a use or disclosure of Protected Health Information by **the Contractor** in violation of the requirements of this Clause.

(6) **The Contractor** shall report to the Government any security incident involving protected health information of which it becomes aware.

(7) **The Contractor** shall report to the Government any use or disclosure of the Protected Health Information not provided for by this Contract of which the Contractor becomes aware.

(8) **The Contractor** shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.

(9) **The Contractor** shall ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.

(10) **The Contractor** shall provide access, at the request of the Government, and in the time and manner reasonably designated by the Government to Protected Health Information in a Designated Record Set, to the Government or, as directed by the Government, to an Individual in order to meet the requirements under 45 CFR 164.524.

(11) **The Contractor** shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Government directs or agrees to pursuant to 45 CFR 164.526 at the request of the Government, and in the time and manner reasonably designated by the Government.

(12) **The Contractor** shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by the Contractor, on behalf of the Government, available to the Government, or at the request of the Government to the Secretary, in a time and manner reasonably designated by the Government or the Secretary, for purposes of the Secretary determining the Government's compliance with the Privacy Rule.

(13) **The Contractor** shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(14) **The Contractor** shall provide to the Government or an Individual, in time and manner reasonably designated by the Government, information collected in accordance with this Clause of the Contract, to permit the Government to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

b. General Use and Disclosure Provisions. Except as otherwise limited in this Clause, **the Contractor** may use or disclose Protected Health Information on behalf of, or to provide services to, the Government for treatment, payment, or healthcare operations purposes, in accordance with the specific use and disclosure provisions below, if such use or disclosure of Protected Health Information would not violate the HIPAA Privacy Rule, the HIPAA Security Rule, DoD 6025.18-R or DoD 8580.02-R if done by the Government.

c. Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this Clause, **the Contractor** may use Protected Health Information for the proper management and administration of **the Contractor** or to carry out the legal responsibilities of **the Contractor**.

(2) Except as otherwise limited in this Clause, **the Contractor** may disclose Protected Health Information for the proper management and administration of **the Contractor**, provided that disclosures are required by law, or **the Contractor** obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies **the Contractor** of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) Except as otherwise limited in this Clause, **the Contractor** may use Protected Health Information to provide Data Aggregation services to the Government as permitted by 45 CFR 164.504(e)(2)(i)(B).

(4) Contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

d. Obligations of the Government. Provisions for the Government to Inform **the Contractor** of Privacy Practices and Restrictions

(1) [The](#) Government shall provide **the Contractor** with the notice of privacy practices that the Government produces in accordance with 45 CFR 164.520.

(2) The Government shall provide **the Contractor** with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect **the Contractor's** permitted or required uses and disclosures.

(3) The Government shall notify **the Contractor** of any restriction to the use or disclosure of Protected Health Information that the Government has agreed to in accordance with 45 CFR 164.522.

e. Permissible Requests by the Government. The Government shall not request **the Contractor** to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Privacy Rule, [the HIPAA Security Rule, or any applicable Government regulations \(including without limitation, DoD 6025.18-R and DoD 8580.02-R\)](#) if done by the Government, except for providing Data Aggregation services to the Government and for management and administrative activities of **the Contractor** as otherwise permitted by this clause.

f. Termination

(1) Termination. A breach by **the Contractor** of this clause, may subject **the Contractor** to termination under any applicable default or termination provision of this Contract.

(2) Effect of Termination.

(a) If this contract has records management requirements, the records subject to the Clause should be handled in accordance with the records management requirements. If this

contract does not have records management requirements, the records should be handled in accordance with paragraphs (b) and (c) below

- (b) If this contract does not have records management requirements, except as provided in paragraph (c) of this section, upon termination of this Contract, for any reason, **the Contractor** shall return or destroy all Protected Health Information received from the Government, or created or received by **the Contractor** on behalf of the Government. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of **the Contractor**. **The Contractor** shall retain no copies of the Protected Health Information.
- (c) If this contract does not have records management provisions and **the Contractor** determines that returning or destroying the Protected Health Information is infeasible, **the Contractor** shall provide to the Government notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Government and **the Contractor** that return or destruction of Protected Health Information is infeasible, **the Contractor** shall extend the protections of this Contract to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as **the Contractor** maintains such Protected Health Information.

g. Miscellaneous

- (1) Regulatory References. A reference in this Clause to a section in DoD 6025.18-R, DoD 8580.02-R, Privacy Rule or Security Rule means the section currently in effect or as amended, and for which compliance is required.
- (2) Survival. The respective rights and obligations of Business Associate under the "Effect of Termination" provision of this Clause shall survive the termination of this Contract.

Interpretation. Any ambiguity in this Clause shall be resolved in favor of a meaning that permits the Government to comply with DoD 6025.18-R, DoD 8580.02-R, the HIPAA Privacy Rule.

## REQUIREMENTS SPECIFIC TO AIR FORCE DELIVERY ORDERS

### Air Force Information Assurance Requirements – Version 1.0 (May 2013)

In accordance with Department of Defense Directive (DoDD) 8500.01E, all acquisitions of Automated Information Systems (AIS) to include, outsourced IT-based processes, and platforms or weapon systems with connections to the Global Information Grid (GIG) must be certified and accredited. The primary methodology for certifying and accrediting Department of Defense (DoD) information systems is the DoD Information Assurance Certification and Accreditation Process (DIACAP) of DoD Instruction (DoDI) 8510.01 and is applicable to all DoD owned or Air Force (AF) controlled information systems that receive, process, store, display or transmit DoD information, regardless of Mission Assurance Category (MAC) classification or sensitivity, *except*, per DoDD 8500.1 Paragraph 2.3; IT that is considered Platform Information Technology (PIT).



Vendor must subscribe to Office of Personnel Management (OPM) National Agency with local Agency and Credit (NACLC) for vendor personnel required to log-onto any systems connected to the MTF/DoD network. This applies to any vendor personnel accessing the DoD networked device on-site or remotely and during installation.

The Contractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191) requirements, specifically the administrative simplification provisions of the law and the associated rules and regulations published by the Secretary, Health and Human Services (HHS). This includes the Standards for Electronic Transactions, the Standards for Privacy of Individually Identifiable Health Information and the Security Standards.

If an Authorization to Connect (ATC) and/or an Authorization to Operate (ATO), approval has not already been granted for the product version/system awarded on this specific contract, vendor will comply with the following timeline:

Within 30 days of contract award or issuance of a delivery order – contact Air Force Medical Service (AFMS) Program Management Office (PMO) to obtain C&A requirements and templates required for IA submission process. The PMO can be reached at [afmoa.sgale.mdpmo@detrick.af.mil](mailto:afmoa.sgale.mdpmo@detrick.af.mil).

Within 60 days of contract award or issuance of a delivery order – if not done already, send completed templates and required documents to AFMS PMO point of contact obtained from above action. After submission of these documents, any missing information or information requested by the AFMS PMO must be submitted within 30 days to continue to the C&A process.

#### **REQUIREMENTS SPECIFIC TO AIR FORCE DELIVERY ORDERS - CONTINUED**

If an ATC, and/or an ATO, has already been granted for this specific equipment, vendor must submit a copy of the approval within 30 days of contract award or issuance of a delivery order.

If the vendor does not comply with the timeline provided above, the Government reserves the right to cancel this contract/delivery order at no cost to the Government. The Vendor is required to maintain its ATC/ATO for the life expectancy of the equipment or as long as the AF is in possession of the equipment, whichever is longer. The Vendor shall renew C&A requirements for the equipment/system prior to the expiration of the ATC/ATO.

#### **References:**

- Public Law 100-235
- Public Law 107-347
- CJCSI 6212.01B
- CJCSM 6510.01
- DODD 8500.01E
- DODI 8500.2

- DODI 8510.01
- DODI 5200.1-R
- DODI 5200.2
- HIPAA, AFI33-210
- DOD IPv6 Standard Profiles for IPv6 Capable Products, and Defense Information Systems Agency (DISA) – <http://www.disa.mil>.

## **Preservation, Packaging, Packing, Labeling and Marking (PPPL&M)**

### **PRESERVATION, PACKAGING, PACKING, LABELING AND MARKING (PPPL&M)**

#### **A. General instructions.**

1. Unless otherwise specified, all PPPL&M requirements specified herein shall apply to all CONUS and OCONUS shipments of medical items.
2. Labeling and shipping instructions specified in Section VII shall also apply to OCONUS shipments when required.
3. Sources of referenced documents and forms are provided in Section XIV.

#### **B. Preservation, packaging, and packing.**

1. Preservation, packaging, and packing shall be sufficient to preclude damage to containers and/or contents thereof under normal shipping and handling conditions. Exterior (shipping) containers shall conform to the applicable carrier's regulations and shall be substantial commercial containers (export when necessary) of the type, size and kind commonly used for the purpose, so constructed as to insure acceptance and safe delivery by common or other carriers, at the lowest rate, to point of delivery called for in the order. Shipments to OCONUS ordering activities shall be properly packaged and packed for international movement.
2. For **non-hazardous** items, preservation, packaging, and packing shall be in accordance with ASTM D 3951 (Standard Practice for Commercial Packaging) and as specified herein.
3. For hazardous items, preservation, packaging, and packing shall comply with applicable regulations and as specified herein.
4. Unitized loads shall be used whenever total quantity for shipment to one CONUS/OCONUS destination exceeds 250 lbs or 20 cubic feet. Although overhang is permitted when a load is unitized on a pallet, it shall be uniform and shall not exceed 2 inches on any side, resulting in maximum pallet load dimensions of 42 inches long by 50 inches wide, including overhang; pallet load height shall not exceed 60 inches.
5. Recommended configurations of unitized loads for shipment to OCONUS destinations are as follows:
  - a. **Shipments weighing less than 70 lbs.** Consolidate materiel into suitable sealed boxes acceptable for overseas air shipment.

b. **Shipments weighing 70 lbs – 299 lbs.** Prepare shipments by using one of the following means:

(1) Consolidate materiel into suitable sealed boxes acceptable for OCONUS shipment.

(2) Unitize materiel on commercial pallets, 40 inches long by 48 inches wide. Overhang is permitted; however, overhang shall not exceed 2 inches, resulting in maximum dimensions of 42 inches long by 50 inches wide, including overhang. When overhang occurs, it shall be uniform on each side; i.e., a pallet load measuring 41 inches by 49 inches shall have an overhang of one-half inch on each side. Total height of pallet load, including the pallet, shall be 60 inches. To insure stability of the load, whenever possible, the load shall be formed by interlocking containers in a suitable pattern wherever possible. To avoid damage to boxes and/or contents, place boxes containing heavier items on the bottom of the load. Fill in any voids or gaps with appropriately shaped fiberboard storage aids, i.e., separator support, chimney filler, etc. When necessary to even the sides of the load, full-height edge protectors shall be used. Place a suitable piece of fiberboard or a fiberboard cap on top of the load prior to bonding. Bonding shall conform to applicable carrier regulations for shipments from the contractor to the receiving point for storage and later reshipments. Loads may be bonded by any of the following methods:

(a) **Shrink-wrapping.** The preferred method of applying shrink-wrap is mechanically on a turntable-type machine. As an alternate, hand shrink-wrapping is acceptable, provided sufficient shrink-wrap is used and the load is completely and securely wrapped as stated herein. To further guard against breaking and shifting of the load contents, suitable plastic straps may be applied over the shrink-wrap.

(b) **Strapping.** Strapping may be metallic or nonmetallic. Strapping shall conform to normal commercial practice. All straps shall be applied straight and shall be tensioned equally to preclude looseness on the side or top of the load and prevent excess strain on some straps that may cause looseness or breaking during handling and shipment. Straps shall be held in tension by appropriate seals.

(c) **Other.** As an alternate, loads may be bonded by any acceptable commercial method.

c. **Unitized loads not meeting the 60-inch height requirements.** Due to the size of the shipment, some palletized loads may not meet the 60-inch height requirement. To ensure that these shorter palletized loads are not stacked, a suitable internationally acceptable pictorial marking, which indicates that stacking is not permitted, shall be applied to at least two adjacent sides of each load. Pictorial markings may be found in ASTM D 5445 (Standard Practice for Pictorial Markings for Handling of Goods).

d. **Alternate unitization.** As an alternate for all configurations, materiel may be unitized in suitable containers supplied by the carrier.

### C. **Certification Requirement for Wood Packaging Material (WPM).**

1. WPM is defined as wood pallets, skids, load boards, pallet collars, wooden boxes, reels, dunnage, crates, frame and cleats. This definition excludes materials that have undergone a manufacturing process, such as corrugated fiberboard, plywood, particleboard, veneer, and oriented strand board (OSD).

2. All WPM acquired by the Department of Defense (DoD) must meet requirements of International Standards for Phytosanitary Measures (ISPM) 15, "Guidelines for Regulating Wood Packaging Materials in International Trade". DoD shipments inside and outside of the United States must meet ISPM 15 whenever WPM is used to ship DoD cargo.

3. All WPM shall comply with the official quality control program for heat treatment (HT) or kiln-dried heat treatment (KD HT) in accordance with American Lumber Standard Committee, Incorporated (ALSC) Wood Packaging Material Program and WPM Enforcement Regulations (see <http://www.alsc.org/>).

4. All WPM shall include certification/quality markings in accordance with the ALSC standard. Markings shall be placed in an unobstructed area that will be readily visible to inspectors. Pallet markings shall be applied to the stringer or block on diagonally opposite sides of the pallet and be contrasting and clearly visible. All containers shall be marked on a side other than the top or bottom, contrasting and clearly visible. All dunnage used in configuring and/or securing the load shall also comply with ISPM 15 and be marked with an ALSC-approved DUNNAGE stamp.

5. Failure to comply with the requirements of this restriction may result in refusal, destruction, or treatment of materials at the point of entry. The Agency reserves the right to recoup from the Contractor any remediation costs incurred by the Government.

6. Additional information regarding DoD's WPM requirement is available on the DLA Packaging Website, [http://www.landandmaritime.dla.mil/Offices/Packaging/palletization\\_WPMnotice.asp](http://www.landandmaritime.dla.mil/Offices/Packaging/palletization_WPMnotice.asp)

7. NOTE: DoD does not endorse the methyl bromide fumigation program. Only heat treatment or kiln-dried heat treatment of WPM is authorized.

**D. Labeling and marking.**

1. Materiel shall be marked in accordance with commercial practice and as specified herein.

2. **Applicable to Medical/Surgical items.** The Government's long-term goal is to have a Universal Product Number (UPN) assigned by the original manufacturer or private labeler to all medical/surgical products. The UPN can meet one of three acceptable commercial industry standards. Medical product manufacturers can select either the Health Industry Business Communication Council's (HIBBC) LIC standard, the Uniform Code Council's (UCC) SSC-14 format, or the Food and Drug Administration's National Drug Code (NDC). The bar-coded UPN shall be included on all labels, as applicable.

3. **Applicable to all Medical items.** The product number is the number assigned to the item by the supplier/manufacturer and may be any number which the supplier/manufacturer uses to identify the product, e.g., National Stock Number (NSN), UPN, NDC, catalog number, etc.

4. For non-hazardous items and all other routine items, labeling and marking shall be in accordance with commercial practice and any applicable regulatory requirements.

5. For all items requiring special handling, i.e., hazardous, perishable, and sensitive/controlled/pilferable material, labeling and marking shall be in accordance with applicable regulatory requirements and as specified herein.

6. In addition to all required labeling and marking as specified herein and in section VIII, all OCONUS shipments moving through military channels shall be labeled and marked as specified in Medical Marking Standard No. 1.

7. The contractor shall provide all necessary documentation with each OCONUS shipment, to speed the processing of materiel through the customs process.

**E. Packing list.**

1. A properly completed packing list (either DD Form 250 or a suitable commercial alternate) shall accompany each shipment. The packing list shall include the name of the contractor, the DoDAAC of the ordering facility, the order number, date of order, itemized list of shipped items by product number, unit of issue, quantity ordered, quantity shipped, delivered unit price, and the total delivered cost for the order. The product number used in both the order and confirmation must be duplicated on the packing list. The packing list must be in identical sequence to the order placed by the ordering facility. The delivered unit price will reflect two decimal places (the third decimal place will be rounded down for "4" and below, and will be rounded up for "5" and above).

2. **Applicable to Military OCONUS shipments only.** In addition to markings required in para. **XIII.E.1.**, each packing list for any shipment which will move through military channels shall also include bar-coded data as follows:

a. Bar codes shall be in accordance with ISP/IEC 16388 (Information Technology – Automatic Identification and Data Capture Techniques – Bar Code Symbology Specification – Code 39).

b. Bar-coded data shall include the document number and suffix, National Stock Number (NSN), S9M (Medical's routing identifier code), unit of issue, quantity, condition code, distribution code and unit price. This data shall be provided on the packing list in 3 separate linear bar codes (code 39 (also known as code 3 of 9)), together with the corresponding Human Readable Interpretation (HRI), as follows:

<b><u>1st bar code:</u></b>	Document number and suffix (in absence of document number, the contract or order number)
<b><u>2nd bar code:</u></b>	NSN (in absence of NSN, the CAGE and PN)
<b><u>3rd bar code:</u></b>	S9M, 2-position unit of issue, 5-position left zero-filled quantity, condition code (shown as "A" unless otherwise specified), 2-position left-zero-filled distribution code and 6-position left zero-filled unit price

c. Example:



FM123400001234



6530001234567



S9MPG00001A00000145

3. Bar codes may be printed directly on the packing list or on pressure-sensitive label(s) securely affixed to the packing list.

4. At the supplier's option, bar codes may be supplied on all packing lists.

**F. Destination address label.** A destination address label shall be supplied on each exterior (shipping) container.

1. **Commercial label.**

a. In addition to all commercial labeling and marking, a commercially-prepared shipping label shall be supplied on all CONUS/OCONUS shipments moving through commercial channels. The contractor-generated may be completed as specified in Medical Marking Standard No. 1.

b. As a minimum, the label shall include the Transportation Control Number (TCN), the requisition number, or the contract/order number, the contractor's name and address and the destination address. Unless otherwise specified in the contract/order, the following information may also be included on the label:

**TCN:** *(In the absence of a TCN, the requisition number or contract or order number)*

**FROM: CONTRACTOR'S NAME AND ADDRESS**

**TO: DESTINATION ADDRESS**

**PROJECT CODE:** *(when specified in the contract or order)*

**RDD:** *(when specified in the contract or order)*

**WT \*\*\* CU \*\*\*** *(weight and cube of the exterior (shipping) container or, for unitized shipments, weight and cube of the unitized load)*

**BOX \* OF \*\*** *(box number and total number of boxes in the shipment; for unitized loads, substitute "PALLET \* OF \*\*" and indicate pallet number and total number of pallets in the shipment)*

## 2. Military shipping label (MSL).

a. **Commercial CONUS/OCONUS shipments.** Normally, a bar-coded MSL will not be required on CONUS/OCONUS supplier shipments moving through commercial channels directly to the customer, unless otherwise required by the customer and specified in the order. However, at the supplier's option, a bar-coded MSL may be supplied on all commercial CONUS/OCONUS shipments.

b. **Military OCONUS shipments.** A properly completed bar-coded MSL shall be required on all OCONUS shipments moving through military channels.

c. **Requirements.** Detailed requirements regarding the MSL are as follows:

(1) The MSL shall be in addition to all commercial and military markings as specified herein and in the order. The MSL shall be securely affixed to each exterior (shipping) container or unitized load. The MSL supersedes DD Form 1387, which is no longer acceptable for use.

