# U.S. Department of Homeland Security

# Enterprise Financial Management Software (EFiMS)

Request for Proposal

RFP Number: 70RTAC20R00000001

Department of Homeland Security
Office of Procurement Operations

Information Technology Acquisition Center
Washington D.C.

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# Part I – The Schedule

## A Solicitation/Contract Form

See Solicitation Standard Form 1449 above.

**(End of Section A)**

# B Supplies or Services and Prices/Costs

## B.1 General

The Enterprise Financial Management Software (EFiMS) is an Indefinite-Delivery, Indefinite-Quantity (IDIQ) contract established to provide the Department of Homeland Security and its components (collectively "DHS") with commercially available off-the-shelf (COTS) integrated financial, procurement, and asset management systems application software licenses, Software-as-a-Service (SaaS) subscriptions, software documentation and accessory products (only if incorporated into the proposed software), and professional services as broadly described in Section C.

## B.2 Minimum Dollar Guarantee and Maximum Contract Limitation

(a) Minimum. The minimum guaranteed award amount for this IDIQ contract is $2,500 for only the base period of performance of this contract (inclusive of any fee). The issuance of an Award Term period does not re-establish the contract minimum.

(b) Maximum. The cumulative dollar ceiling value of the resulting multiple award IDIQ contract is $3 Billion.

(c) The Government has no obligation to issue Orders to the Contractor beyond the amount specified in paragraph (a) of this section. Once the conditions of paragraph (a) have been met, the Contractor will continue to have the opportunity to be issued Orders under the Fair Opportunity to Compete clause in Section G, *Contract Administration Data*.

## B.3 Periods of Performance of the IDIQ

The EFiMS IDIQ ordering period will be for up to twenty (20) years consisting of the following performance periods and durations:

| | |
|---|---|
| Base Period: | 5 years |
| Award Term Period 1**: | 5 years |
| Award Term Period 2**: | 5 years |
| Award Term Period 3**: | 3 years |
| Award Term Period 4**: | 2 years |

** See the contract clause at H.26, *Award Term Clause*.

The EFiMS contract is a multiple year contract. It is not a multi-year contract as defined in Federal Acquisition Regulation (FAR) 17.103, Definitions. Orders may be issued at any time during the base and/or award term periods. The periods of performance for each Order will be designated at the individual order level and may include option periods which may extend the Order to no more than one year beyond the IDIQ's current ordering period. Any Order issued under this IDIQ contract that extends beyond the IDIQ's ordering period is still bound, for its entirety, by the terms and conditions of this IDIQ contract.

## B.4 Type of Orders Allowable Under This IDIQ Contract

(a) This IDIQ contract is structured and managed in accordance with FAR Subpart 16.5, Indefinite-Delivery Contracts. Orders placed against this contract will follow the procedures described in Section G, Contract Administration Data.

(b) Orders placed against this IDIQ may be either Fixed-Price (FP), Labor-Hour (LH), Time-and-Materials (T&M), or a hybrid of these contract types in accordance with FAR Part 16 and the terms and conditions of this IDIQ contract.

(c) Under this IDIQ, FP Orders for COTS software licenses, software license maintenance, SaaS subscriptions, and support services are anticipated. LH or T&M Orders will only be encouraged for support services that cannot be readily anticipated or defined. The exact contract type will be determined at the individual order level.

(d) IDIQs, Blanket Purchase Agreements, and Letter Contracts are not permissible order types under the EFiMS IDIQ. The following Orders are not permissible under this IDIQ contract: (1) Orders for which COTS software licenses, software license maintenance, SaaS subscriptions, and technical support services are not the principal purpose; (2) Orders for software/system/solution integration, software/system/solution operations and maintenance (O&M), or information technology (IT) support; and (3) Orders for hardware or other than financial, procurement, and asset management software.

(e) Orders may include options as defined in FAR Part 17, Special Contracting Methods. If so, those orders will include an appropriate clause such as at FAR 52.217-6, -7, -8, and/or -9 with appropriate fill-ins.

## B.5 IDIQ Ceiling Rates

*Labor Rates*

The hourly rates included in this IDIQ contract are fully-burdened hourly rates for each labor category and will apply to all orders issued against this contract. These are ceiling rates, as the Contractor may propose lower rates for any order. The hourly labor rates include wages, indirect costs, general & administrative expenses, and profit, including any costs associated with management of the IDIQ contract. Because the Government will make payment to the Contractor only for work under orders it may issue against this contract, costs such as IDIQ Contract Manger or management (for example, see contract clause F.9, IDIQ Order Reporting, and H.18, Post Award Conference) are subsidiary obligations of the Contractor.