(2) Complete technical requirements for the MSL are contained in MIL-STD-129P, paras. 4.2 through 4.2.3, as applicable. In addition to in-the-clear data elements, 2 types of bar codes, linear (code 39 (also known as code 3 of 9)) and two-dimensional (2D), are required on the MSL, as follows:

(a) **In-the-clear data elements.** Each MSL shall include the following in-the-clear data elements, unless otherwise indicated:

Transportation Control Number (TCN)

Contractor/vendor name and address

Ship to address

Mark for address, when applicable

Date shipped, weight, cube

Additional information as specified in the contract or order

(b) **Code 39 bar codes.** Three separate code 39 bar codes shall be supplied on each MSL. Each bar code shall have a minimum height of one-half inch, shall be accompanied by the HRI, and shall include the following:

<b><u>1st bar code:</u></b>	TCN (in the absence of a TCN, the order number)
<b><u>2nd bar code:</u></b>	Piece number - <b><u>Do not left zero-fill.</u></b>
<b><u>3rd bar code:</u></b>	DoDAAC for the ultimate consignee/mark for consignee

Example:

(c) **2D bar code.** The 2D bar code shall include the Document (Requisition) Number; NSN (in absence of the NSN, the CAGE and Part Number), S9M,

2-position unit of issue, 5-position left zero-filled quantity, condition code (shown as "A" unless otherwise specified), and 6-position left zero-filled unit price. Example:

(3) A sample of a completed MSL is provided for information:

TCN <b>SW81238350D001XXX</b>				
From <b>SW8123</b> In-the-clear Address 5 Lines Max, 35 Characters Per Line XXXXXXXXXXXXXXXXXXXXXXXXXXXX			TAC / Type Service / Postage <b>F8WR</b> <b>Frt LTL</b>	
Piece <b>1</b> Of <b>1</b>	Weight (lb.) <b>7760</b>	Date Shipped <b>1090</b>	RDB <b>999</b>	
	Cube (ft.) <b>385</b>	Project <b>9BU</b>	Priority <b>1</b>	
Ship To / PCE In-the-clear Address 5 Lines Max, 35 Characters Per Line Abcdelf Hgklmno Pqrstuv Wxyz Abcdelf Hgklmno Pqrstuv Wxyz XXXXXXXXXXXXXXXXXXXXXXXXXXXX				
POD <b>RMS</b>		MSL, Supply, & TCMD Data		
FMS Case <b>CKM</b>				
DCI Data				
<b>ABD77ZR</b>				
Dest: <b>30D135</b>				
CD:				
Spur:				
<b>W55XGJ</b>		Ultimate Consignee / Mark For Consignee Ultimate / Mark For Consignee Address 5 Lines Max, 35 Characters Per Line Abcdelf Hgklmno Pqrstuv Wxyz Abcdelf Hgklmno Pqrstuv Wxyz XXXXXXXXXXXXXXXXXXXXXXXXXXXX		

#### G. Radio Frequency Identification (RFID).

1. The RFID requirement will be phased in over several years. RFID tagging will not be required on supplier shipments of specific Class VIII (Medical Materiel) items until the applicable DFARS clause has been finalized. RFID tagging shall be in addition to all commercial and military markings, and shall be required on cases (for Medical this equates to the exterior (shipping) container) and on unitized loads. Phase 1 did not apply to Medical shipments.

2. Phase 2, which became effective for acquisitions issued on/after 19 July 2006, applies to specific supplier shipments of Medical items, as follows:

##### a. Medical Equipment and Medical/Surgical items only.

(1) Depot stock shipments. RFID tagging shall be required for all supplier shipments of Medical Equipment and Medical/Surgical items for depot stock to the Defense Distribution Depots located in Susquehanna, PA, San Joaquin, CA, Hill AFB, UT, and Tobyhanna, PA.

(2) Direct supplier shipments. RFID tagging will not normally be required for supplier shipments of Medical Equipment and Medical/Surgical items which are delivered directly to the CONUS/OCONUS customer through commercial channels.



(3) OCONUS supplier shipments diverted/redirected through selected Air Mobility Command Terminals. RFID tagging shall be required for all OCONUS supplier shipments of Medical Equipment and Medical/Surgical items which are diverted/redirected through any of the following air terminals:

Charleston AFB, Charleston, SC  
Naval Air Station, Norfolk, VA  
Travis AFB, Fairfield, CA

b. Federal Supply Classes (FSCs) 6505, 6508, 6509 and 6550. To keep in step with the Food and Drug Administration's (FDA) current initiatives, RFID tagging for supplier shipments of most items in FSCs 6505 (Drugs and Biologicals (Human Use)), 6508 (Medicated Cosmetics and Toiletries), 6509 (Drugs and Biologicals (Veterinary Use)), and 6550 (In Vitro Diagnostic Substances, Reagents, Test Kits and Sets) will be further delayed (specific date to be announced).

c. Phase 3 (effective date to be determined) will apply to all supplier shipments of identified Medical items to all identified locations. When required, RFID tagging shall be supplied on cases (i.e., exterior (shipping) container) and on unitized loads. In addition, RFID tagging shall be supplied on all unit containers for items identified as requiring unique identification (UID) markings. When applicable, the UID requirement shall be specified in the order.

3. Detailed information regarding RFID is available at <http://www.acq.osd.mil/log/rfid/index.htm>

#### **H. Unique identification (UID).**

1. Effective January 1, 2007, UID may be required for certain Medical items if the acquisition cost per unit is more than \$5,000, the item is DoD serially managed, mission essential, or a controlled inventory piece of equipment/reparable, the item is a consumable which requires permanent identification, or the item is a component of an end item and UID is required. The requirement for the UID will be determined by the ordering facility, and will be specified in the order, when applicable.

2. Requirements regarding UID will be incorporated into this document when they are finalized. Detailed information regarding UID is available at <http://www.acq.osd.mil/dpap/pdi/uid/index.html>

I. **Materiel requiring special handling**. Materiel requiring special handling must be properly identified in order to alert the receiving activity that the materiel requires special handling and storage. In addition to labeling and marking requirements specified herein, the supplier shall annotate the packing list accompanying each shipment with the following notation: "REQUIRES SPECIAL HANDLING AND/OR STORAGE", together with the applicable special handling and/or storage statement(s). Examples of special handling and storage statements include the following: "STORE BETWEEN 2° – 8° C (36° – 46° F)", "KEEP FROZEN", "FLAMMABLE", etc. In addition, the exterior (shipping) container shall be marked with the applicable storage statements. For Medical items subject to damage by freezing, marking on each shipping container shall include the statement "DO NOT PERMIT TO FREEZE"; in addition, "ARROW" and "FRAGILE" markings, as appropriate, shall be applied to each shipping container. Pictorial markings may be found in ASTM D 5445. Similar commercial storage statements are acceptable on the packing list and the exterior (shipping) container.

Refrigerated items shipping to OCONUS locations via commercial air must be packed for 96 hours of transit. Current protocols show Monday and Wednesday have the best rate of successful shipment and receipt. This is subject to change from the Contracting Officer

**J. Hazardous material (HAZMAT).**

1. HAZMAT includes any materiel defined as hazardous under 49 CFR 171.8 (Code of Federal Regulations (CFR) Title 49) and the latest version of FED-STD-313.

**2. Material Safety Data Sheets (MSDSs).**

a. MSDSs shall meet the requirements of 29 CFR 1910-1200 (g) and FED-STD-313. Nothing contained in this contract shall relieve the contractor from complying with applicable Federal, State, and local laws, codes, ordinances and regulations (including the obtaining of licenses and permits) in connection with hazardous materiel. Neither the requirements of this contract, nor any act or failure to act by the Government, shall relieve the contractor of any responsibility or liability for the safety of Government, contractor, or Subcontractor personnel or property.

a. MSDSs shall meet the requirements of 29 CFR 1910-1200 (g) and FED-STD-313. Nothing contained in this contract shall relieve the contractor from complying with applicable Federal, State, and local laws, codes, ordinances and regulations (including the obtaining of licenses and permits) in connection with hazardous materiel. Neither the requirements of this contract, nor any act or failure to act by the Government, shall relieve the contractor of any responsibility or liability for the safety of Government, contractor, or Subcontractor personnel or property.

b. The contractor shall furnish applicable MSDSs as specified herein. If at any time during the contract there is a change in the composition of any item or a revision to FED-STD-313, which renders incomplete or inaccurate the data previously submitted, the contractor shall promptly notify the DLA Troop Support Contracting Officer. The DLA Troop Support Contracting Officer may at his/her option, require the contractor to resubmit the revised MSDSs to each ordering facility as well as DLA Troop Support, ATTN: FSFB (Packaging). MSDSs shall be provided to the customer as follows:

(1) **Applicable to CONUS shipments ONLY.** In compliance with 29 CFR 1910.1200(g), an MSDS shall be provided with the first order from the CONUS customer, whenever an applicable MSDS undergoes a major revision, or every 3 years. In addition, an MSDS shall be provided in response to the customer's request.

(2) **Applicable to ALL OCONUS shipments.** The contractor shall furnish the OCONUS customer with all applicable MSDSs with each shipment of HAZMAT.

c. A copy of each MSDS, annotated with either the National Stock Number, if applicable, or commercial part number, and item name, shall be provided to DLA Troop Support, ATTN: FSFB (Packaging). MSDSs will also be provided to the DLA Troop Support Contracting Officer, upon request.

**3. Hazard Warning Labels (HWLs).** The contractor shall also obtain and maintain a file of all applicable Hazardous Warning Labels (HWLs). Each MSDS provided to DLA Troop Support, ATTN: FSFB (Packaging) and to the DLA Troop Support Contracting Officer shall be accompanied by the HWL, when applicable.

**4. Packaging, labeling and marking of HAZMAT.** Packaging, labeling and marking of HAZMAT shall comply with all applicable regulations, i.e., 49 CFR, International Civil Aviation Organization (ICAO) Technical Instructions (excluding para. 1.4 of Chapters 1 and 3), and International Air Transport

Association (IATA) Dangerous Good Regulations, and International Maritime Dangerous Goods Code (IMDG). The contractor shall insure that all hazardous materiel is packaged, labeled and marked correctly. HAZMAT labeling shall be in accordance with one of the following:

Federal Insecticide, Fungicide, and Rodenticide Act

Federal Food, Drug, and Cosmetics Act and regulations promulgated there under

Consumer Product Safety Act

Federal Hazardous Substances Act

Federal Alcohol Administration Act

or, if the materiel is not subject to one of the above acts,

Hazard Communication Standard 29 CFR 1910-1200 et seq.

5. **Packaging and marking of HAZMAT for shipment via military air.** In addition, packaging and marking of HAZMAT destined for shipment through a military aerial port via military aircraft shall comply with AFMAN 24-204(I)/TM 38-250/NAVSUP PUB 505/ MCO 4030.19/DLAI 4145.3. Such shipments are identified with Ship To Addresses to the Container Consolidation Points. Each shipment shall be accompanied by a properly completed standard commercial "Shipper's Declaration for Dangerous Goods".

The following shipping instructions shall also apply to all shipments moving through military air terminals:

a. All suppliers who ship to overseas medical facilities by military air **must** call for an air clearance.

b. Shippers must obtain permission to ship controlled substances by military air. If approved, Signature Tally Service is required. Approval can be obtained when calling for an air clearance (See para. VIII.D.3.).

c. It is **mandatory** that all shipments to Air Mobility Command (AMC) air channels obtain shipment clearance from the Service Air Clearance Authority **24 hours prior to arrival**. To obtain clearance, the shipper must contact Enterprise Transportation (ET) at (800) 456-5507, fax (717) 770-2701, email [delivery@dla.mil](mailto:delivery@dla.mil), and provide the following information:

(1) DoDAAC (ET will provide a Transportation Control Number (TCN)).

(2) Date of shipment, mode and number of days enroute.

(3) Number and type of containers, weight and cube.

(4) Special handling instructions (e.g., perishable, hazardous, etc.).

d. The shipper will also be asked to complete a request form and fax it to ET. See page 65 for a sample of the ET request form.

e. Once ET has received the shipping information from the contractor, ET will email or fax the contractor a Transportation Control Movement Document (TCMD). The TCMD shall be affixed to the outside of the exterior (shipping) container or, as an alternate, shall be inserted into a pouch which is securely affixed to the box.

f. When the air clearance has been obtained, ET will provide the contractor with the applicable AMC channel address.

**6. Shipper's Declaration for Dangerous Goods (required for ALL commercial/military air shipments).**

a. This is a standard commercial form with a red border which is available from commercial vendors specializing in HAZMAT transportation supplies. The form must meet the format, size and color specifications outlined in IATA Dangerous Goods Regulations. Each commercial and military air shipment of hazardous items shall be accompanied by a properly completed Shipper's Declaration for Dangerous Goods prepared in accordance with each modal requirement for each segment of the shipment.

b. **Applicable to shipments moving to/from/through the United States, Europe, the Middle East and Asia.** Emergency point of contact information shall be included on the Shipper's Declaration in the section headed "Additional Handling Information". The complete telephone number shall be listed; the number shall include the international access code, the country code and the city code, so that a call may be made from any international location. The number must be monitored at all times by a point of contact who is knowledgeable about the hazards and characteristics of the HAZMAT, has comprehensive emergency response and accident mitigation information for the HAZMAT or has immediate access to a knowledgeable person.

7. **Special shipping instructions.** Orders placed for HAZMAT should normally include special shipping instructions. If the contractor does not receive special shipping instructions in an order, the contractor shall contact the ordering activity. If special shipping instructions apply to the order, the ordering activity shall promptly furnish them to the contractor.

**K. Protected cargo.**

1. To assure that all sensitive, controlled, or pilferable items, as defined by Federal, State, and Local regulations, can be properly identified by the customer's receiving point, the shipper shall annotate the following statement on its packing list for those orders containing Controlled Substances:

"CONTROLLED SUBSTANCE REQUIRES \_\_\_\_\*\_\_\_\_ STORAGE."  
\*SHIPPER will enter the words "VAULT" or "LIMITED ACCESS."

In accordance with Federal regulations, these items are identified by a distinctive Controlled Substance Schedule Symbol. This symbol appears only on the immediate container or carton. "VAULT" is to be used for items bearing Symbol C-II; "LIMITED ACCESS" is to be used for items bearing Symbol C-III, C-IV or C-V.

2. Use of the word "narcotics" on shipping containers or packing lists is prohibited.

3. All sensitive/controlled/pilferable items, regardless of whether the item is classified s Schedule II, III, IV or V, shall be shipped via traceable means. Signature service shall be used for all shipments of these items.

4. **Hazardous protected cargo.** The requirements specified in para. XIII.J. shall apply to any shipment of a sensitive, controlled, or pilferable item which is also identified as hazardous material.

**L. Perishable Medical Materiel.**

1. Packaging, packing, labeling and marking of perishable medical materiel shall be in accordance with all applicable regulatory requirements and commercial practice.

2. Perishable medical materiel requiring chill or freeze temperatures shall be properly packaged and packed to insure that the required temperature shall be maintained during shipment. Required packaging shall be determined by the type of materiel being shipped, the climatic conditions under which the shipment will be made, and the destination's ambient temperature. Prior to preparing perishable medical materiel for shipment, contact the DLA Troop Support Contracting Officer for guidance.

**3. Pharmaceuticals and other specific Medical items requiring constant refrigeration.**

Pharmaceuticals and other Medical items requiring constant refrigeration must be properly packaged in order to maintain the required temperature during shipment. These items require more stringent packaging in accordance with specialized cold chain management protocols, as specified herein.

a. Weather protocols shall be followed when packaging Medical items requiring application of stringent cold chain management protocols. Protocols are available at [www.medical.dla.mil/Portal/Pharmaceutical/ColdChainPackaging.aspx](http://www.medical.dla.mil/Portal/Pharmaceutical/ColdChainPackaging.aspx); select "Pharmaceuticals", and select "Cold Chain Packaging" in the menu on the left. There are three separate weather protocols: cold weather, warm weather, or moderate weather. The specific weather protocol to be used shall be determined by the destination's current ambient temperature. Since these weather protocols will change during the term of the contract, the contractor shall be required to check this website when the season changes to obtain updates to these weather protocols. For assistance in determining which weather protocol should be used, please contact DLA Troop Support via email at [DSCPcoldchain@dlamail](mailto:DSCPcoldchain@dlamail).

b. Acceptable insulated shipping containers for use with these protocols are listed in TABLE I. Note that the "CARGO SPACE" is listed in lieu of the "CAVITY" in TABLE I; this corresponds with the dimensions specified in the protocols. These protocols also require the contractor to use refrigerant packs (gel packs) and the temperature monitor as listed in TABLE II. For each shipment requiring the use of a temperature monitor, the contractor shall also include a Temperature Monitor Return Package (TMRP) with the shipment. DLA Troop Support will provide the contractor with the TMRPs. Each TMRP includes customer instructions for return the Temperature Monitors to DLA Troop Support, a prepaid/preaddressed shipping air bill, and a shipping pouch. Suggested sources for the containers, refrigerant packs and temperature monitors are listed in TABLE III.

**TABLE I - INSULATED SHIPPING CONTAINERS)** <sup>1/</sup>

<u>PRODUCT NO.</u>	<u>DIMENSIONS (Length x Width x Height)</u>		<u>APPROXIMATE WEIGHT (FULLY LOADED)</u>
	<u>CARGO SPACE</u>	<u>OUTER CONTAINER</u>	
Extra Large (Model E-327 or U36-2-SU)	18" x 14 1/2" x 12"	24" x 24" x 24"	145 lbs
Large (Model E-186 or	16-1/2" x 12" x 7"	22-1/2" x 19" x 17-1/2"	75 lbs

U65-2-SU)			
Medium (Model E-65 or U65-2-SU	12" x 6-1/2" x 6-1/2"	18" x 12" x 18"	40 lbs
Small (Model E-36-2 or U327-2-SU	10-3/4" x 6-12" x 4"	15-1/2" x 12" x 14"	20 lbs

**TABLE II - ADDITIONAL SUPPLIES** <sup>1/</sup>

<u>Polar Packs® (Refrigerant Packs)</u>		
<u>SIZE</u>	<u>WEIGHT</u>	<u>DIMENSIONS</u>
Small	24 oz	8" x 6" x 1-1/4"
Medium	48 oz	10-1/4" x 8" x 1-1/2"
<u>Temperature Monitors</u>		
TempTale® 4 (TT4)		

<sup>1/</sup> These containers are designed for use for "ANY TEMPERATURE-SENSITIVE PRODUCT" and must be used in accordance with the Packaging Protocols as identified above. These containers should maintain

the required temperature as indicated in the applicable protocol for at least 72 hours during shipment.

Pre-cool (condition) all containers, gel packs, and temperature monitors to 4° C (40° F) for at least 24 hours prior to

packaging and closing. Frozen gel packs, when applicable, must be conditioned at -17° C (-1° F) for at least 24 hours

prior to packaging and closing.

**TABLE III – SUGGESTED SOURCES** <sup>1/</sup>

<u>Polar Packs®:</u>	<u>TempTale® 4 Monitors:</u>
SCA North America	Sensitech, Inc.

Packaging Division, ThermoSafe Brands

5240 West Buckeye Rd.

Phoenix, AZ 85043

(800) 654-2699

<http://www.isc-ship.com/>

800 Cummings Center

Suite 258X

Beverly, MA 01915-6196

(484) 530-2656

<http://www.sensitech.com/>

Endurotherm® Containers (E-Models)

ThermoSafe Brands

3930 Ventura Dr, Suite 450

Arlington Heights, IL 60004

Phone (267) 761-2291

Fax (847) 632-9541

Email: [customerseast@thermosafe.com](mailto:customerseast@thermosafe.com)

OR KoolTemp® Containers:

Cold Chain Technologies

29 Everett Street

Holliston, MA 01746

(800) 370-8566

[www.coldchaintech.com](http://www.coldchaintech.com)

<sup>1/</sup> For current DoD Pricing for Insulated Containers, Polar Packs, and TT4s, contact the Government Sales Representatives at:

SCA North America – (602) 319-4190 or (800) 654-2699 (voice), (602) 391-4190 (mobile) or (866) 728-2423 (fax)

ThermoSafe Brands – For questions: (267) 761-2291 (voice), (847) 632-9541 (fax);  
For orders: (866) 682-9618 (voice), (847) 398-0653 (fax)

Cold Chain Technologies – (508)429-1395 ext299, (339) 368-0508 (mobile), or (508)429-9056 (fax)

c. The contractor shall affix a DLA Troop Support Neon Orange Cold Chain Shipping Label to the upper right hand corner of the container's lid on **each** Endurotherm® container. The label shall be accurately completed in its entirety; specifically, Instruction 1) - "Refrigerate Container in-transit If After This Date", must be completed as follows: **If the shipment was packaged on March 1, the "Refrigerate Container in-transit If After This Date" will be March 6.** For supplies of this label, contact DLA Troop Support via email at [DSCPcoldchain@dla.mil](mailto:DSCPcoldchain@dla.mil).

d. DD Forms 1502-1/1502-2 and DSCP Forms 2770-1/2770-2 **shall not be used** for shipments of refrigerated materiel packaged in accordance with stringent cold chain management protocols.

4. **Routine Perishable Medical Items Requiring Refrigeration** (i.e., batteries, flashlights, etc., but **does not apply** to Pharmaceuticals or other specific Medical items requiring the application of stringent cold chain management protocols.).

a. Perishable items requiring refrigeration shall be packed in suitable insulated shipping containers conforming to the requirements of the latest edition of CID A-A-59195 with a quantity of refrigerant packs (chemical gel packs) sufficient to maintain proper preservation of the materiel during shipment. Packaging of these items shall be as specified herein; however, as an alternate, commercial packaging may be used, provided the proper temperature is maintained during shipment to the ultimate ordering facility. Care shall be taken during packaging to insure that adequate barriers are used in the insulated shipping container to protect refrigerated items subject to damage by freezing. Recommended sizes/dimensions for acceptable insulated shipping containers conforming to the requirements of the latest edition of CID A-A-59195 are listed in Table IV.

b. To assure that all receiving activities can properly identify items requiring special handling and storage, shipping containers shall be marked with the applicable storage statements. For Medical items subject to damage by freezing, marking on each shipping container shall also include the statement "DO NOT PERMIT TO FREEZE" or similar commercial statement. "ARROW" and "FRAGILE" markings, as appropriate, shall also be applied to each shipping container.

c. The packing list accompanying each shipment shall be annotated with the following: "REQUIRES SPECIAL HANDLING AND/OR STORAGE" and the appropriate storage statement, e.g., "STORE BETWEEN 2° – 8° C (36° – 46° F)", etc. As an alternate, similar commercial storage statements are acceptable.

d. Routine perishable Medical items shall be packaged and marked as follows:

(1) **Items Requiring Constant Refrigeration.**

(a) Medical items which are identified as requiring constant refrigeration shall be packaged in one or more of the recommended containers listed in TABLE VI. Containers shall conform to Type I of CID A-A-59195. Container size shall allow sufficient space for the required amount of refrigerant packs (chemical ice gel packs).

The required amount of refrigerant packs for each size container, as shown in TABLE IV, shall maintain the required temperature (2° – 8° C (36° - 46° F)) for up to 72 hours. Refrigerant packs and containers shall be precooled to 4° C (40° F) before packaging.

**TABLE IV – REFRIGERANT PACKS (CHEMICAL ICE GEL PACKS)** <sup>1/</sup>

<u>CONTAINER SIZE</u>	<u>POUNDS OF REFRIGERANT PACKS</u>	<u>HOURS MAINTAINED BETWEEN 2° – 8° C (36° – 46° F)</u>
1 - Small	12 lbs (5.4 kg)	72 hours
2 - Medium	19-1/2 lbs (8.8 kg)	72 hours
3 - Large	51 lbs (21.1 kg)	72 hours



4 - X-Large	81 lbs (36.7 kg)	72 hours
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<sup>1/</sup> Precool containers to 4° C (40° F) before packaging and closing.

(b) **DD Form 1502-1, Chilled Medical Materiel Shipment - Perishable - Keep Chilled.**

A properly completed DD Form 1502-1 shall be affixed to the shipping container adjacent to the address label or on the top of the container.

The required delivery date and applicable refreshing and time data shall be inserted on the label at the time of shipment. When completing the perishable form, use the complete date and the local time, including the time zone (i.e., EST, PST, etc.). For example, the date and time a shipment was prepared in Pennsylvania, i.e., 8:00 AM on 4 February 2011, would be shown as "**FEBRUARY 4, 2011 (or 02/04/2011), 8:00 AM EST**". In addition, the date and time when refreshing is required shall be indicated. As an alternate, a properly completed DLA Troop Support Neon Orange Cold Chain Shipping Label may be supplied.

(c) **DSCP Form 2770-1 - Notice for Chilled Medical Material Shipments.** A copy of DSCP Form 2770-1 shall be placed into each shipping container prior to closure, except, this form is not required for shipments of laboratory or environmental specimens.

(2) **Items NOT Requiring Constant Refrigeration.**

(a) Medical items which are identified as not requiring constant refrigeration shall be packaged as specified in para. XIII.L.4.a. However, items may be shipped out of refrigeration for 4, 7, or 18 days, as applicable, provided temperature range of 0° – 35° C (32° – 95° F) can be assured during shipment. Special caution should be exercised in hot weather conditions. To protect items in transit in hot weather exceeding 32°C (90°F), or for shipments destined to hot climates, constant chill procedures as specified in paragraph in para. XIII.L.4.d.(1) shall be followed.

(b) **DD Form 1502-2 – Limited Unrefrigerated Medical Materiel Shipment.** A properly completed DD Form 1502-2 shall be affixed to the shipping container adjacent to the address label or on top of the container. The required delivery date and applicable refreshing and time data shall be inserted on the label at the time of shipment. When completing the perishable form, use the complete date and the local time, including the time zone (i.e., EST, PST, etc.). For example, the date and time a shipment was prepared in Pennsylvania, i.e., 8:00 AM on 4 February 2011, would be shown as "**FEBRUARY 4, 2011 (or 02/04/2011), 8:00 AM EST**". In addition, the date and time when refreshing is required shall be indicated. However, if constant refrigeration procedures are followed, a properly completed DD Form 1502-1 – Chilled Medical Materiel Shipment. Perishable – Keep Chilled – shall be supplied. As an alternate, a properly completed DLA Troop Support Neon Orange Cold Chain Shipping Label may be supplied in lieu of DD Form 1502-1.

(c) **DSCP Form 2770-2 – Notice for Limited Unrefrigerated Medical Shipments.** A copy of DSCP Form 2770-2 shall be placed into each shipping container prior to closure, except, for shipments containing laboratory or environmental specimens, this form is not required. However, if constant refrigeration procedures are followed, a copy of DSCP Form 2770-1 – Notice for Chilled Medical Material Shipments - shall be supplied.

5. **Items Requiring Constant Freeze Temperatures.**

a. Items identified as requiring constant freeze temperatures shall be packed in suitable insulated shipping containers with a quantity of dry ice sufficient to maintain proper preservation of the materiel during

shipment. Packaging of these items shall be as specified herein; however, as an alternate, commercial packaging may be used, provided the proper temperature is maintained during handling and shipment to the ordering facility. Recommended sizes/dimensions for insulated shipping containers are listed in TABLE VI.

b. In addition to all required information as specified in para. VII.E., each packing list shall be annotated with applicable special handling legend(s).

c. Perishable Medical items requiring constant freeze temperatures shall be packaged and marked as follows:

(1) Medical items which are identified as freezer products shall be stored and shipped in a constant frozen state. Dry ice only shall be used and containers shall be precooled to 4° C (40° F) before packaging. Items selected for shipment shall be placed in one or more of the recommended containers listed in TABLE VI. Container size shall allow sufficient space for the required amount of dry ice. Containers shall conform to CID A-A-59195, Type I. Dry ice shall conform to CGA G-6.2. The required amount of dry ice to be used for each size container, as shown in TABLE V, shall maintain the required temperature (below -4° C) for up to 96 hours.

**TABLE V – DRY ICE** <sup>1/</sup>

<u>CONTAINER SIZE</u>	<u>POUNDS OF DRY ICE</u>	<u>HOURS MAINTAINED BELOW -4° C (25° F)</u>
Small	14 lbs (6.4 kg)	96 hours
Medium	21 lbs (9.5 kg)	96 hours
Large	42 lbs (19.1 kg)	96 hours
X-Large	55 lbs (25 kg)	96 hours

<sup>1/</sup> Precool containers to 4° C (40° F) before packaging and closing.

(2) Package individual units into the precooled insulated shipping container snugly, taking advantage of all available space. Fill all void space with properly conditioned gel packs or dry ice. Add the required amount of dry ice on top. When refreshing is required, it will be done without handling the items

(3) Diluents and component parts of freezer products shall be packed in separate containers normally used for non-freezer products. Set assembly markings shall be used in these cases.

(4) Closure of container shall be by tape not less than 2 inches wide conforming to ASTM D 5486/5486M - Standard Specification for Pressure-Sensitive Tape for Packaging, Box Closure, and Sealing. The three-strip method shall be used with one strip over the length of the center seam and extending a minimum of 2 inches over the end panels. One strip shall be used to seal each edge of seam to within 1 inch of corner, thus leaving space at each corner for ventilation of the dry ice.

(5) **DD Form 1502 – Frozen Medical Materiel Shipment.** A properly completed DD Form 1502 shall be affixed to the shipping container adjacent to the address label or on the top of the container. The required delivery date and applicable icing and time data shall be inserted on the label at the time of shipment.

When completing the perishable form, use the complete date and the local time, including the time zone (i.e., EST, PST, etc.). For example, the date and time a shipment was prepared in Pennsylvania, i.e., 8:00 AM on 4 February 2011 would be shown as "**FEBRUARY 4, 2011 (or 02/04/2011), 8:00 AM EST**". In addition, the date and time when re-icing is required shall be indicated.

(6) **DSCP – Notice for Frozen Shipments.** A copy of DSCP Form 2770 shall be placed into each shipping container prior to closure; however, this form is not required for shipments of laboratory or environmental specimens.

b. **Recommended sizes/dimensions for insulated shipping containers.** Acceptable insulated shipping containers conforming to the requirements of CID A-A-59195 are listed in TABLE VI:

**TABLE VI – RECOMMENDED DIMENSIONS**

<u>SIZE</u>	<u>CONTAINER DIMENSIONS (Length x Width x Height)</u>	
	<u>CAVITY</u>	<u>OUTER CONTAINER</u>
Small	11" L x 8" W x 7" H	15-1/2" L x 12-1/2" W x 14-1/4" H
Medium	14" L x 8" W x 11" H	18-1/2" L x 12-1/2" W x 17" H
Large	18-1/2" L x 14-1/2" W x 11-3/4" H	23" L x 19-1/4" W x 19-1/4" H
X-Large	18-1/4" L x 18-1/2" W x 17-3/4" H	23" L x 23" W x 24" H

M. **Transportation Special Handling/Protective Services.** Certain shipments of non-hazardous medical materiel may require special handling/protective services when being transported by military-controlled aircraft. When applicable, a properly completed DD Form 1387-2 (Special Handling Data/Certification) label shall be affixed to the exterior (shipping) container. The contractor shall complete the form as illustrated below, and shall firmly affix the completed form adjacent to the Military Shipping Label. All required information shall be supplied in appropriate locations identified by asterisks (\*). Signature block shall be completed by the person preparing the shipment. Copies of this form may be by contacting DLA Troop Support, ATTN: FSFB (Packaging) via email at [DSCP.Packaging@dla.mil](mailto:DSCP.Packaging@dla.mil).

**NOTE: DD Form 1387-2 is no longer authorized for certifying hazardous items for shipment via military aircraft per AFMAN 24-204(1)/TM 38-250/NAVSUP PUB 505/MCO 4030.19/DLAI 4145.3.**

ITEM	NOMENCLATURE	NET QUANTITY PER PACKAGE	TRANSPORTATION CONTROL
		WT ** CU **	NO *****
MEDICAL SUPPLIES		CONSIGNMENT GROSS WEIGHT	DESTINATION *****
		N/A	*****

SUPPLEMENTAL INFORMATION	N/A	LOAD STORAGE/GROUP
		N/A
		FLASH POINT
		N/A

This is to certify that the above named materials are properly classified, described, packaged, marked and labeled, and is in proper condition for transportation according to the applicable regulations of the Dept of Transportation. THIS IS A MILITARY SHIPMENT! (Complete applicable blocks below)

N/A	This shipment is within the limitations prescribed for PASSENGER AIRCRAFT / CARGO AIRCRAFT ONLY (Delete nonapplicable aircraft)	N/A	ATA/IATA/IMCO REGULATIONS				
N/A	AFR 71-4, TM 38-250, NAVSUPPUB 505, MCO P4030 .19, DLAM 4145.3, Paragraph _____	N/A	49 cfr	PARAGRAPH		EXEMPTION	
N/A	DOD 4500 32R (MILSTAMP)	N/A		N/A	173.7 (a)	N/A	DOT-E 7573
ADDRESS OF SHIPPER		***** *****		TYPED NAME, SIGNATURE AND DATE			
***** *****							

DD Form 1387-2, JUN 86  
Form Approved/OMB No 0704-0188

Previous editions are obsolete.

#### SPECIAL HANDLING DATA/CERTIFICATION

#### LABELING AND SHIPPING INSTRUCTIONS FOR OCONUS SHIPMENTS

**General instructions.** In addition to all requirements specified in Section VII, additional packaging requirements and labeling and shipping instructions shall apply for OCONUS supplier shipments redirected/diverted through defense consolidation points, water ports or military air terminals. The following shipping instructions shall also apply to all shipments moving through military air terminals:

1. All suppliers who ship to overseas medical facilities by military air **must** call for an air clearance.
2. Shippers must obtain permission to ship controlled substances by military air. If approved, Signature Tally Service is required. Approval can be obtained when calling for an air clearance (See para. VIII.D.3.).
3. It is **mandatory** that all shipments to Air Mobility Command (AMC) air channels obtain shipment clearance from the Service Air Clearance Authority **24 hours prior to arrival**. To obtain clearance, the shipper must contact Enterprise Transportation (ET) at (800) 456-5507, fax (717) 770-2701, email [delivery@dla.mil](mailto:delivery@dla.mil), and provide the following information:
  - a. DoDAAC (ET will provide a Transportation Control Number (TCN)).
  - b. Date of shipment, mode and number of days enroute.
  - c. Number and type of containers, weight and cube.
  - d. Special handling instructions (e.g., perishable, hazardous, etc.).
4. The shipper will also be asked to complete a request form and fax it to ET. See page 65 for a sample of the ET request form.
5. Once ET has received the shipping information from the contractor, ET will email or fax the contractor a Transportation Control Movement Document (TCMD). The TCMD shall be affixed to the outside of the exterior (shipping) container or, as an alternate, shall be inserted into a pouch which is securely affixed to the box.
6. When the air clearance has been obtained, ET will provide the contractor with the applicable AMC channel address.

B. **Preservation, packaging, packing, labeling and marking requirements**. The following requirements shall also apply to all supplier shipments moving through any defense consolidation point or military air terminal:

1. **Certification Requirement for Wood Packaging Material (WPM)**. Complete requirements for certification of WPM are specified in para. VII.C.

2. **Labeling and marking**. In addition to all required labeling and marking as specified herein, the following shall apply:

a. The TCN and the MARK FOR address (correct DoDAAC and the name of the Medical Ordering Facility) shall be shown on the inner package, the packing list, the exterior (shipping) container, and the MSL.

b. The TCN is necessary to identify, control and trace a shipment from origin to ultimate consignee. An example is FM5604-6326-0008XXX for a complete order that is being sent in one shipment to an overseas Air Force medical ordering activity. Without a TCN, a shipment may end up as frustrated cargo, especially at a transshipment point. The "MARK FOR" entry is required to identify the ultimate destination. All TCN and MARK FOR information will be provided in the order.

c. In lieu of a contractor-generated commercial address label, a bar-coded MSL shall be supplied on all contractor shipments moving through any defense consolidation point or military air terminal. The bar-coded MSL shall be securely affixed to the exterior (shipping) container or unitized load and shall be completed as specified in para. VII.F.2.

d. When required, a passive RFID tag shall be supplied on each shipment, as specified in VII.G.

e. The contractor shall provide all necessary documentation to speed the movement of materiel through the customs process.

C. **Transshipment points.** The "SHIP TO" address is the transshipment point. Shipments should be sent to the depot when directed by the Contracting Officer and only when necessary.