## B.6 Rate Refreshments

(a) The fully burdened contracted labor rates are fixed for the ordering period; however, the Contractor may submit a proposal reducing the fixed hourly rates any time during the life of

this contract. The Government will review these proposals and determine if the revised rates are fair and reasonable and in the best interest of the Government. If the rates are accepted, the Government will incorporate the new rates via a modification of the Contract.

(b) At any time and throughout the life of the contract, at the request of either the Contractor or the Government, the Contractor may propose additional labor categories, rates and descriptions in addition to the Government labor categories. These additional Order Unique labor categories, rates, and descriptions will be negotiated on a case-by-case basis (See Section G.4.1, Cost/Price Proposals, for process). The EFiMS IDIQ Contracting Officer may incorporate Order Unique labor categories, rates and descriptions in the basic IDIQ contract if a determination is made that the rate adjustments should be available across the DHS enterprise for all ordering offices.

**(End of Section B)**

# C Description/Specifications/Statement of Work

Contractor shall provide all EFiMS requirements within the IDIQ Statement of Work (SOW), and within the terms and conditions of this IDIQ contract and resultant Orders. See Attachment **J-1** for the IDIQ SOW. Each Order will incorporate its own, more detailed requirements document.

SCOPE OF CONTRACT

(a) This contract is for information technology; specifically, for Government use of a COTS system that may include many COTS subsystems. This contract does not purchase the development or delivery of a major system; rather, orders under this contract may purchase COTS software licenses, software license maintenance, SaaS subscriptions, support services, and so forth on a fixed-price basis and/or limited additional support services and so forth on a time-and-materials or labor-hour basis.

(b) This contract is one of a set of multiple-award IDIQ contracts. The scope of these contracts is intended to be broad enough to encompass the complete DHS need for Financial Management systems. Both DHS headquarters and the DHS components may issue orders for their Financial Management systems needs.

**(End of Section C)**

# D Packaging and Marking

## D.1 Packing, Packaging, Marking and Storage of Equipment

Unless otherwise specified, all items to be delivered under this IDIQ contract shall be preserved, packaged, and packed in accordance with normal commercial practices to meet the packing requirements of the carrier and ensure safe delivery at destination.

All initial packing, marking and storage incidental to shipping of equipment to be provided under this IDIQ contract shall be at the Contractor's expense. The Contractor shall supervise the packing of all acquired equipment furnished by the Contractor and shall supervise the unpacking of equipment to be installed.

## D.2 Markings

As applicable, all deliverables submitted to the IDIQ Contracting Officer (CO), IDIQ Contracting Officer's Representative (COR), Order CO, or Order COR shall be accompanied by a packing list or other suitable shipping document that shall clearly indicate the following:

- Contract number;
- Order number;
- Name and address of the consignor;
- Name and address of the consignee;
- Government bill of lading number covering the shipment (if any); and
- Description of the item/material shipped, including item number, quantity, number of containers, and package number (if any).

Specific marking requirements may be addressed in individual Orders.

## D.3 Equipment Removal

All Contractor-owned equipment, accessories, and devices located on Government property shall be dismantled and removed from Government premises by the Contractor, at the Contractor's expense, within ninety (90) calendar days after contract expiration, or as mutually agreed by the Government and the Contractor. Exceptions to this requirement shall be mutually agreed upon and written notice issued by the Order CO. Specific requirements will be addressed in individual Orders.

**(End of Section D)**

# E Inspection and Acceptance

See FAR 52.212-4(a).

## E.1 Clauses Incorporated by Reference

None.

**-(End of Section E)**

# F Deliveries or Performance

## F.1 Term of the Contract

Section B.3 provides the term of this IDIQ. Orders will specify their specific performance period(s).

## F.2 Place of Performance

The place of performance shall be set forth in the individual Orders.

## F.3 Deliverables

In addition to the deliverables required by this contract (for example, see contract clause F.9, IDIQ Order Reporting, any additional applicable deliverables and their specific format will be specified in the individual Orders issued under this IDIQ contract).

## F.4 Delivery

The individual Orders will specify the delivery of goods and services, the delivery location, and time frame delivery shall be made.

## F.5 Hours of Support

The individual Orders will specify the number of hours of support.