1. For shipments going to Germany, England and Italy, the transshipment points are as follows:

**Routine Medical Shipments NORMAL CARGO OVER 70-LBS:**

SHIP TO:

DEFENSE DISTRIBUTION DEPOT SUSQUEHANNA SITE EAST  
BLDG 2001 (MISSION DRIVE)  
CCP DOORS 135-168  
NEW CUMBERLAND, PA 17070-5000

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Hazardous Medical Shipments**

SHIP TO:

DEFENSE DISTRIBUTION DEPOT SUSQUEHANNA SITE EAST  
BLDG 87 (MISSION DRIVE)  
NEW CUMBERLAND, PA 17070-5000

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Refrigerated Medical Shipments**

SHIP TO:

DEFENSE DISTRIBUTION DEPOT SUSQUEHANNA SITE EAST  
U AVENUE BLDG. 89, DOOR 10  
NEW CUMBERLAND, PA 17070-5000

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Controlled Substances (Medical)**

SHIP TO:  
DEFENSE DISTRIBUTION DEPOT SUSQUEHANNA SITE EAST  
U AVENUE, BLDG. 89, DOOR 6  
NEW CUMBERLAND, PA 17070-5000

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

2. For shipments to Guam, Okinawa, Korea, Japan, Hawaii and Alaska, the transshipment points are as follows:

**Routine Medical Shipments**

SHIP TO:  
DEFENSE DISTRIBUTION DEPOT SAN JOAQUIN  
WAREHOUSE 30  
25600 S. CHRISMAN ROAD  
TRACY, CA 95296

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Hazardous Medical Shipments**

SHIP TO:  
DEFENSE DISTRIBUTION DEPOT SAN JOAQUIN  
WAREHOUSE 28  
25600 S. CHRISMAN ROAD  
TRACY, CA 95376

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Refrigerated Medical Shipments**

SHIP TO:  
DEFENSE DISTRIBUTION DEPOT SAN JOAQUIN  
WEST COAST MEDEX, WAREHOUSE 17-4  
25600 S. CHRISMAN ROAD  
TRACY, CA 95376

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

**Controlled Substances (Medical)**

SHIP TO:  
DEFENSE DISTRIBUTION DEPOT SAN JOAQUIN  
WAREHOUSE 19-3

25600 S. CHRISMAN ROAD  
TRACY, CA 95376

TCN:

MARK FOR: *(Fill in the DoDAAC and the name of the medical ordering facility)*

D. **Shipments moving through military air terminals.** The following shipping instructions shall also apply to all shipments moving through military air terminals:

1. All suppliers who ship to overseas medical facilities by military air **must** call for an air clearance.
2. Shippers must obtain permission to ship controlled substances by military air. If approved, Signature Tally Service is required. Approval can be obtained when calling for an air clearance (See para. VIII.D.3.).
3. It is **mandatory** that all shipments to Air Mobility Command (AMC) air channels obtain shipment clearance from the Service Air Clearance Authority **24 hours prior to arrival**. To obtain clearance, the shipper must contact Enterprise Transportation (ET) at (800) 456-5507, fax (717) 770-2701, email [delivery@dla.mil](mailto:delivery@dla.mil), and provide the following information:
  - a. DoDAAC (ET will provide a Transportation Control Number (TCN)).
  - b. Date of shipment, mode and number of days enroute.
  - c. Number and type of containers, weight and cube.
  - d. Special handling instructions (e.g., perishable, hazardous, etc.).
4. The shipper will also be asked to complete a request form and fax it to ET. See below for a sample of the ET request form.
5. Once ET has received the shipping information from the contractor, ET will email or fax the contractor a Transportation Control Movement Document (TCMD). The TCMD shall be affixed to the outside of the exterior (shipping) container or, as an alternate, shall be inserted into a pouch which is securely affixed to the box.
6. When the air clearance has been obtained, ET will provide the contractor with the applicable AMC channel address.



ET REQUEST FORM

**1-4 MARKET ACCEPTABILITY CRITERIA**

Items offered shall be a standard commercial product offered for sale by the vendor in the commercial marketplace. Items offered shall have been in clinical use for not less than three (3) months in at least one (1) clinical site. If an item offered does not meet this requirement, an award for that item may still be executed at the discretion of the Contracting Officer.

In general, all components of a given system shall be offered with a common, standard delivery time for that system. In the event a specific item offered cannot be delivered within the delivery time for the general system with which it was purchased, the vendor shall so notify the Government. So long as the item with the extended delivery time meets the criteria in the first section of this provision, the item may be placed on contract and be available for purchase.

NOTE: The Contracting Officer may decline to purchase items not meeting the standard, specified delivery time for the overall systems with which they are used.

## 1-5 SERVICE AIDS

Service Aids include but are not limited to: Service access hardware, software keys, testing apparatus, calibration devices, and phantoms routinely used by service personnel. All Service Aids must be provided with the equipment at no additional charge, unless otherwise stated in the contract. If they will not be provided with the equipment, the offeror must identify the Service Aids in their proposal, submit the commercial price list for these items, and state the discounts offered to the Government.

## PART 2

### 2-1 EXTENDED INSTALLATION

*Extended Installation is defined as: simple installation or alteration at a public building or public work that is incidental to furnishing supplies or equipment under a supply contract; however, if a substantial and segregable amount of construction, alteration, or repair is required, such as for installation of heavy generators or large refrigerator systems or for plant modification or rearrangement, the requirements of the construction section shall apply. However, it shall not apply if the construction work is so merged with non-construction work or so fragmented in terms of the locations or time spans in which it is to be performed, that it is not capable of being segregated as a separate contractual requirement.*

(a) The Government may require installation services, in addition to those required in Section 2-2 (CONTRACTOR'S RESPONSIBILITY IN CONNECTION WITH INSTALLATION) of this solicitation. The costs of extended installation services are not included in the price of the equipment, and shall be individually negotiated. Extended Installation costs shall be quoted on a site specific basis.

(b) Extended installation shall, as a minimum, include: connecting with existing utilities, furnishing and installing support structures for the equipment.

(c) Extended installation may include, but is not limited to: power transformers, step-up or step down transformers, power runs, disconnects, conduit, wiring, structural support, shielding, and HVAC when required to support systems operations, and networking required for routine clinical use of the oncology system(s) and related equipment item(s). Surfaces of partitions, and other structural additions, shall be sealed and primed, but without final finish.

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

(1) Preliminary statement of work and a single line room drawing. The submission of the work statement will constitute verification that the existing utilities are adequate for the system(s).

(2) Materials and labor cost breakdown. –

(e) Contractor's Extended Installation Work Statement, shall include, as a minimum, the date site survey was performed, a scope of work statement identifying work that is to be accomplished and material to be utilized, a single line room drawing, and total cost statement for this work and material. Total cost shall be broken down into material cost and labor cost. Labor cost shall be broken down into total man-hours and dollar cost for each different group of man-hours. These cost statements shall be presented consistent with the Construction Specifications Institute (CSI) 32-division format

(MASTERFORMAT) of standardized divisions. Site modification (work) necessary to provide for fully functional system, not specifically identified in the Work Statement, but required for operation, is the responsibility of the contractor.

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

(g) During the site survey the government point of contact at the installation site will provide the contractor, upon contractor request, a written analysis of the existing/available site power supply and load bearing capability of the floor, ceiling and walls, including associated drawings. The contractor shall be responsible for providing structural support shielding and HVAC, only as defined in the work statement, provided it is adequate to fully support the system being installed. Once contractor has visited the site and submitted their special quote for extended installation work, contractor shall not be responsible for additional extended installation site preparations that are required due to government modification of installation site after contractor's site visit. Contractor may be requested to submit a revised/supplemental work statement to cover the additional required extended installation work.

## **2-2 CONTRACTOR'S RESPONSIBILITY IN CONNECTION WITH INSTALLATION**

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

## **2.3 TURNKEY INSTALLATION**

The Government may require turnkey installation, as opposed to those required in Section 2-1 (EXTENDED INSTALLATION) and 2-2 (CONTRACTOR'S RESPONSIBILITY IN CONNECTION WITH

INSTALLATION) of this solicitation. The costs of turnkey installation are not included in the price of the equipment, and shall be individually negotiated on an individual delivery order basis. Turnkey installation costs shall be quoted on a site specific basis. **When it is determined that turnkey installation is required as opposed to extended installation the clauses listed in Section C - Contract Clauses, Item C-6 – Construction, shall apply to VA issued orders only:**

**a. Architectural and Engineering Drawings.** A list of architectural and engineering drawings of the installation site locations, and the actual drawings, will be provided to the contractor.

**NOTE: The Government assumes no liability for the accuracy of the existing drawings. Offerers shall verify all dimensions and other design necessary for operation and installation of the proposed equipment.**

**b. General Requirements.**

**1. Scope.** Turnkey installation, as a minimum, shall consist of complete architectural and engineering support to develop drawings/plans and work statements; facility alteration to include all demolition, renovation/site preparation, existing equipment removal, and construction; rigging, transporting, and installing the radiation therapy systems and documentation; furnishing and installing any ancillary support (e.g. air conditioning, utilities, power regulation, etc.) equipment; and on-site project management, as specified herein, to achieve fully operational systems. The Contractor shall supply all materials, tools, equipment, labor, supervision and services necessary to fulfill the requirements of this specification.

**2. Turnkey Installation Notes.**

**(a) Labor.** Union or non-union labor may be used, and Contractor(s) are NOT exempt from applicable city or state taxes.

**(b) Working Radiation Therapy Clinic.** Construction shall minimize, to the extent possible, the interference with the operation of the working radiation therapy clinic.

**(c) Hallways.** Construction and construction materials shall not block any hallway and/or fire egress.

**3. Selective Demolition.** All material, unless specified otherwise, resulting from any demolition and renovation, shall become property of the Contractor and be removed from Government property daily. Any existing work that is damaged by the Contractor shall be restored at no additional cost to the Government.

**4. Materials.** Unless otherwise specified, all materials used in the turnkey installation effort shall be new and of first rate quality. Any flammable or hazardous materials shall be removed from the site at the end of each day.

**5. Dust Barrier.** A dust barrier or screen shall be installed outside of and around all construction areas. Any compromise to the barrier must be repaired immediately.

**6. Utilities.**

**(a) Existing utilities.** Contractor shall check the location of existing utilities required to be utilized to meet the requirements of this contract. Contractor shall protect, maintain, remove and/or cap utilities as necessary in accordance with local codes and regulations.

**(b) Utility connections.** As a minimum, the Contractor shall be responsible for connections to, as well as disconnections of, utility services and related pumps and controls, hydrants and valves, meters and equipment. Contractor shall connect to utilities, as necessary, in a manner conforming to the nationally recognized code covering the specific utility and at a time satisfactory to preclude disruption to existing functions or clinical services. Contractor shall provide at least seven (7) days notice to the Contracting Officer's on-site representatives prior to making any such tie-ins.

**7. Rigging.** The Contractor shall be responsible for the physical movement of equipment from the delivery point at the final destination to the area of installation, and for the subsequent uncrating of this equipment.

**8. Power Conditioning.** Contractors shall visit the installation site and survey its electrical power system to determine the system's adequacy for operation of the offered radiation therapy system warranty for the proposed radiation therapy system, and that the system will not be damaged due to electrical power problems, including brown outs, total power interruptions, electrical surges, sags, electrical storms, etc. Image quality (where applicable) and system performance must not be degraded due to electrical power problems. An Uninterrupted Power Source (UPS) is ***not*** specified unless required due to site specific characteristics. Vendor shall recommend (or not recommend) inclusion of an UPS depending on the results of their electrical power survey.

**9. Turnkey Construction, Hardware, Coverings and Finishes.** Turnkey construction, hardware, coverings and finishes used in the turnkey installation of the radiation therapy suite, shall match or, if unable to match, complement existing hardware, coverings and finishes. Final selection of all new construction hardware, coverings and finishes, unless specifically called for in this specification, shall be determined by the Contracting Officer based upon specification requirements and samples furnished for approval.

**10. Existing Systems and Structures.** Connection of subsystems outlined herein shall not compromise or violate the performance of existing hospital systems and structures.

**11. Cost Data.** Contractor shall provide a description of all cost data for the turnkey installation effort(s) in the Construction Specifications Institute (CSI) 16-division or 50-division format (MASTERFORMAT) of standardized divisions. Total cost shall be broken down into material cost and labor cost. Labor cost shall be broken down into total man-hours and dollar cost for each different group of man-hours. These cost statements shall be presented consistent with the Construction Specifications Institute (CSI) 16-division or 50-division format (MASTERFORMAT) of standardized divisions. Site modification (work) necessary to provide for fully functional system, not specifically identified in the Work Statement, but required for operation, is the responsibility of the contractor.

**12. Work Statement(s).** The work statement(s) shall include the descriptions, instructions, standards, specification, rules, quality, qualifications, limitations, schedules and requirements for all materials, tools, equipment, labor, procedures, superintendence, service, construction and demolition as applicable. The work statement(s) shall be prepared using the Construction Specifications Institute (CSI) 16-division or 50-division format (MASTERFORMAT) of standardized divisions.

**c. Scheduling, Coordination and Notification.**

**1. Delivery.** Contractor shall coordinate delivery of the system components with the installation effort. The Government will not store any Contractor items.

**2. Project Manager.** Contractor shall appoint a full time on-site project manager to act as the focal point for the turnkey installation. The project manager shall be empowered to make on-the-spot decisions and implement actions necessary for the successful completion of turnkey installation. Project manager must maintain a pager/mobile phone to allow immediate contact should any problem arise.

**3. Installation Commencement.** Turnkey installation shall not commence until authorized by the Contracting Officer (CO). It shall commence within ten (10) days after receipt of notice to proceed from the CO. The Government is not responsible for any installation costs incurred before the CO authorizes commencement.

**4. Duration.** Unless otherwise specified by the CO, the turnkey installation shall in no event exceed one hundred twenty (120) calendar days from the turnkey installation commencement date.

**5. Completion of Installation.**

**(a) Determination.** Turnkey installation shall be determined complete when the system is ready for acceptance inspection.

**(b) Notification.** Upon completion of each delivery phase and submission of the BRH forms 2579 for the radiation therapy system, the Contractor shall submit an official e-mail notice of "Readiness for Inspection" to the Government e-mail addresses identified in the delivery order: The Government shall have 30 calendar days to complete the Inspection Testing from the date of the e-mail notification. The subject line of this e-mail shall be "Installation Completion – Readiness for Inspection Testing Notification" sent to the following:

- (1) DLA Troop Support Biomedical Engineer identified on the delivery order
- (2) Customer MEDCASE POC
- (3) Customer Inspection/Acceptance POC
- (4) Customer Clinical POC
- (5) Customer Technical/Equipment Mgmt Branch POC(s)
- (6) Service Level Logistics Inspection/Acceptance POC
- (7) Service Level Technical Project POC

An automated WAWF receiving report submission notification is not sufficient for the above notification requirement.

**6. Use of Equipment.** The radiation therapy system will be turned over to the Government for clinical use upon completion of turnkey installation and Government acceptance, unless specified otherwise. Failure to pass Government acceptance inspection does not negate the use of the equipment by hospital personnel. Use of equipment will be contingent upon the nature of the deficiency and the impact on patient safety. All areas that fail inspection must be rectified by the Contractor.

**d. Architectural Requirements.**

**1. General.** The suite shall consist of an exam area and a control area.

## 2. Radiation Shielding.

(a) **New and/or Additional Shielding.** If new or additional shielding is determined to be necessary to accommodate requirements that are specific to the Contractor's equipment, it shall be furnished and installed in accordance with NCRP guidelines.

(b) **Determination and Certification.** Shielding type, thickness and placement in floor(s), wall(s) and/or ceiling(s) shall be determined by the Contractor's American Board of Radiology (ABR) registered physicist. Evidence of registration shall be by seal embossed on the drawings or by a copy of current certificate of registration from a recognized accrediting agency.

(c) **Compliance.** The Contractor's radiation physicist, therapeutic physicist, or diagnostic radiology physicist responsible for determining and certifying the radiation shielding shall certify that the turnkey plans comply with these requirements.

## 3. Floors.

(a) **Structural Capacity.** Unless otherwise specified, the structural capacity of existing floors to support loads imposed by the radiation therapy equipment is uncertain. Contractor must evaluate load capacity and levelness of existing floors and provide structural reinforcement and leveling if necessary.

(b) **New Floor Coverings.** Contractor shall furnish and install new vinyl composition floor tile within the suite. Style, pattern and color of floor materials, wall base moldings, edge strips, etc. shall match or, if unavailable, complement existing construction. Contractor shall replace any existing floor tiles damaged as a result of the turnkey installation effort.

## 0 4. Doors.

(a) **New Doors.** Any new doors required within the radiation therapy suites to accommodate requirements that are specific to the Contractor's equipment shall be of commercial grade and match existing construction. Frames shall be pressed steel construction of the combination buck, frame and trim type.

(1) **New Door Heights and Widths.** As a minimum, all new door heights shall be a nominal 7'0". Door widths shall be at least 36 inches.

(2) **New Door Hardware.** Architectural hardware for new doors shall be of appropriate commercial grade and match existing. New locks provided with new doors shall be keyed alike and master keyed to the existing building system.

## 5. Walls.

(a) **New Wall Construction.** Any new wall partitions shall be constructed of 3-5/8" (nominal) steel studs, (minimum 20 gauge, spaced no more than 24" on center), with, as a minimum, one layer of 5/8" thick gypsum wall board on each side. In addition, any new wall partitions constructed by the Contractor which function as a separation between the Contractor's equipment and a patient treatment/simulation area shall include, as a minimum, fiberglass sound insulation batts or equivalent for equipment noise attenuation. Any replacement or patching of existing gypsum wall board and metal studs shall match existing construction.

(b) **Wall Protection Materials.** If not already existing, commercial grade vinyl corner guards and wall guards shall be provided, as a minimum, wherever walls and corners are susceptible to damage, including along main traffic corridors and within the suite.

**6. New Ceiling Construction.** Contractor shall provide a new finished ceiling within the radiation therapy suite (treatment and control room). Specifically, Contractor shall provide and install, as a minimum, a new 2' x 2' suspended acoustic ceiling system, to match existing as closely as possible, in these areas, unless otherwise specified for a specific site. The new ceiling type, if applicable, shall not violate the specified fire rating in which it is furnished. Finished ceiling heights shall be compatible with the functional areas and equipment furnished.

**e. Radiation Therapy Suite Support System.**

**1. Equipment Removal.** Wherever removal/deinstallation of existing equipment is to be performed, the Contractor shall do so in a neat and orderly fashion, minimizing damage to existing structures.

**2. Record and Verify System Workstations.** Contractor shall provide all labor and materials necessary for complete installation and networking of all record and verify system components that are part of this acquisition.

**3. Cabinets and Countertops.** If not already existing, Contractor shall provide and install cabinets and shelves to accommodate shadow trays, cones and all other accessories provided with system.

**4. Control Area Chairs.** Contractor shall provide at least one (1) chair of appropriate type and height for the control area.

**5. Laser Alignment Subsystem.** Contractor shall provide all labor and materials necessary for complete installation of laser alignment subsystem that is part of this acquisition. All lasers shall be mounted so as to prevent thermal or humidity related movement, and vibrations from door closings. The plate-laser assemblies shall be recessed. The laser shroud/frame shall be mounted to the wall independent of the plate-laser assembly mounting.

**(a) Control of the Patient Alignment System.** The laser alignment system shall be controlled from both a conveniently located wall switch, and from the Contractor's simulator/treatment room control.

**(b) Laser Safety.** Contractor shall ensure that radiation therapy suite conforms to all ANSI and OSHA laser safety standards. (e.g. non-reflective paint, no chrome, no mirrors) Room shall be properly labeled to reflect laser hazard.

**f. Mechanical Requirements.**

**1. Heating, Ventilation and Air Conditioning (HVAC).**

**(a) General.** The Contractor is responsible for providing any new additional heating, ventilation, air conditioning, humidity regulation and ductwork required for the functional areas of the suite, as determined necessary to accommodate requirements that are specific to the Contractor's equipment.

**(b) HVAC Regulation.** In addition to the above, appropriate space temperatures and humidity levels shall be maintained throughout the suite during all seasons to assure patient and personnel comfort, and satisfactory operation of all equipment.

**(c) New HVAC.** Any new/additional air conditioning necessary to comply with the requirements cited above shall be provided either by modifying (i.e., reconfiguring, rebalancing, or adding additional ductwork/vents) the hospital's existing HVAC system, or by providing supplemental stand-alone air conditioning unit(s). All HVAC work shall be performed in accordance with applicable industry standards and codes, and those governing the local facility.



**(d) HVAC Testing And Balancing.** Testing and balancing of new and/or modified HVAC system(s) shall be performed by an Associated Air Balance Council (AABC) certified balancing firm.

**2. Plumbing.** Contractor shall be responsible for all plumbing modifications required to meet the requirements of this specification. All plumbing work shall be performed in accordance with applicable industry standards and codes, and those governing the local facility.

**3. Medical Gas - Installation and Certification.** Medical gas lines, if required to be reconfigured, shall be installed and tested in accordance with applicable industry standards and regulations governing the local facility. Certification of satisfactory medical gas system performance and installation by a registered professional engineer shall be provided prior to the commencement of the inspection acceptance testing.

**g. Electrical Requirements.**

**1. Power.**

**(a) Compliance.** All electrical work shall be furnished in accordance with applicable industry standards and codes, and those governing the local facility.

**(b) Recessed Equipment.** Conduit, raceways and pull boxes shall be installed recessed and/or flush to finished floors and walls in lieu of surface-mounted.

**(c) Radiation Therapy Equipment and Subsystems.**

**(1) Power for New Radiation Therapy System.** The Contractor shall be responsible for tying into the nearest appropriate distribution source and providing electrical power feeders that meet the radiation therapy equipment's, associated subsystems' and ancillary equipment's (e.g. new/supplemental air conditioning equipment) electrical specifications. As a minimum, Contractor shall provide a voltage transient suppresser to protect the system from voltage transients caused by the power company, lightning, motors switching on and off, inductive loads, etc. If the Contractor's system requires additional power conditioning equipment above and beyond the requirement for a voltage transient protector to insure proper operation of all equipment, the Contractor shall provide such.

**(2) Emergency Off/Manual Power Shut-Off Switches.** The Contractor shall provide at least two (2) wall-mounted emergency off switches in the simulation/treatment room. Any additional switches shall be installed as necessary to comply with the system manufacturer's recommended layout. e.g., on the system gantry on either side of the patient couch. At least one (1) manually operated disconnect switch shall be furnished and installed in the control area that will shut off all power to the respective radiation therapy system and its ancillary equipment.

**(d) General Purpose Power.** Contractor shall install additional new circuits, or shall reconfigure existing circuits, as required to accommodate any additional outlets, light fixtures or electrical components determined to be necessary to accommodate requirements that are specific to the Contractor's equipment. All additional circuits must be clearly identified at distribution panel.

**(1) New Electrical Outlets.** Contractor shall provide any additional outlets required to accommodate requirements that are specific to the Contractor's equipment.

**(2) New Lighting.** Contractor shall provide additional lighting for general illumination, and additional lighting controlled by dimmer switches for localized task lighting, throughout the radiation

therapy suite, as determined necessary to accommodate requirements that are specific to the Contractor's equipment. Any new lighting provided in each room/area within the suite shall be separately controlled by conveniently located wall switches.

#### **h. Fire Protection Requirements.**

**1. General.** Contractor shall maintain the existing fire rating of all walls, ceilings and floors within the installation site. All firewall penetrations are to be sealed in accordance with NFPA-LSC 101.

**2. Relocating Smoke Detectors.** If required, relocation and spacing of the detectors shall be in accordance with NFPA 72E and the manufacturer's recommendations.

**3. Reconfiguring the Sprinkler System.** If the existing sprinkler system within any part of the installation areas is required to be reconfigured, the design, installation and testing of the fire protection system shall be performed by a contractor fully experienced and qualified in the installation of wet pipe sprinkler systems. The reconfigured fire protection/detection design shall be certified by a registered professional engineer. The contractor shall be U.L. certified for the installation and testing of fire alarm systems and possess a valid state fire sprinkler contractor's license. The system shall be approved by the base or post fire marshal after installation.

**4. Intercommunication (Intercom) System.** Contractor shall provide an intercom system to allow communication between the control area and the simulation/treatment room if required.

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**\*NOTE: IT IS THE DLATS CONTRACTING OFFICER'S RESPONSIBILITY TO INCORPORATE ALL APPROPRIATE FAR 36 AND DFARS PART 236 CONSTRUCTION AND A&E REQUIREMENTS AND CLAUSES IN THE DELIVERY ORDER WHEN APPROPRIATE.**

#### **2-4 TIME OF DELIVERY**

(a) Delivery shall be made within 120 calendar days after receipt of delivery order (ARO). The required delivery date will be annotated on each individual delivery order. Delivery dates specified on delivery orders may be adjusted by the contracting officer to coincide with the date the hospital will be ready to receive installation. The contracting officer will advise the contractor of the new delivery date at least 45 days prior to the original or adjusted delivery dates.

(b) In the event that the government is unable to accept delivery as scheduled and the contracting officer fails to notify the contractor of a new delivery date within 45 calendar days prior to the scheduled delivery date, interim storage may be authorized by the contracting officer. Interim storage shall be at the contractor's cost and risk.

(c) Contractors shall request interim storage in writing to the contracting officer. Each request shall include the following:

- (1) The catalog and serial numbers of all major components of the system to be placed in interim storage.
- (2) Identification of the warehouse and address where the items will be stored.
- (d) Contractors may request an 80% commercial interim payment once written approval of the interim storage is received from the contracting officer. Payment will be authorized as of the scheduled delivery date (see Section C.3).
- (e) The government reserves the right to inspect the warehouse where the government's orders have been placed in storage.

## **2-5 DRAWINGS AND ROOM PREPARATION INSTRUCTIONS**

The contractor is responsible for visiting the site of installation, surveying power and other utility requirements, room dimensions and other physical characteristics of the room necessary for proper room layout and providing the ordering agency or his/her designee with two (2) complete layout plans, room preparation drawings suitable for development of final construction drawings, two (2) complete sets of CAD drawings, and instructions within 30 days after receipt of delivery order. Such instructions shall specifically indicate the point at which the responsibility for utility connections will be assumed by the contractor. It shall be the responsibility of the Government to comply with the furnished drawings and/or instructions to provide for the proper installation. Contractor is to make maximum use of existing structures (i.e., wall/ceiling mounts, junction boxes, raceways and conduits) in preparation of drawings. Power line recommendations should conform to National Electrical Code NFPA 70 2011 Edition.

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

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

## **2-6 POWER CONDITIONING**

When preparing a quotation for a prospective site, offerors must visit each installation site and survey its electrical power system to determine the system's adequacy for operation of the offered system. The contractor will be required to provide protective methodology or device necessary to protect the entire system from:

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

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

## 2-7 NETWORKING/INTERFACING

- a. Networking/Interfacing of Existing Equipment. Networking/interfacing of existing equipment shall be quoted on a site specific basis. Upon receipt of a comprehensive listing of existing systems, subsystems and networking, the contractor shall supply a site specific quote describing the network/interface requirements per the clinical needs of a given site. The networking/interfacing quote shall include all equipment, materials and labor required to fully install and make operational the system intended to meet the clinical needs of a given site.
- b. Networking/Interfacing of New Equipment. Networking/interfacing of new equipment shall be quoted on a site specific basis. Upon receipt of a comprehensive listing of new systems, subsystems and networking, the contractor shall supply a site specific quote describing the network/interface requirements per the clinical needs of a given site. The networking/interfacing quote shall include all equipment, materials and labor required to fully install and make operational the system intended to meet the clinical needs of the given site.
- c. Networking/Interfacing of New Equipment To Existing Equipment. Networking/interfacing of new and existing equipment shall be quoted on a site specific basis. Upon receipt of a comprehensive listing of new and existing systems, subsystems and networking, the contractor shall supply a site specific quote describing the network/interface requirements per the clinical needs of a given site. The networking/ interfacing quote shall include all equipment, materials and labor required to fully install and make operational the system intended to meet the clinical needs of the given site.
- d. Accessories. Upon receipt of a comprehensive listing of accessories, the contractor shall supply a site specific quote describing the accessory requirements per the clinical needs of a given site. Prices shall be at discounts equal to or greater than discounts awarded under this contract.

## 2-8 HARDWARE UPGRADES

- (a) If hardware upgrades become available after award of a delivery order but prior to delivery of the equipment, the contractor is requested to offer them to the Contracting Officer for consideration.
- (b) The contractor's proposal for such upgrades shall include the following information:
- (1) Pricing information, to include both the price of the equipment to be added and the equipment to be deleted.
  - (2) Specific awarded items that shall be changed if the proposal is awarded.
  - (3) Performance data, including both comparison to the specification requirements and to the equipment on contract.
  - (4) A detailed description of the differences between the awarded items and those being proposed, and a specific analysis of the comparative advantages/disadvantages of the items involved.
  - (5) An evaluation of the effect proposed changes will have on the life cycle of the equipment and an associated cost impact as it relates to site preparation, installation, maintenance, and operational expense.

- (6) An analysis of the timeframe required to institute the change.

## **2-9 TRADE-INS**

### **a) DISCOUNT/CREDIT**

Upon receipt of a comprehensive listing of systems and subsystems, as specified for each individual location, the contractor shall supply a site specific quote describing the terms and conditions of the trade-in value or upgradability (discount/credit) afforded to existing hospital oncology equipment and subsystems to be used towards the purchase of the new equipment. Upon initiation of the installation, the Government equipment items slated for trade-in shall be de-installed by the contractor, effecting formal transfer of ownership from the Government. The room shall be left broom clean by the contractor after de-installation. Trade-in credit shall be quoted on a site specific basis.

### **b). SANITIZATION OF SENSITIVE DATA FOR TRADE-IN EQUIPMENT**

All medical equipment provided for trade-in containing electronic Protected Health Information (ePHI) will be sanitized by VA according to VA guidelines, and DoD according to DoD guidelines, prior to release to the vendor. The media sanitization process will be as minimally destructive as possible to preserve functioning of the equipment. Whenever possible, the operating system (OS) and application software will be preserved. If the operating system and/or application software cannot be preserved, VA and DoD will elect to use one of the following trade-in options:

Trade-in Option 1 - In instances where sanitization of ePHI compromises the OS and/or application software, or requires the removal of internal storage media, the vendor accepts the equipment "as is." The government does not guarantee preservation of the operating system.

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

## **PART 3**

### **3-1 TRAINING OF OPERATING PERSONNEL**

The contractor shall be responsible for providing orientation and training for a minimum of two using personnel in the operation and care of the equipment furnished. If off-site training is required, the contractor is required to provide all necessary tuition, transportation, lodging, and meals for the VA

orders only. This training shall include actual demonstration and operation of the equipment including any adjustments or other actions which may be undertaken by operating personnel in the event of failure of equipment, provided that such adjustment or action will in no way jeopardize the Government's rights under contract guarantee clause. This training will be given by qualified contractor personnel upon completion of installation and shall be the offeror's commercially provided training. The contractor will consult with the COTR or other duly designated person regarding the time this training will begin. That official will be responsible for arranging for the presence of personnel to be trained.

### **3-2 SERVICE PRIOR TO AND DURING GUARANTEE PERIOD**

Prior to and during the guarantee period, service at other than normal working hours (8:00 a.m. - 5:00 p.m., excluding weekends and holidays), if at the request of the hospital, may be charged at a rate not to exceed the contractor's commercial prevailing overtime rate. Otherwise, all services will be performed at no charge to the Government during this period. The one year warranty after acceptance will include all parts, labor, preventive maintenance and adjustments necessary for operation of the equipment at a level meeting all requirements of the purchase description/salient characteristics/specifications.

### **3-3 SERVICE AND MAINTENANCE UNDER GUARANTEE**

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

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

Contractor Service Personnel. Contractor service personnel (Field Service Techs) shall be English speaking (fluent), and required to show documentation of professional formal training on the equipment and at least annual continuing education, per JCAHO. OCONUS service personnel shall be a US citizen or National of Host Country.

### **3-4 OPTIONAL SERVICE AND MAINTENANCE AGREEMENTS**

If offerors have optional service/maintenance agreements they may be offered under this solicitation. These agreements may be purchased by the local using facility after expiration of the initial warranty.

*NOTE: Service agreements cannot be invoiced until the service period has ended (i.e. billed in arrears). For delivery orders issued by DLA Troop Support, the vendor will be paid quarterly. The vendor can request payment after the last day of each quarter.*

### **3-5 OPERATIONAL UPTIME**

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

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

### **3-6 ACCEPTANCE PROCEDURES (SEP 2007)**

#### **I. General**

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

**For VA Issued Orders: NAC Contracting Officer, VHA Customer**

**For DLA Troop Support Issued Orders: See Notification instructions in Section 2-3, paragraph c.5, Completion of Installation**

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

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

## **II. Inspection and Testing**

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

## **III. Warranty Effective Date**

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

## **IV. Clinical Use**

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



If the equipment is put into Clinical Use by the Government for thirty (30) calendar days after the inspection request, acceptance will occur thereafter as described below. However, if significant deficiencies in the equipment are identified during the 30-day period while it is in Clinical Use and clinical use ceases, the requirement for 30 calendar days of Clinical Use will not be considered met and procedures under "No Clinical Use" will be followed. It is understood that Clinical Use is incompatible with and cannot continue in the event significant deficiencies are identified.

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

The failure of the Government to notify the contractor of its intent to dispute Clinical Use within ten (10) calendar days after receiving the request for acceptance and payment shall constitute acceptance on the part of the Government. Acceptance under this paragraph shall not negate the right on the part of the Government to later exercise its rights under any remedy available to the Government by federal law or regulation.

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

#### V. No Clinical Use

No Clinical Use means that delivered equipment is not able to perform the basic intended clinical function in a safe manner for the purpose for which it was designed and that most or all system functionality is not present, preventing the equipment from being used clinically during the 30-day period. If the equipment does not meet the criteria for Clinical Use, as defined in Section IV of this

clause, the system will not be accepted without formal testing under Section II, and final payment will not be issued until after the equipment satisfactorily completes formal testing.

#### **VI. Final Acceptance/Rejection Procedures**

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

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

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

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

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

#### **VII. Final Payment**

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

### **3-7 ACTIVITY AUTHORIZED TO ISSUE ORDERS**

THE VA NATIONAL ACQUISITION CENTER, NATIONAL CONTRACTS SERVICE (003A4C2) AND DEFENSE LOGISTICS AGENCY-TROOP SUPPORT (DLA Troop Support), 700 Robbins Avenue, Philadelphia, PA 19111-5092 ARE THE ONLY ACTIVITIES AUTHORIZED TO PLACE DELIVERY ORDERS UNDER THIS CONTRACT EXCEPT AS OTHERWISE DELEGATED IN WRITING.

Individual facilities of the Department of Veterans Affairs and other non-Department of Defense Federal Agencies are hereby delegated authority to place delivery orders valued at \$50,000 or less for equipment under this contract.

## **PART 4**

### **4-1 AS3000 APPLICATION SOFTWARE AND OPERATING SYSTEM REQUIREMENTS (JUL 2008)**

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

- For the purpose of this clause, updates are defined as all modifications to correct or improve system operation and current functions including known remedies for security vulnerabilities. Upgrades are defined as providing additional functions and will be made available for purchase.
- Updates that are bundled with upgrades shall be provided at no cost. The contractor may restrict added upgrade functions if restriction does not limit existing functions.

Modifications of software by the Government will not be made without prior consent of contractor.

- Government may move the application software and OS if the original hardware fails.

- Software and commercial OS provided must not be self-canceling, which is interpreted to mean the function of the software will not be stopped due to elapsing time or other condition not identified with the original equipment purchase. The prime contractor is responsible to ensure any third-party provided software is included in this restriction. No “renewable” licenses or agreements will be entered into by either the Contracting Officer or the using facility.
- The data rights clause found at FAR 52.227-19, Commercial Computer Software License (Dec 2007), is incorporated by reference into this solicitation and all resulting contracts and orders for equipment containing commercial computer software. However, the Government shall not have the right to unilaterally modify the commercial computer software if it is embedded in medical equipment. More specifically, the Government waives the right to modify such software that is granted in FAR 52.227-19(b)(2)(iv).
- Additionally, the Government shall have networking rights for all commercial computer software that it acquires through contracts and orders for equipment awarded under this solicitation. The Government shall be the licensee and all such software acquired shall be for a perpetual duration.

#### **4-2 AS7004 SERVICE DATA MANUAL (SEP 2007)**

(a) The successful offeror will supply an electronic copy (CD) of the service/operation manual at no cost to the government with each piece of equipment, and this electronic manual must have the capability to be read at the customer facility if the delivered system is inoperative. The CD must be able to be reproduced, if required. A printed copy of the maintenance manual must be available from the successful offeror for Government customers. This can be provided at a separate cost. The maintenance manual must be equivalent to the manual(s) provided the manufacturer's designated field service representative as well as comply with all the requirements in paragraph (b) through (i) of this clause. Sections, headings and section sequence identified in (b) through (i) of this clause are typical and may vary between manufacturers. Variances in the sections, headings and section sequence, however, do not relieve the manufacturer of his/her responsibility for supplying the technical data called for therein. The maintenance training must be the same (quality and completeness) as vendor's own maintenance employees receive.

(b) Title Page and Front Matter -- The title page shall include the equipment nomenclature, model number, effective date of the manual and the manufacturer's name and address. If the manual applies to a particular version of the equipment only, the title page shall also list that equipment's serial number. Front matter shall consist of the Table of Contents, List of Tables, List of Illustrations and a frontispiece (photograph or line drawing) depicting the equipment.

(c) Section I, General Description -- This section shall provide a generalized description of the equipment or devices and shall describe its purpose or intended use. Included in this section will be a table listing all pertinent equipment specifications, power requirements, environmental limitations and physical dimensions.

(d) Section II, Installation -- Section II shall provide pertinent installation information. It shall list all input and output connectors using applicable reference designators and functional names as they appear on the equipment. Included in this listing will be a brief description of the function of each connector along with the connector type. Instructions shall be provided as to the recommended method of repacking the equipment for shipment (packing material, labeling, etc.).