## F.6 Holidays, Inclement Weather, and Furloughs

*Holidays:* Unless required under the terms of the Order or authorized by Ordering CO, Contractor shall not work at any Government facility, nor should any deliveries under this contract be made to any Government facility, on any federal holidays or day designated by Federal Statute, Executive Order or as a Presidential proclamation:

If contractor does not observe a given holiday that the Government observes, contractor may perform contract related work at contractor site or telework with authorization from the Order level COR on pre-approved work plan addressing Government tasks.

*Inclement Weather:* To the extent that there is no adverse impact on the overall contractor performance, contractor personnel working at the specific facility/location may also be dismissed at the discretion of the on-site Contractor Order Manager in coordination with the Order level COR when the Government grants administrative leave to Government employees, or is closed as a result of inclement weather, potentially hazardous conditions, or other special circumstances,

*Excused Absence:* When the Federal and governmental entities grant excused absence to its employees, the Contractor agrees to continue to provide sufficient personnel to perform critical tasks

already in operation or scheduled, and shall be guided by the instructions issued by the TO CO or the TO COR.

*Furlough:* In the event that the Government personnel are furloughed, contractor is prohibited from entering the Government building.

## F.7 Workspace

Contractor personnel are responsible for their own workspace and therefore, shall at the end of each workday clean up all debris, properly discard all materials, and properly store all sensitive documents resulting from their operations. If telecommuting, contractor personnel shall ensure all Government issued property is well guarded at all times by contractor personnel and all Government information is protected from public view. Negligence or loss of property and Government information will have negative impact on Contractor performance evaluation and may result in the removal of contractor personnel from the TO.

## F.8 Notice to the Government of Delays

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with an order's delivery schedule or completion date, or as soon as the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of an order against this contract, the Contractor shall immediately notify the Order level CO and the Order level COR, in writing. This notification shall give pertinent details and this data shall be informational only in character; this provision shall not be construed as a waiver by the Government of any delivery schedule or date, or any rights or remedies provided by law or under this contract. This notice under this clause is in addition to any other notices that may be required by other contract clauses.

## F.9 IDIQ Ordering Reporting

The contractor shall submit a Microsoft Excel report of all Orders and upgrades placed on a monthly basis, or as otherwise requested by the DHS IDIQ CO, the Contracting Officer's Technical Representative (COR), or the DHS Program Manager (PM). The Contractor shall maintain responsibility for tracking new Orders, correlating each order to the correct DHS component, and providing associated new Order quantities and costs for the reporting period. The monthly report is due, in electronic format, on the 15$^{th}$ day of each month following the month in which the actions took place. For example, the January report is due February 15$^{th}$ .

In addition to the regular monthly submissions, the Contractor shall submit an annual report of all new Orders. At a minimum, the annual reports shall contain the following data elements:

- **IDIQ Orders**: List of Orders to-date sorted by DHS component and Enrollment Number, including the Order date(s) and respective PR numbers;
- **Products & Services**: Including labor hours incurred during the reporting period;

- **Prices**: Unit/hourly and extended prices of the products and services ordered (broken out by product, including Storage Keeping Unit number (SKU));
- **Price Savings**: The difference between the DHS IDIQ price per unit vs. the Component Task Order price per unit, multiplied by the applicable quantities;
- **Order Date**: Date of the Order;
- **Cumulative Sales**: Cumulative DHS sales data for the quarter, year, and IDIQ-to-date across the entire department and sorted by component; and
- **Spend Numbers**: Total spend as it relates to the estimated total spend and the percentage of the spend used and the percentage remaining.

## F.10 Service Level Agreements

(a) The Service Level Agreements found in Attachment J-1 apply at the contract level and will be monitored by the CORs at both the IDIQ and Task Order levels. Service Level Agreement thresholds and performance will be continually reviewed by the Government and Contractor. Service Level Agreement change proposals may be considered and potentially negotiated annually or at the Government's discretion.

(b) Additional Service Level Agreements may be added at the Task Order level. If the additional Service Level Agreements cannot be met within the ceiling prices specified in Attachment J-2, the Task Order CO shall get approval from the IDIQ CO before approving any increase in unit price.

(c) Task Order CORs will copy the IDIQ COR on all performance related issues so that systemic problems may be identified and corrected. If a component chooses to utilize Earned Value Management Systems (EVMSs), the Contractor will be required to use an Earned Value Management System on Task Orders. If applicable, the use of EVMS will be negotiated on a Task Order basis.