(e) Section III, Operation -- Section III will fully describe the operation of the equipment and shall include a listing of each control with a brief description of its function and step-by-step procedures for each operating mode. Procedures will use the control(s) nomenclature as it appears on the equipment and will be keyed to one or more illustrations of the equipment. Operating procedures will include any preoperational checks, calibration adjustments and operation tests. Notes, cautions and warnings shall be set off from the text body so they may easily be recognizable and will draw the attention of the reader. Illustrations should be used wherever possible depicting equipment connections for test, calibration, patient monitoring and measurements. For large, complex and/or highly versatile equipment capable of many operating modes and in other instances where the Operation Section is quite large, operational information may be bound separately in the form of an Operators Manual. The providing of a separate Operators Manual does not relieve the supplier of his responsibility for providing the minimum acceptable maintenance data specified herein. Where applicable, flow charts and narrative descriptions of software shall be provided. If programming is either built-in and/or user modifiable, a complete software listing shall be supplied. Equipment items with software packages shall also include diagnostic routines and sample outputs. Submission information shall be given in the Maintenance Section to identify equipment malfunctions which are software related.

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

(g) Section V, Maintenance -- The maintenance section shall contain a list of recommended test equipment, special tools, preventive maintenance instructions and corrective information. The list of test equipment shall be that recommended by the manufacturer and shall be designated by

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

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

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

NOTE 1: For shipboard systems, two (2) copies of the manuals shall be provided to the Commanding Officer, Naval Medical Logistics Command, Fort Detrick, Frederick, MD 21702-5015, for review and acceptance. These copies shall be provided within 30 days of award of the first Delivery Order for each different shipboard system offered. Failure of manuals to comply with this clause may be reason for termination of the Delivery Order.

#### **4-3 DICOM COMPLIANCE**

Only systems which are DICOM 2005 Standard compliant shall be considered for award. All systems quoted to DOD, VA, and IHS (Indian Health Service) installations shall include DICOM output.

If a VA customer specifically requests it, the quoted system may be required to comply with the VA Modality Interface DICOM Conformance Requirements, shown in the System Identification in Section B of this document.

#### 4-4 PRODUCT MODIFICATION, REMOVAL OR RECALL

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

a. Notify the Contracting Officer, National Contracts Service (00A4C2), VA National Acquisition Center, P.O. Box 76, Building 37, Hines, IL 60141, in writing, by the most expeditious manner possible. Provide two copies of the notification which shall include, but not be limited to the following:

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

(2) Reasons for modifications, removal or recall.

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

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

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

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

d. The National Contracts Service (00A4C2) shall be provided a copy of the notification in c. above, and a list of all agencies and/or VA facilities notified.

#### **4-5 SERVICE BULLETINS**

Two (2) copies of each service bulletin affecting safety or maintenance of equipment furnished under this contract will be forwarded to the receiving activity for a period of ten (10) years after date of delivery. One additional copy of all service bulletins, hazard notices, and safety notices issued is to be forwarded to the following address: Center for Engineering and Occupational Safety & Health (138F)1 Jefferson Barracks Rd. Bldg 65, St. Louis, MO 63125

#### **4-6 AVAILABILITY OF PARTS AND SERVICE**

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

#### **4-7 GUARANTEED MINIMUM**

The minimum quantity of supplies that the Government agrees to order during the period of this contract is \$3,000. If, at the conclusion of the contract period the contractor has received orders for less than \$3,000, the Government will pay (upon request) the difference between the amount ordered and the \$3,000.

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

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

#### **4-8 VOLUNTARY PRICE REDUCTIONS**



Contractors may voluntarily reduce contract prices at any time during the contract period. Reductions may be offered on an individual order basis or for all orders under the contract for a specified time.

#### **4-9 ROUNDING OFF OF UNIT PRICES**

Unit prices shall be rounded off to the nearest whole dollar. Prices ending in fifty cents or less shall be rounded down; prices ending in fifty-one or more cents shall be rounded up.

#### **4-10 NOTICE TO DEALERS AND SUPPLIERS**

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

### **PART 5**

#### **5.1 TURNKEY INSTALLATION (APPLIES TO DLA Troop Support delivery orders ONLY)**

- a. The Contractor shall provide complete turnkey installation, as specified for each individual location, providing a complete, functional and fully operational oncology system for any of the equipment items described within this solicitation in the event extended installation is deemed inappropriate by the Contracting Officer through the consultation of other Government representatives.
- b. All items of work not detailed in this specification and all data not furnished by the Government but required for complete system installation are the responsibility of the Contractor.
- c. Approval for the Contractor to proceed with installation of the oncology system shall be contingent upon DLA Troop Support's approval of turnkey plans and written notification to proceed with installation.
- d. Scope of work. As a minimum, installation shall consist of complete architectural and engineering support to develop drawings/plans and work statements; site preparation; furnishing and installing the system(s), as specified herein, and; furnishing and installing any ancillary support (e.g. air conditioning, power regulation, mountings, networking, interfacing, etc.) equipment required for clinical use of the oncology system(s). See the Turnkey Installation section **of this Solicitation**.

- e. Turnkey Installation costs shall be quoted on a site specific basis.
- f. The Contractor shall provide complete architectural and engineering support to develop drawings/plans and work statements; labor, materials and equipment for site preparation furnishing and installing the equipment modality, as specified herein, and; furnishing and installing any ancillary support (e.g. air conditioning, power regulation, etc.) equipment required for clinical use of the system. The turnkey installation shall incorporate national and industry recognized trade organization codes and safety standards and reflect the Government requirements for a safe and functional system.
- g. Turnkey installation shall compose the full extent of services required to meet the minimum Government requirements, per the specific requirements of a given site and those requirements described within this solicitation. Site specific requirements shall always supersede the turnkey requirements of this solicitation.

## **B.1 SUBCONTRACTING PLAN--MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes FAR 52.219-9, Small Business Subcontracting Plan, and VAAR 852.219-9, VA Small Business Subcontracting Plan Minimum Requirement. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing the contractor's compliance with the plan, including reviewing the contractor's accomplishments in achieving the subcontracting goals in the plan. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor compliance with the subcontracting plan.

(End of Clause)

## SECTION C - CONTRACT CLAUSES

### C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (SEP 2013)

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

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

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

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

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

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*—

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT)*. If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest*.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions*. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

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

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. (*Tailored*) Except as otherwise provided by an express or implied warranty, the Contractor will not be liable, in a breach of warranty action to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) *System for Award Management (SAM)*.

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations.*

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

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

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

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

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

(End of Clause)

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



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

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

#### **DLA ADDENDUM TO 52.212-4**

*The following paragraphs of 52.212-4 are amended as indicated below:*

1. **Paragraph (g), Invoice**

Substitute the following for the first sentence:

The Contractor shall submit an electronic invoice to the address designated in the contract to receive payment.

2. **Paragraph (i), Payment**

**The following is added:**

“Contractor must submit a Receiving Report (RR) into the Wide Area Workflow (WAWF) system for inspection by the DLA Troop support Engineer and acceptance by the DLA Troop Support Contracting Officer prior to submitting an invoice. If you are not subscribed to the WAWF system and/or need instruction on how to submit a RR for DLA Troop Support Medical Capital Equipment, please contact the Contracting Specialist identified in block 6 of the delivery order.

When submitting the RR, at a minimum, the vendor must include the following:

Administered by DoDAAC: SPM2D1

Issue by DoDAAC: SPE2D1

View by DoDAAC: SPM2D1

Inspect by DoDAAC: SPM2D1

Accept by DoDAAC: SPM2D1

Further, regardless of what the delivery order states regarding Inspection and Acceptance points, when the RR is created, the vendor must use “Other” as both the Inspection and Acceptance points.”

**MILESTONE PAYMENT SCHEDULE:** In order to establish an equitable distribution of payments which recognize the Contractor’s accomplishment of critical milestones, as well as reflecting payment terms and conditions in the commercial marketplace, the following payment schedule is established:

	<b>Equipment Delivery</b>	<b>Acceptance of Site Preparation (Turnkey Installation)</b>	<b>Final System Acceptance</b>
<b>Equipment</b>	<b>80%</b>		<b>20%</b>
<b>Equipment Installation</b>			<b>100%</b>

Site Preparation (Turnkey Installation)		100%	
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#### DLA ADDENDUM TO 52.212-4

### 3. Paragraph (m), Termination for Cause.

Delete paragraph (m) in its entirety and substitute the following:

(m) Termination for Cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1,350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

## C.2 52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from September 1, 2014 through August 31, 2015. If the option(s) to renew are exercised, order may be issued through the expiration of each option year period.

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

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

(End of Clause)

### C.3 52.216-19 ORDER LIMITATIONS (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than 2,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$3,000,000.00;

(2) Any order for a combination of items in excess of \$9,000,000.00; or

(3) A series of orders from the same ordering office within 10 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 10 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

### C.4 52.216-22 INDEFINITE QUANTITY (OCT 1995)

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

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum." The minimum and maximum quantities are \$3,000 (minimum) and \$30 million (maximum) per contract.

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were

completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after August 31, 2019.

(End of Clause)

#### **C.5 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days before the contract expires; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

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

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

(End of Clause)

***\*\*Construction Clauses If applicable\*\****

#### **C.6 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)**

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of Clause)

#### **C.7 52.222-6 DAVIS-BACON ACT (JUL 2005)**

(a) *Definition*.—"Site of the work"—

(1) Means—

(i) *The primary site of the work*. The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) *The secondary site of the work, if any*. Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of Clause)

## **C.8 52.222-5 DAVIS-BACON ACT—SECONDARY SITE OF THE WORK (JUL 2005)**

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

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

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

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

(End of Provision)

#### **C.9 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)**

The Contracting Officer shall, 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 contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of Clause)

#### **C.10 52.222-8 PAYROLLS AND BASIC RECORDS (JUN 2010)**

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such work, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be obtained from the U.S. Department of Labor



Wage and Hour Division website at <http://www.dol.gov/whd/forms/wh347.pdf>. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the Contracting Officer.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance." signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete:

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WHs-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of Clause)

## **C.11 52.222-9 APPRENTICES AND TRAINEES (JUL 2005)**

(a) Apprentices. (1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed—



(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. (1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually

performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, and 29 CFR Part 30.

(End of Clause)

#### **C.12 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)**

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(End of Clause)

#### **C.13 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (JUL 2005)**

(a) *Definition.* Construction, alteration or repair, as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

- (1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
- (2) Painting and decorating;
- (3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
- (4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at 52.222-6, Davis-Bacon Act of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of work” definition; and
- (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the “site of the work” definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

- (1) Davis-Bacon Act;
- (2) Contract Work Hours and Safety Standards Act—Overtime Compensation (if the clause is included in this contract);
- (3) Apprentices and Trainees;

- (4) Payrolls and Basic Records;
- (5) Compliance with Copeland Act Requirements;
- (6) Withholding of Funds;
- (7) Subcontracts (Labor Standards);
- (8) Contract Termination—Debarment;
- (9) Disputes Concerning Labor Standards;
- (10) Compliance with Davis-Bacon and Related Act Regulations; and
- (11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of Clause)

#### **C.14 52.222-12 CONTRACT TERMINATION—DEBARMENT (FEB 1988)**

A breach of the contract clauses entitled Davis-Bacon act, Contract work Hours and Safety Standards Act—Overtime Compensation, Apprentices and Trainees. Payrolls and Basic Records, Compliance with Copeland Act Requirements. Subcontracts (Labor Standards), Compliance With Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of Clause)

#### **C.15 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are hereby incorporated by reference in this contract.

(End of Clause)

#### **C.16 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)**

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those

procedures and not the disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of Clause)

#### **C.17 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)**

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(End of Clause)

#### **C.18 52.222-16 APPROVAL OF WAGE RATES (FEB 1988)**

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this contract must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the contract. Any amount paid by the Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Contractor and shall not be reimbursed by the government. If the Government refuses to authorize the use of the overtime, the Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

(End of Clause)

#### **C.19 52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (JAN 2013)**

(a) Service employee, as used in this clause, means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(b) The Contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those service employees employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the service employees were hired, a right of first refusal of employment under this contract in positions for which the service employees are qualified.

(1) The Contractor and its subcontractors shall determine the number of service employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor Contractor employed in connection with performance of the work.

(2) Except as provided in paragraph (c) of this clause, there shall be no employment opening under this contract, and the Contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation.

(i) The successor Contractor and its subcontractors shall make a bona fide express offer of employment to each service employee as provided herein and shall state the time within which the service employee must accept such offer, but in no case shall the period within which the service employee must accept the offer of employment be less than 10 days.

(ii) The successor Contractor and its subcontractors shall decide any question concerning a service employee's qualifications based upon the individual's education and employment history, with particular emphasis on the employee's experience on the predecessor contract, and the Contractor may utilize employment screening processes only when such processes are provided for by the contracting agency, are conditions of the service contract, and are consistent with Executive Order 13495.

(iii) Where the successor Contractor does not initially offer employment to all the predecessor contract service employees, the obligation to offer employment shall continue for 90 days after the successor contractor's first date of performance on the contract.

(iv) An offer of employment will be presumed to be bona fide even if it is not for a position similar to the one the employee previously held, but is one for which the employee is qualified, and even if it is subject to different employment terms and conditions, including changes to pay or benefits. (See 29 CFR 9.12 for a detailed description of a bonafide offer of employment).

(c)(1) Notwithstanding the obligation under paragraph (b) of this clause, the successor Contractor and any subcontractors (i) may employ under this contract any service employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (ii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act, 41 U.S.C. 6701(3), and (iii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor whom the Contractor or any of its subcontractors reasonably believes, based on the particular service employee's past performance, has failed to perform suitably on the job (see 29 CFR 9.12(c)(4) for additional information). The successor Contractor bears the responsibility of demonstrating the appropriateness of claiming any of these exceptions.

(2) In addition, any Contractor or subcontractor that has been certified by the U.S. Small Business Administration as a HUBZone small business concern must ensure that it complies with the statutory and regulatory requirements of the HUBZone Program (e.g., it must ensure that at least 35 percent of all of its employees reside within a HUBZone). The HUBZone small business Contractor or subcontractor must consider whether it can meet the requirements of this clause and Executive Order 13495 while also ensuring it meets the HUBZone Program's requirements.

(3) Nothing in this clause shall be construed to permit a Contractor or subcontractor to fail to comply with any provision of any other Executive order or law. For example, the requirements of the HUBZone Program (see FAR subpart 19.13), Executive Order 11246 (Equal Employment Opportunity), and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 may conflict, in certain circumstances, with the requirements of Executive Order 13495. All applicable laws and Executive orders must be satisfied in tandem with, and if necessary prior to, the requirements of Executive Order 13495, 29 CFR part 9, and this clause.

(d)(1) The Contractor shall, not less than 30 days before completion of the Contractor's performance of services on the contract, furnish the Contracting Officer with a certified list of the names of all service employees working under this contract and its subcontracts at the time the list is submitted. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor

contracts with either the current or predecessor contractors or their subcontractors. Where changes to the workforce are made after the submission of the certified list described in this paragraph, the Contractor shall, in accordance with paragraph (e) of this clause, not less than 10 days before completion of the services on this contract, furnish the Contracting Officer with an updated certified list of the names of all service employees employed within the last month of contract performance. The updated list shall also contain anniversary dates of employment, and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor Contractors or their subcontractors.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(3) The Contracting Officer will direct the predecessor Contractor to provide written notice (Appendix B to 29 CFR chapter 9) to service employees of their possible right to an offer of employment with the successor contractor. Where a significant portion of the predecessor Contractor's workforce is not fluent in English, the notice shall be provided in English and the language(s) with which service employees are more familiar. The written notice shall be—

(i) Posted in a conspicuous place at the worksite; or

(ii) Delivered to the service employees individually. If such delivery is via email, the notification must result in an electronic delivery receipt or some other reliable confirmation that the intended recipient received the notice.

(e)(1) If required in accordance with 52.222-41(n), the predecessor Contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor Contractors or their subcontractors. If there are no changes to the workforce before the predecessor contract is completed, then the predecessor Contractor is not required to submit a revised list 10 days prior to completion of performance and the requirements of 52.222-41(n) are met. When there are changes to the workforce after submission of the 30-day list, the predecessor Contractor shall submit a revised certified list not less than 10 days prior to performance completion.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(f) The Contractor and subcontractor shall maintain the following records (regardless of format, e.g., paper or electronic) of its compliance with this clause for not less than a period of three years from the date the records were created.

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any service employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the service employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exemption claimed under this part.

(3) A copy of the service employee list provided to or received from the contracting agency.

(4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each service employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The Contractor shall also deliver a copy of the receipt to the service employee and file the original, as evidence of payment by the Contractor and receipt by the service employee, with the Administrator or an authorized representative within 10 days after payment is made.

(g) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause (52.233-1) of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: The Contractor, the contracting agency, the U.S. Department of Labor, and the service employees under the contract or its predecessor contract. The Contracting Officer will refer any service employee who wishes to file a complaint, or ask questions concerning this contract clause, to the: Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Contact email: [displaced@dol.gov](mailto:displaced@dol.gov).

(h) The Contractor shall cooperate in any review or investigation by the Department of Labor into possible violations of the provisions of this clause and shall make such records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the Contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the Contractor or its subcontractors, as provided in Executive Order 13495, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

(j) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. However, if the Contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the Contractor may request that the United States, through the Secretary, enter into such litigation to protect the interests of the United States.

(k) The Contracting Officer will withhold, or cause to be withheld, from the prime Contractor under this or any other Government contract with the same prime Contractor, such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator, the Administrative Law Judge, or the Administrative Review Board, that there has been a failure to comply with the terms of this clause and that wages lost as a result of the violations are due to service employees or that other monetary relief is appropriate. If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the Contractor has failed to provide a list of the names of service employees working under the contract, the Contracting Officer may, in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(l) Subcontracts. In every subcontract over the simplified acquisition threshold entered into in order to perform services under this contract, the Contractor shall include a provision that ensures—

- (1) That each subcontractor will honor the requirements of paragraphs (b) through (c) of this clause with respect to the service employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor Contractor and its subcontractors;
- (2) That the subcontractor will provide the Contractor with the information about the service employees of the subcontractor needed by the Contractor to comply with paragraphs (d) and (e) of this clause; and
- (3) The recordkeeping requirements of paragraph (f) of this clause.

(End of Clause)

## **C.20 52.222-18 CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (FEB 2001)**

(a) Definition.

"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.

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

Listed End Product	Listed Countries of Origin

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

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

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

(End of Provision)



## C.21 52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (JAN 2014)

(a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in—

- (1) Canada, and the anticipated value of the acquisition is \$25,000 or more;
- (2) Israel, and the anticipated value of the acquisition is \$50,000 or more;
- (3) Mexico, and the anticipated value of the acquisition is \$79,507 or more; or

(4) Armenia, Aruba, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or the United Kingdom and the anticipated value of the acquisition is \$204,000 or more.

(b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations.* The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) Remedies.

(1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

(End of Clause)

## **C.22 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)**

The Contractor shall perform on the site, and with its own organization, work equivalent to at least 20 percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of Clause)

## **C.23 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)**

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of Clause)

## **C.24 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)**

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3)

uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(End of Clause)

## **C.25 52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)**

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of Clause)

## **C.26 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)**

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of Clause)

## **C.27 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)**

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of Clause)

## **C.28 52.236-8 OTHER CONTRACTS (APR 1984)**

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

(End of Clause)

## **C.29 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)**

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of Clause)

### **C.30 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)**

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (*e.g.*, storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of Clause)

### **C.31 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)**

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable

adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of Clause)

### **C.32 52.236-12 CLEANING UP (APR 1984)**

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of Clause)

### **C.33 52.236-13 ACCIDENT PREVENTION (NOV 1991)**

(a) The Contractor shall provide and maintain work environments and procedures which will--

- (1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;
- (2) Avoid interruptions of Government operations and delays in project completion dates; and
- (3) Control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall--

- (1) Provide appropriate safety barricades, signs, and signal lights;
- (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and
- (3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's

representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of Clause)

### **C.34 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)**

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of the Contracting Officer is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without



evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of Clause)

### **C.35 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)**

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of Clause)

### **C.36 52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995)**

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting:

Name:

Address:

Telephone:



(End of Provision)

### **C.37 VAAR 852.203-70 COMMERCIAL ADVERTISING (JAN 2008)**

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

(End of Clause)

### **C.38 VAAR 852.203-71 DISPLAY OF DEPARTMENT OF VETERAN AFFAIRS HOTLINE POSTER (DEC 1992)**

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

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

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

(End of Clause)

### **C.39 VAAR 852.219-9 VA SMALL BUSINESS SUBCONTRACTING PLAN MINIMUM REQUIREMENTS (DEC 2009)**

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

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

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

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

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

(End of Clause)

#### **C.40 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)**

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

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

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

(3) *Electronic form* means an automated system transmitting information electronically according to the Accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

#### **C.41 VAAR 852.246-70 GUARANTEE (JAN 2008)**

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

(End of Clause)

#### **C.42 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):

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

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	SEP 2013

#### **C.43 52.232-37 MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)**

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated-

(a) Elsewhere in this contract or agreement; or

(b) In individual orders placed under this contract or agreement.

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.232-40	PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS	DEC 2013

#### **C.44 VAAR 852.252-70 SOLICITATION PROVISIONS OR CLAUSES INCORPORATED BY REFERENCE (JAN 2008)**

The following provisions or clauses incorporated by reference in this solicitation must be completed by the offeror or prospective contractor and submitted with the quotation or offer. Copies of these provisions or clauses are available on the Internet at the Web sites provided in the provision at FAR 52.252-1, Solicitation Provisions Incorporated by Reference, or the clause at FAR 52.252-2, Clauses Incorporated by Reference. Copies may also be obtained from the contracting officer.

[Contracting officer shall list all FAR and 48 CFR Chapter 8 (VAAR) provisions and clauses incorporated by reference that must be completed by the offeror or prospective contractor and submitted with the quotation or offer.]

(End of Provision)

#### **C.45 VAAR 852.246-71 INSPECTION (JAN 2008)**

Rejected goods will be held subject to contractors order for not more than 15 days, after which the rejected merchandise will be returned to the contractor's address at his/her risk and expense. Expenses incident to the examination and testing of materials or supplies that have been rejected will be charged to the contractor's account.

(End of Clause)

(End of Addendum to 52.212-4)

#### **C.46 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2013)**

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

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

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

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

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

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

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

[X] (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010)(Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

[] (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

[X] (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).

[] (5) 52.204-11, American Recovery and Reinvestment Act-Reporting Requirements (JUL 2010) (Pub. L. 111-5).

[X] (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

[X] (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).

[] (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

[] (9) 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award (NOV 2011) (15 U.S.C. 657a).

[] (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

[] (11) [Reserved]

[] (12)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).

[] (ii) Alternate I (NOV 2011).

[] (iii) Alternate II (NOV 2011).

[] (13)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

[] (ii) Alternate I (Oct 1995) of 52.219-7.

[] (iii) Alternate II (Mar 2004) of 52.219-7.

- ☒ (14) 52.219-8, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637(d)(2) and (3)).
- ☐ (15)(i) 52.219-9, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637(d)(4)).
- ☐ (ii) Alternate I (Oct 2001) of 52.219-9.
- ☒ (iii) Alternate II (Oct 2001) of 52.219-9.
- ☐ (iv) Alternate III (JUL 2010) of 52.219-9.
- ☒ (16) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- ☐ (17) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- ☐ (18) 52.219-16, Liquidated Damages--Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (19)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer.)
- ☐ (ii) Alternate I (June 2003) of 52.219-23.
- ☒ (20) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (21) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- ☒ (23) 52.219-28, Post Award Small Business Program Rerepresentation (APR 2012) (15 U.S.C. 632(a)(2)).
- ☐ (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012) (15 U.S.C. 637(m)).
- ☐ (25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012) (15 U.S.C. 637(m)).
- ☒ (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- ☒ (27) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).
- ☒ (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- ☒ (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- ☒ (30) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- ☒ (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- ☒ (32) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).

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

☐ (34) 52.222-54, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

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

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

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

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

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

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

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

☐ (40)(i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

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

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

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

☒ (41) 52.225-5, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

☒ (42) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[] (7) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O.13495).

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

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

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

(End of Clause)

**DFARS 252.212-7001 – CONTRACT TERMS AND CONDITIONS REQUIRED TO  
IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE  
TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUN 2012)**

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

  X   52.203-3, Gratuites (APR 1984) (10 U.S.C. 2207)

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

(1)   X   252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011)

(Section 847 of Pub. L. 110-181).

(2)   X   252.203-7003, Agency Office of the Inspector General (APR 2012)

(Section 6101 of Pub. L. 110-252, 41 U.S.C. 3509 note).

(3)   X   252.205-7000, Provision of Information to Cooperative Agreement Holders

(DEC 1991) (10 U.S.C. 2416).

(4)   X   252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (JUN 2012)

(15 U.S.C. 637).

(5)      252.219-7004, Small Business Subcontracting Plan (Test Program) (JAN 2011)

(15 U.S.C. 637 note).

(6)(i) \_\_\_\_ **252.225-7001**, Buy American and Balance of Payments Program (JUN 2012)

(41 U.S.C. chapter 83, E.O. 10582).

(ii) \_\_\_\_ Alternate I (OCT 2011) of 252.225-7001

(7) X **252.225-7008**, Restriction on Acquisition of Specialty Metals (MAR 2013)

10 U.S.C. 2533b).

(8) \_\_\_\_ **252.225-7009**, Restriction on Acquisition of Certain Articles Containing Specialty

Metals (MAR 2013) 10 U.S.C. 2533b).

(9) X **252.225-7012**, Preference for Certain Domestic Commodities (JUN 2012)

(10 U.S.C. 2533a).

(10) \_\_\_\_ **252.225-7015**, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)

(10 U.S.C. 2533a).

(11) X **252.225-7016**, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011)

(Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).

(12) \_\_\_\_ **252.225-7017**, Photovoltaic Devices (JUN 2012) (Section 846 of Pub. L. 111-383).

(13)(i) X **252.225-7021**, Trade Agreements (JUN 2012) (19 U.S.C. 2501-2518 and

19 U.S.C. 3301 note).

(ii) \_\_\_\_ **Alternate I** (OCT 2011) of 252.225-7021

(iii) \_\_\_\_ **Alternate II** (OCT 2011) of 252.225-7021

(14) \_\_\_\_ **252.225-7027**, Restriction on Contingent Fees for Foreign Military Sales

(APR 2003) (22 U.S.C.2779).

(15) \_\_\_\_ **252.225-7028**, Exclusionary Policies and Practices of Foreign Governments

(APR 2003) (22 U.S.C. 2755).

(16)(i) \_\_\_\_ **252.225-7036**, Buy American --Free Trade Agreements--Balance of Payment

Program (JUN 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).

(ii) \_\_\_\_ **Alternate I** (JUN 2012) of 252.225-7036

(iii) \_\_\_\_ **Alternate II** (JUN 2012) of 252.225-7036

- (iv) \_\_\_\_ **Alternate III** (JUN 2012) of 252.225-7036
- (v) \_\_\_\_ **Alternate IV** (JUN 2012) of 252.225-7036
- (vi) \_\_\_\_ **Alternate V** (JUN 2012) of 252.225-7036
- (17) \_\_\_\_ **252.225-7038**, Restriction on Acquisition of Air Circuit Breakers (JUN 2005)  
(10 U.S.C. 2534(a)(3)).
- (18) \_\_\_\_ **252.225-7039**, Contractors Performing Private Security Functions (JUN 2012)  
(Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and  
sections 831 and 832 of Pub. L. 111-383).
- (19) X **252.226-7001**, Utilization of Indian Organizations, Indian-Owned Economic  
Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004)  
(Section 8021 of Public Law 107-248 and similar sections in subsequent  
DoD appropriations acts).
- (20) \_\_\_\_ **252.227-7013**, Right in Technical Data – Noncommercial Items (SEP 2011) if applicable,  
(see 227.7103-6(a)).
- (21) X **252.227-7015**, Technical Data -- Commercial Items (DEC 2011) (10 U.S.C. 2320).
- (22) X **252.227-7037**, Validation of Restrictive Markings on Technical Data (JUN 2012),  
if applicable (see 227.7102-4(c)).
- (23) X **252.232-7003**, Electronic Submission of Payment Requests and Receiving Reports  
(JUN 2012) (10 U.S.C. 2227).
- (24) \_\_\_\_ **252.237-7010**, Prohibition on Interrogation of Detainees by Contractor Personnel  
(NOV 2010) (Section 1038 of Public Law 111-84).
- (25) \_\_\_\_ **252.237-7019**, Training for Contractor Personnel Interacting with Detainees  
(SEP 2006) (Section 1092 of Public Law 108-375).\
- (26) X **252.243-7002**, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- (27) \_\_\_\_ **252.246-7004**, Safety of Facilities, Infrastructure, and Equipment for Military  
Operations (OCT 2010) (Section 807 of Public Law 111-84).
- (28) \_\_\_\_ **252.247-7003**, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost  
Bearer (SEP 2010) (Section 884 of Public Law 110-417).

(29)(i) X **252.247-7023**, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(ii) \_\_\_ **Alternate I** (MAR 2000) of 252.247-7023

(iii) \_\_\_ **Alternate II** (MAR 2000) of 252.247-7023

(iv) \_\_\_ **Alternate III** (MAY 2002) of 252.247-7023

(30) X **252.247-7024**, Notification of Transportation of Supplies by Sea (MAR 2000)

(10 U.S.C. 2631).

(31) \_\_\_ **252.247-7027**, Riding Gang Member Requirements (OCT 2011)

(Section 3504 of Pub. L. 110-417).

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

(1) **252.237-7010**, Prohibition on Interrogation of Detainees by Contractor Personnel

(NOV 2010) (Section 1038 of Public Law 111-84).

(2) **252.237-7019**, Training for Contractor Personnel Interacting with Detainees

(SEP 2006) (Section 1092 of Public Law 108-375).

(3) **252.247-7003**, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost

Bearer (SEP 2010) (Section 884 of Public Law 110-417).

(4) **252.247-7023**, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(5) **252.247-7024**, Notification of Transportation of Supplies by Sea (MAR 2000)

(10 U.S.C. 2631).

#### **52.212-9000 – CHANGES – MILITARY READINESS (NOV 2011) - DLAD**

The commercial changes clause at FAR 52.212-4(c) is applicable to this contract in lieu of the changes clause at FAR 52.243-1. However, in the event of a Contingency Operation or a Humanitarian or Peace Keeping Operation, as defined below, the Contracting Officer may, by written order, change 1) the method of shipment or packing, and 2) the place of delivery.

If any such change causes an increase in the cost of, or the time required for performance, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The Contractor must assert its right to an adjustment within 30 days from the date of receipt of the modification.

“Contingency Operation” means a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of members of the uniformed services under 10 United States Code (U.S.C.) 688, 12301(a), 12302, 12304, 12305, or 12406, chapter 15 of U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

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

**ADDENDUM Containing Supplementary Clauses in Full Text and by Reference**
**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):

- FAR: <https://www.acquisition.gov/far/index.html>;
- DFARS: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>
- DLAD: <http://www.dla.mil/Acquisition/Documents/DLAD%20Rev%205.htm>

*The following additional clauses are incorporated by reference:*

<b><u>CLAUSE NUMBER</u></b>	<b><u>TITLE/DATE</u></b>
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010) FARS
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (JAN 2009) DFARS
52.204-7	Central Contractor Registration (AUG 2012) FAR
252.204-7003	Control of Government Personnel Work Product (APR 1992) DFARS
252.204-7004	Alternate A, Central Contractor Registration (SEP 2007) DFARS
252.204-7008	Export-Controlled Items (APR 2010) DFARS
52.204-9	Personal Identity Verification of Contractor Personnel (JAN 2011) FAR
52.204-9000	Contractor Personnel Security Requirements (MAR 2012) DLAD
52.208-9	Contractor Use of Mandatory Sources of Supply or Service (OCT 2008) FAR

252.209-7004	Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (DEC 2006) DFARS
252.211-7006	Passive Radio Frequency Identification (SEP 2011) DFARS
52.211-9010	Shipping Label Requirements – Military Standard (MIL-STD-129P) (MAR 2012) DLAD
52.211-9014	Contractor Retention of Traceability Documentation (AUG 2012) DLAD
52.215-2	Audit and Records – Negotiation (OCT 2010) FAR
52.215-20	Requirements for Certified Cost or Pricing Data and Data other Than Certified Cost or Pricing Data (OCT 2010) Alternate IV (OCT 2010) FAR
52.214-9008	Rounding Off of Offer and Award Prices (AUG 2008) DLAD
52.215-21	Requirements for Certified Cost or Pricing Data and Data other Than Certified Cost or Pricing Data--Modifications (OCT 2010) Alternate IV (OCT 2010) FAR
52.216-9023	Additional Ordering Limitation (APR 2008) DLAD
52.217-2	Cancellation Under Multiyear Contracts (OCT 1997) FAR
52.222-20	Walsh-Haley Public Contracts Act (Oct 2010) FAR
52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation (FEB 1999) FAR
52.223-5	Pollution Prevention and Right to Know Information (MAY 2011) FAR
252.225-7002	Qualifying Country Sources as Subcontractors (JUN 2012) DFARS
252.225-7013	Duty-Free Entry (JUN 2012) DFARS
52.227-1	Authorization and Consent (DEC 2007) FAR
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007) FAR
52.232-11	Extras (APR 1984) FAR
52.232-17	Interest (OCT 2008) FAR
52.232-18	Availability of Funds (APR 1984) FAR



252.232-7010	Levies on Contract Payments (DEC 2006) DFARS
52.233-3	Protest After Award (AUG 1996) FAR
52.242-13	Bankruptcy (JUL 1995) FAR
52.242-15	Stop Work Order (AUG 1989) FAR
52.242-17	Government Delay of Work (APR 1984) FAR
52.246-15	Certificate of Conformance (APR 1984) FAR
52.246-7000	Material Inspection and Receiving Report (MAR 2008) DFARS
52.246-9007	Inspection and Acceptance at Destination (AUG 2007) DLAD
52.246-9019	Material and Inspection Report (APR 2008) DLAD
52-246-9039	Removal of Government Identification from Non-Accepted Supplies (APR 2008) DLAD
52.246-9052	Warranty of Supplies (SEP 2008) DLAD
52.246-9054	Warranty – Acceptance of Supplies (NOV 2011) DLAD
52.247-34	F.O.B. Destination (NOV 1991) FAR
52.247-48	FOB Destination – Evidence of Shipment (FEB 1999) FAR
52.247-9012	Requirements for Treatment of Wood Packaging Material (WPM) (FEB 2007) DLAD
52.247-9029	Shipping Instructions (NOV 2011) DLAD
52.247-9034	Point of Contact for Transportation Instructions (NOV 2011) DLAD

**THE FOLLOWING ADDITIONAL CLAUSES ARE INCORPORATED IN FULL TEXT:**

**252.216-7006 - ORDERING (MAY 2011) DFARS**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from **DATE OF AWARD** through **EXPIRATION OF CONTRACT**.

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

(c)(1) If issued electronically, the order is considered “issued” when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered “issued” when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

**52.219-16 ORDER LIMITATIONS (OCT 1995) FAR**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$0 [insert dollar figure or quantity], the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of N/A [insert dollar figure or quantity];

(2) Any order for a combination of items in excess of N/A [insert dollar figure or quantity]; or

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

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within **30** days after issuance, with written notice stating the Contractor’s intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

**52.223-3 - Hazardous Material Identification and Material Safety Data (Jan 1997) FAR**

(a) “*Hazardous material*,” as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

<b>Material</b> <i>(If none, insert “None”)</i>	<b>Identification No.</b>

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsive and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government’s rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to --

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

## 252.223-7001 - HAZARD WARNING LABELS (DEC 1991) DFARS

(a) "Hazardous material," as used in this clause, is defined in the Hazardous Material Identification and Material Safety Data clause of this contract.

(b) The Contractor shall label the item package (unit container) of any hazardous material to be delivered under this contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq). The Standard requires that the hazard warning label conform to the requirements of the standard unless the material is otherwise subject to the labelling requirements of one of the following statutes:

(1) Federal Insecticide, Fungicide and Rodenticide Act;

(2) Federal Food, Drug and Cosmetics Act;

(3) Consumer Product Safety Act;

(4) Federal Hazardous Substances Act; or

(5) Federal Alcohol Administration Act.

(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labelled in accordance with one of the Acts in paragraphs (b)(1) through (5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

	MATERIAL (If None, Insert "None.")			ACT	

(d) The apparently successful Offeror agrees to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of this clause. The Offeror shall submit the label with the Material Safety Data Sheet being furnished under the Hazardous Material Identification and Material Safety Data clause of this contract.

(e) The Contractor shall also comply with MIL-STD-129, Marking for Shipment and Storage (including revisions adopted during the term of this contract).

## ADDENDUM Containing Supplementary Clauses in Full Text and by Reference

**52.223-9000 - MATERIAL SAFETY DATA SHEETS AND HAZARD WARNING LABELS (NOV 2011) DLAD**

(a)(1) This clause is to be used in conjunction with Federal Acquisition Regulation (FAR) clause 52.223-3, Hazardous Material Identification and Material Safety Data, and Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.223-7001, Hazard Warning Labels. Notwithstanding paragraph 4 of the latest Federal Standard (FED-STD) 313, the apparently successful offeror shall submit Material Safety Data Sheets (MSDS) and accompanying Hazard Warning Labels (HWLs) to the Contracting Officer for review and approval prior to award.

(2) The MSDS must cite the solicitation number, the applicable Commercial and Government Entity (CAGE) code of the manufacturer, the part number, and, where so identified, the National Stock Number (NSN).

(3) Once submitted under the terms of this contract and approved in accordance with paragraph (1) of this clause, the MSDS and HWLs will be valid for the term of the contract, unless there is a change in the composition of the item or the requirements of FED-STD 313.