## F.11 Clauses Incorporated by Reference

- FAR 52.242-15 Stop-Work Order (Aug. 1989)
- FAR 52.242-17 Government Delay of Work (Apr 1984)

Note: Both of these clauses apply to orders issued against this contract. Within each of these clauses, the word "contract" is understood to mean "delivery or task order," as appropriate.

**(End of Section F)**

# G Contract Administration Data

## G.1 Accounting and Appropriation Data

Accounting and appropriation data for obligations under the contract will be set forth on individual Orders.

## G.2 Primary Government Roles and Responsibilities

The following subsections describe the roles and responsibilities of individuals and/or authorized users who will be the primary Points of Contact (POC) for the Government on matters regarding contract administration as well as other administrative information. The Government reserves the right to unilaterally change any of these individual assignments at any time.

### G.2.1 EFiMS Contracting Officer (CO) – IDIQ Contract Level

The EFiMS CO has the overall responsibility for administration of the EFiMS IDIQ. The EFiMS IDIQ CO, without right of delegation, is the only authorized individual to take actions on behalf of the Government to amend, modify or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules. The EFiMS IDIQ CO for this contract is:

Name: TO Be Completed at Time of Award
Email: TO Be Completed at Time of Award
Tel No: TO Be Completed at Time of Award

### G.2.2 EFiMS Contracting Officer's Representative (COR) – IDIQ Contract Level:

The EFiMS COR is responsible for the receipt and acceptance of the IDIQ-level deliverables and reports and past performance reporting for the EFiMS IDIQ. The COR supports the EFiMS PM and the EFiMS CO in the general management of the program. The EFiMS COR will be :

Name: TO Be Completed at Time of Award
Email: TO Be Completed at Time of Award
Tel No: TO Be Completed at Time of Award

The COR for this contract will be identified by the CO through a written designation. A copy of the letter of designation with specific duties and responsibilities will be provided to the Contractor.

### G.2.3 Order Level Contracting Officer (CO)

Goods or Services will be ordered via Orders issued by the Order level CO within the Contract User's organization following the ordering procedures set forth under applicable law, regulation, and this IDIQ contract. All warranted DHS COs are considered Order Level COs.

## G.3 Contractor Personnel

### G.3.1 Contractor's Program Manager (PM) (Key Personnel)

The PM shall be responsible for comprehensive account support for the EFiMS contract, and act as the central point of contact with the Government for all IDIQ-level issues. The PM will represent the Contractor at all post-award IDIQ-level meetings. The Contractor's PM for this contract is:

Name: TO Be Completed at Time of Award
E-mail: TO Be Completed at Time of Award
Tel No: TO Be Completed at Time of Award

## G.4 Order Placement Procedures

The Contractor's products and services shall be obtained on an as-needed basis (i.e. through the issuance of orders).

The following defines the process by which a fair opportunity will be afforded, and how an order will be processed, priced, and awarded. It also defines specific, local provisions to be used for issues concerning task order consideration and payment. Finally, the role of the DHS Ombudsman is defined. Careful attention should be paid to those areas in which the procedures, processes and provisions change due to use of a different contract type or pricing methodology.

The EFIMS Ordering Guide provides additional guidance/templates for order processing.

## G.5 Direct Ordering

EFiMS requirements shall be ordered by the issuance of orders in accordance with procedures outlined in this contract and FAR Part 52.216-18, Ordering. Contract users within DHS may directly place orders under the contract to obtain commercially available off-the-shelf (COTS) integrated financial, procurement, and asset management systems application software licenses, Software-as-a-Service (SaaS) subscriptions, software documentation and accessory products (only if incorporated into the proposed software), and professional services as broadly described in Section C. Ordering offices will be responsible for the issuance, administration, payment and closeout of the order. All orders are subject to the terms and conditions of this contract. In the event of conflict between an order and this contract, the contract shall prevail.

Under no circumstances, will an order change the requirements of the EFiMS contract. Should the Contract user require such a change, specific approval must first be obtained from the EFiMS IDIQ CO.

## G.6 Ordering-By Designated Ordering Official

The Government will order any supplies and services to be furnished under this contract by issuing orders (delivery orders (DO) or task orders (TOs)) on Optional Form 347, or an agency prescribed form, from the effective date of the contract through the expiration date of the contract. All warranted DHS COs are considered designated ordering officials for EFiMS.

## G.7 Ordering Placement Procedures

Orders under this IDIQ contract shall utilized FAR Subpart 16.5 and should be streamlined as much as possible. Issued Orders will identify the goods or services required, provide specific technical details (including the schedule for all deliverables and the identification of any applicable Government-Furnished Property (GFP), Government-Furnished Information (GFI) and/or Government furnished workspace) and activate performance. The EFiMS Ordering Guide provides additional guidance/templates for order processing.