**52.242-9006 - DELAY OF INSTALLATION FOR MEDICAL AND LABORATORY INSTRUMENTATION – DLA– TROOP SUPPORT -MEDICAL (NOV 2011) DLAD**

(a) Installation (reference installation clause) shall not commence until authorized by the chief of medical materiel services (CMMS) at the hospital. It shall be the Contractor's responsibility to inform the CMMS with information copy to the Contracting Officer, of any problems which may be anticipated in connection with installation or which will adversely affect performance once installation is completed. Such matters as inadequacy of power supply, limitations of site, or inadequate preparation of site shall be included in information reported prior to start of installation. Installation shall not proceed under such circumstances until notified by the CMMS at the hospital, with information copy to the Contracting Officer.

(b) Unless otherwise authorized by the Contracting Officer, installation of the system/equipment shall in no event exceed   \* calendar days   from the date of notice to proceed with installation.

*\*to be determined per individual delivery order*

(c) In the event that progress in the installation is interrupted through no fault of the Contractor, the continuous installation referred to in the installation clause may be terminated until such time as the cause of delay has been eliminated, and then shall be resumed within 24 hours after the Contractor has been notified by the CMMS that work may again proceed. (Except in those situations where life and/or property would be imperiled by such delay, termination of installation shall be made only after 2 hours' notice has been given to CMMS at the hospital receiving installation.)

**ADDENDUM Containing Supplementary Clauses in Full Text and by Reference****52.246-9036 - ACCEPTANCE OF INSTALLATION FOR MEDICAL AND LABORATORY INSTRUMENTATION - – DLA TROOP SUPPORT - MEDICAL (NOV 2011) DLAD**

(a) Upon completion of installation, the equipment shall be turned over to the hospital for use, and the Contractor shall furnish, a written notice of readiness for inspection of the equipment to DLA Troop Support, MX, Chief, Biomedical Systems Office, Directorate of Medical Materiel, DLA Troop Support, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111-5092. Final acceptance of installation shall be made by Chief, Biomedical Systems Office, DLA Troop Support MX, based upon an inspection and test to be performed at government expense within 30 days from date of receipt of request for inspection. The Chief of Medical Materiel Services (CMMS) at the hospital shall notify the Contractor 72 hours in advance of inspection. The Contractor shall be responsible for connecting test equipment and operating the components during inspection testing. Minor discrepancies which may be corrected during the inspection shall not be cause for rejection. If acceptance inspection is not conducted within 30 days from date of receipt of request for inspection, the Government shall accept installation. Use of equipment during the period between completion of installation and inspection or inspection and reinspection shall not negate the right on the part of the Government to reject installation.

(b) In the event the installation is rejected as a result of the first inspection, Contractor shall be advised as to deficiencies which were cause for rejection. It shall be Contractor's responsibility to correct reported deficiencies and to advise the contracting office when all corrections have been made and equipment is ready for reinspection. Reinspection shall be performed by the Government with all costs incurred chargeable to the Contractor's account.

(c) If deficiencies found at the time of inspection are corrected within 14 calendar days, date of acceptance shall be the date notice of readiness for inspection is received at DLA Troop Support, MX. Failure to correct deficiencies within the 14 day period shall result in a day-for-day extension of the warranty period.

**52.246-9037 - ORDERS FOR REPAIR OF MEDICAL EQUIPMENT - DLA TROOP SUPPORT – MEDICAL (NOV 2011) DLAD**

(a) Statement of Work.

The Contractor will furnish all facilities, labor, tools, equipment, material, and parts to recondition and rebuild the item(s) to be delivered under this order to the original manufacturer's tolerances, performance, and material



specification. Prior to delivery, the Contractor will perform such tests necessary to insure compliance with the requirements.

(b) Warranty.

The Contractor warrants that the item(s) delivered under this order are free from defective workmanship or material and will rework or replace at its expense any such defect as may be discovered within 1 year after delivery; or ninety 90 days of operation, whichever is sooner.

**52.246-9038 - INSTALLATION OF MEDICAL AND LABORATORY INSTRUMENTATION – DLA TROOP SUPPORT - MEDICAL (NOV 2011) DLAD**

Installation shall include electrical and mechanical interconnection between components of the system. The Contractor shall not be responsible for effecting the connection between power source and the control unit; but shall supervise the installation of this electrical line. Contractor installation shall not include rigging, carpentry work, plumbing, conduit, wire in conduit, junction boxes, line switches, or fuses.

The Contractor shall be responsible for visiting the site of installation, surveying power requirements, and, in accordance with customary trade practices, providing the Chief of Medical Materiel Services (CMMS) at the hospital with complete layout plans, room preparation drawings and instructions within 30 calendar days after award of contract. Such instructions shall specifically indicate the point at which responsibility for utility connection will be assumed by the Contractor and shall indicate that material which is to be installed, furnished, Contractor-installed.

It shall be the responsibility of the Government to comply with the furnished drawings and/or instructions to provide for the proper installation. In addition, the Contractor shall advise the activity as to the selection of the power supply required to feed the system. In all instances, when the system/equipment being procured or installed includes or will operate with other ancillary equipment, the Contractor shall also furnish complete instructions and drawings which show interfacing of all system

**C.47 MANDATORY WRITTEN DISCLOSURES**

Mandatory written disclosures required by FAR clause 52.203-13 to the Department of Veterans Affairs, Office of Inspector General (OIG) must be made electronically through the VA OIG Hotline at <http://www.va.gov/oig/contacts/hotline.asp> and clicking on "FAR clause 52.203-13 Reporting." If you experience difficulty accessing the website, call the Hotline at 1-800-488-8244 for further instructions.

## **SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS**

See attached document: Rad 2014 ATTACHMENT 1 - ACH Vendor 3881.

See attached document: Rad 2014 ATTACHMENT 2 - Discount Pricing.

See attached document: Rad 2014 ATTACHMENT 3 - SERVICE FACILITIES DESCRIPTION (1).

## SECTION E - SOLICITATION PROVISIONS

### 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (JUN 2008)

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

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

(1) The solicitation number;

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) (Tailored) Period for acceptance of offers: The offeror agrees hold the prices in its offer firm for 180 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

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

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

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

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

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

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

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

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

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

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

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

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

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

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

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

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

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

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

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

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

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

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

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

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

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

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

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

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

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

(k) Central Contractor Registration. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the

Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

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

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

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

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

(4) A summary of the rationale for award;

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

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

## **ADDENDUM to FAR 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS**

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

The following provisions are incorporated into 52.212-1 as an addendum to this solicitation:



**INSTRUCTIONS FOR SUBMITTING PROPOSAL:**

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

Volume	Volume Title	No. of Copies
I	Business Proposal	5
II	Technical Proposal	5

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

**1. Business Proposal Content:**

- a. The offeror shall submit a pricing proposal consisting of a properly completed and signed solicitation document (SF 1449), including completed schedule in Section B.
- b. Offeror shall submit four (4) printed copies of a dated, published commercial price list of all equipment offered in the proposal. This includes price list catalogs or other documentation setting forth the prices charged the general public.
- c. Each offeror shall submit a completed Discount & Pricing Information Worksheet (Part IV, Attachment 3), as described in that attachment, providing information that supports the discount(s) offered.
- d. Each offeror shall include the company's income statement for the last fiscal year.
- e. Offerors that are a large business shall submit, for approval, a Small Business Subcontracting Plan or a copy of the current approved plan.

- f. Offerors shall include their restocking policy, including the restocking charge.
  
- g. For each of its three most recently completed contracts and two current contracts, the offeror shall submit the following information on past performance:
  - (1) Contract number
  - (2) Location where equipment was installed
  - (3) Type and model of equipment installed
  - (4) Customer point of contact and telephone number
  
- h. Offerors taking exception to any terms, conditions, or requirements of the solicitation shall list them separately.

**2. Technical Proposal Content:**

- a. Offeror shall provide standard system layout information, showing space required, utilities, and floor loading, if applicable, for each system offered.
  
- b. Specifications, system trees (offeror's logic progression for developing a complete system, if not pre-determined), and descriptive literature corresponding to each system or component proposed. NOTE: it is the offeror's responsibility to continue to provide updated copies of descriptive literature for any subsequent contract items awarded as a result of offeror's proposal.
  
- c. Offeror shall indicate on a separate sheet of paper, the model and/or catalog number and description of each product and components being proposed which meet the Government's minimum requirements.
  
- d. Offeror shall indicate on a separate sheet of paper the comparison of the equipment he/she proposes to furnish for each element of the Government's minimum requirements contained in Section B. Comparison is to list performance capabilities of offered equipment, and identify the location in the technical data which describes these features. The statement "COMPLIES" is not an acceptable comparison.

e. Contractor shall state, in the “Service Facilities Description” chart at Attachment 5, the geographical areas for which they are to be excluded for consideration of requirements.

f. Offeror shall provide four (4) copies of detailed expanded product descriptions, by catalog, product, or part number, of all items/systems\* offered for award under this solicitation. This submission shall be provided both in a printed format, and on magnetic (floppy) disk, 3 1/2” dual or high density, CD, or ZIP100 disk, in Microsoft Word or ASCII format. Two copies of the magnetic media are required. In addition to the printed copy of the price list, one copy in Excel format is preferred.

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

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

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

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

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

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

(b) The Offeror represents that—

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

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

(End of Provision)

**E.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**

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

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

- (i) In a criminal proceeding, a conviction.
- (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
- (iii) In an administrative proceeding, a finding of fault and liability that results in—
  - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
  - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
- (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

(End of Provision)

### **E.3 52.216-1 TYPE OF CONTRACT (APR 1984)**

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

(End of Provision)

### **E.4 52.219-22 SMALL DISADVANTAGED BUSINESS STATUS (OCT 1999)**

(a) *General.* This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.

(b) Representations.

(1) *General.* The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either—

[ ] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

[ ] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) [ ] *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror

shall enter the name of the small disadvantaged business concern that is participating in the joint venture:  
\_\_\_\_\_.]

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall:

- (1) Be punished by imposition of a fine, imprisonment, or both;
- (2) Be subject to administrative remedies, including suspension and debarment; and
- (3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

(End of Provision)

## **E.5 52.233-2 SERVICE OF PROTEST (SEP 2006)**

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

Hand-Carried Address:

Department of Veterans Affairs

OA&L / National Acquisition Center  
Building 37  
1st Avenue, One Block North of Cermak  
Hines IL 60141  
Mailing Address:

Department of Veterans Affairs

OA&L / National Acquisition Center  
Building 37  
1st Avenue, One Block North of Cermak  
Hines IL 60141

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

(End of Provision)

## **E.6 852.211-72 TECHNICAL INDUSTRY STANDARDS (JAN 2008)**

The supplies or equipment required by this invitation for bid or request for proposal must conform to the standards of the: Medical Device Amendments of 1976; Safe Medical Device Amendments of 1998; National Fire Protection Association National Electrical Code, NFPA 70; Standard for the Protection of Electronic Computer/Data Processing Equipment, NFPA 75; Standard for Health Care Facilities, NFPA 99; Standard Method of Test of Surface Burning Characteristics of Building Materials, NFPA 255; Underwriters Laboratories (UL) 544, Medical and Dental Equipment; UL 1950, Safety of Information Technology Equipment, Including

Electrical Business Equipment; Department of Transportation (DOT); Hazardous Materials Regulations, and Tariff No. B0E-6000, Parts 171-177. In addition to the aforementioned general standards, specific safety standards have been issued for each modality directly related to the solicited equipment. The successful bidder or offeror will be required to submit proof that the item(s) he/she furnishes conforms to this requirement. This proof may be in the form of a label or seal affixed to the equipment or supplies, warranting that they have been tested in accordance with and conform to the specified standards. Proof may also be furnished in the form of a certificate from one of the above listed organizations certifying that the item(s) furnished have been tested in accordance with and conform to the specified standards.

(End of Provision)

## **E.7 VAAR 852.215-70 SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESS EVALUATION FACTORS (DEC 2009)**

(a) In an effort to achieve socioeconomic small business goals, depending on the evaluation factors included in the solicitation, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

(b) Eligible service-disabled veteran-owned offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in Vendor Information Pages (VIP) database. (<http://www.VetBiz.gov>).

(c) Non-veteran offerors proposing to use service-disabled veteran-owned small businesses or veteran-owned small businesses as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VetBiz.gov VIP database (<http://www.vetbiz.gov>).

(End of Provision)

## **E.8 VAAR 852.219-71 VA MENTOR-PROTÉGÉ PROGRAM (DEC 2009)**

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

(b) The program consists of:

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

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

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

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

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

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

(End of Clause)

## **E.9 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)**

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

- (1) Include the name, address, fax number, and telephone number of the protester;
- (2) Identify the solicitation and/or contract number;
- (3) Include an original signed by the protester or the protester's representative and at least one copy;
- (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;
- (5) Specifically request a ruling of the individual upon whom the protest is served;
- (6) State the form of relief requested; and
- (7) Provide all information establishing the timeliness of the protest.

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

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

(End of Provision)



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

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

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

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

#### **E.10 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

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

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

(End of Provision)

#### **E.11 52.216-27 SINGLE OR MULTIPLE AWARDS (OCT 1995)**

The Government may elect to award a single delivery order contract or task order contract or to award multiple delivery order contracts or task order contracts for the same or similar supplies or services to two or more sources under this solicitation.

(End of Provision)

#### **E.12 52.225-25 PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN—REPRESENTATION AND CERTIFICATIONS (DEC 2012)**

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

"Person"—

(1) Means—

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

"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)).

(b) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with 25.703–4, by submission of its offer, the offeror—

(1) 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;

(2) 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. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

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

(d) Exception for trade agreements. The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if—

(1) This solicitation includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225-24, or comparable agency provision); and

(2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

(End of Provision)

### **E.13 52.232-38 SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (JUL 2013)**

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the clause at 52.232-34, Payment by Electronic Funds Transfer--Other than System for Award Management.

(1) The solicitation number (or other procurement identification number).

(2) The offeror's name and remittance address, as stated in the offer.

(3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.

(5) The offeror's account number and the type of account (checking, savings, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.

(7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire and, therefore, not the receiver of the wire transfer payment.

(End of Provision)

(End of Addendum to 52.212-1)

### **E.14 52.212-2 EVALUATION—COMMERCIAL ITEMS (JAN 1999)**

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

1. Technical Capability. Items offered must meet the Government's purchase descriptions as stated in the System Identification Section of the solicitation. Proof of FDA 510(k) premarket notification for all products that require this certification will also be required. Items must meet Statement of Work requirements in Part 1.2 Items Offered; Part 1.4 Market Acceptability Criteria; and Part 4.3 DICOM Compliance.

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

3. Price. The Government will evaluate the offered discounts from the offeror's published list prices as compared to the best discounts or prices offered to its commercial customers. Discounts for the option years must not exceed those offered for the base year.

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

(End of Provision)

## **SELECTION CRITERIA FOR PLACING DELIVERY ORDERS UNDER MULTIPLE AWARD CONTRACTS**

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

(b) The contracting officer may consider the following evaluation factors prior to placing each delivery order:

- (1) Price
- (2) Past performance
- (3) Quality
- (4) Availability of reliable service to the hospital/using facility.
- (5) Availability of features required by the hospital/using facility.
- (6) Ability of the contractor to meet specified delivery times.
- (7) Other relevant factors
- (8) Ability of the offered equipment to meet the VistA Modality Interface DICOM Conformance Requirements shown in Part VI, Attachment 4, when required by customer.

NOTE: Factors to be considered on specific orders will be identified in RFQs issued under the contract.

## **SELECTION CRITERIA FOR DLA TROOP SUPPORT ISSUED DELIVERY ORDERS**

Delivery Orders will be issued for shipments to the customers as the need materializes. Orders may be placed with the basic policy stated below.

The Government will place delivery orders with the contract awardee(s) representing the most advantageous offer to the requiring activity for that specific ordering requirement. Prior to the placement of each delivery order, a customer will justify its rationale for selecting its chosen source for the required supplies. Such documentation need not be submitted to the ordering activity (DLA Troop Support). Evaluation factors for delivery orders, to be included in the solicitation, are as follows:

1. Clinical Performance/User Considerations
2. Past Performance
3. Delivery
4. Price

The order of importance in which these factors will be applied will be determined by the requiring activity.

For criterion # 4 above, if a specific customer should opt for a leasing program, they will be required to perform an analysis in accordance with FAR parts 7.401 and 7.402, and with the DFARS 207.4. The analysis should address the advantage of a lease versus a purchase and may include a present value analysis.

Delivery Orders will be negotiated on those items specific to a particular site.

NOTE: Only a DLA Troop Support Contracting Officer is authorized to place delivery orders against this Contract.

## **E.15 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (NOV 2013)**

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

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

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily

business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

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

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

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

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

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

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

"Sensitive technology"—

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

- (i) To restrict the free flow of unbiased information in Iran; or
- (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

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

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

(1) Means a small business concern—

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

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

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

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

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

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Foreign End Products:

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

[List as necessary]

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

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered

components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act."

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

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

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

*[List as necessary]*

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

Other Foreign End Products:

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

*[List as necessary]*

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

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

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

Canadian End Products:

Line Item No.

_____
_____
_____

*[List as necessary]*

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

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

Canadian or Israeli End Products:

Line Item No.	Country of Origin
---------------	-------------------

_____	_____
_____	_____
_____	_____

*[List as necessary]*

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

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

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

Line Item No.	Country of Origin
---------------	-------------------

_____	_____
_____	_____
_____	_____

*[List as necessary]*

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

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

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

Other End Products:

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

[List as necessary]

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

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

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

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

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

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

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

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

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

(ii) *Examples.*

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

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

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

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

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

(1) *Listed end products.*

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

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

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

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

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

(2) ☐ Outside the United States.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because:

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

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

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

(5) *Common parent.*

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

[ ] Name and TIN of common parent:

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

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

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

(n) *Prohibition on Contracting with Inverted Domestic Corporations*

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

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

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

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

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

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

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

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

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

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

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

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

(End of Provision)

**ADDENDUM TO FAR 52.212-3****252.225-7020 TRADE AGREEMENTS CERTIFICATE (JAN 2005) DFARS***(a) Definitions.*

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

*(b) Evaluation.*

The Government—

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

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

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

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

(iii) A national interest waiver has been granted.

*(c) Certification and identification of country of origin.*

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

(2) The following supplies are other nondesignated country end products:

Line Item Number

Country of Origin

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



<b>252.212-7000 – OFFEROR REPRESENTATIONS AND CERTIFICATIONS –COMMERICAL ITEMS (JUNE 2005) DFARS</b>
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**(a) Definitions.**

As used in this clause--

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) "United States" means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

**(b) Certification.**

By submitting this offer, the Offeror, if a foreign person, company or entity certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

**(c) Representation of Extent of Transportation by Sea.** (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation.

The Offeror represents that it--

☐ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

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

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

**ADDENDUM Containing Supplementary Provisions in Full Text and by Reference**

**THE FOLLOWING ADDITIONAL CLAUSE IS INCORPORATED IN FULL TEXT:**

**52.233-9001 - DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011)  
FAR**

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

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233-1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel (see DLA Directive 5145.1). Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

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