The Government will not directly reimburse offerors for any costs incurred for the preparation and submission of a proposal in response to solicitation(s) places against this IDIQ contract for Orders. The Order level CO can issue an Order using any medium.
Order only.

## G.8 Order Placement Procedures Cost/Price Proposals

Task Order Unique CLINs, labor categories, rates, and descriptions may be negotiated on a case-by-case basis. These additional labor categories and rates shall be approved by the IDIQ CO prior to the award of the Task Order or Task Order modification. A recommendation by the Task Order CO shall be made to the IDIQ CO after proposal evaluations have been concluded. The Task Order CO will forward to the IDIQ CO the following: (1) a justification for the unique labor category or CLIN and how it is within scope of the services described in the PWS; (2) a complete CLIN or labor category description; and (3) a rate price reasonableness analysis. The additional CLINs or labor categories and rates, once approved, shall apply to that specific Task Order only.

## G.9 Unauthorized Work

The Contractor is not authorized at any time to commence performance of an Order prior to issuance of a signed Order or other written approval provided by the Order level CO to begin work.

## G.10 Invoice Preparation and Submission

Please see FAR 52.212-4(g).

**(End of Section G)**

# H Special Contract Requirements

## H.1 Authorized Users

This IDIQ contract is available for the use by the DHS and its Components. DHS Component(s) Head(s) of Contracting Activity (HCA) that use another Federal agency to provide contracting support services may delegate procurement authority to allow the use of the EFiMS contracts on the Component's behalf. It is the Component's responsibility to ensure that the delegation precludes non-DHS orders placed on the contracts.

## H.2 Software and Service Acquisition

EFiMS is a "Solutions Based Contract." The Government anticipates that the majority of work awarded under this IDIQ contract will be software license, software maintenance, and SaaS subscriptions with incidental technical support services. The EFiMS IDIQ contract is not structured to permit the purchase of a full-range of electronic and information technology solutions, including hardware, software, or other products. Inclusion of hardware/software acquisition on an Order that is not identified in the IDIQ contract price list is not within the purview of the cognizant Government Ordering CO.

During the term of this contract, the Contractor shall deliver, furnish for Government use, or furnish for contractor use at a Government-owned facility, only personal computer products that at the time of submission of proposals were the Electronics Products Environmental Assessment Tool (EPEAT) Bronze registered or higher where such EPEAT products are available at www.epeat.net.

When a requestor specifies desktop computers, notebook computers or computer monitors and any peripheral equipment that is integral to the operation of such items, in purchase request that are not EPEAT registered and a suitable EPEAT product is available, the Contractor shall:

- Notify the requestor of the requirement to purchase an EPEAT product; and
- Provide suitable alternative products that meet EPEAT registered requirements.

The Contractor shall submit the EPEAT purchase status report annually. The annual report shall quantify the number of EPEAT registered and non-EPEAT registered products purchased or leased under this contract during each fiscal year period. The information must be reported in the template EPEAT report form provided in Attachment H-1 and submitted to DHSESO@hq.dhs.gov for the EFiMS COR; for the EFiMS CO; and carbon copy to the DHS Environment Program Manager no later than October 31 of each year. In the event no activity occurred during the reporting period, a no activity report shall be submitted.

## H.3 Contractor Justification for Materials

(a) All materials required for performance under the Orders issued pursuant to this contract that are not Government-furnished, shall be furnished by the Contractor. From time to time, the Government may authorize the Contractor to use Government supply sources or DHS commodity contracts amenable to FAR Subpart 51.1.

(b) The Contractor shall include a detailed description of all proposed materials in individual Order proposals.

### H.3.1 Materials

When required in individual Orders, the Contractor shall submit the documentation required to the CO for approval prior to entering into any equipment lease or purchase agreement.

## H.4 Selected Items of Costs

### H.4.1 Training

The Government will not allow costs, nor reimburse costs associated with the Contractor training employees in an effort to attain and/or maintain minimum personnel qualification requirements of this contract. Attendance at workshops or a symposium is considered training for purposes of this clause.

### H.4.2 General Purpose Office Equipment (GPOE) and IT

The cost of acquisition of General Purpose Office Equipment (GPOE) and IT shall not be allowable as direct charges to this contract. The Contractor is expected to have the necessary facilities to perform the requirements of this contract, including any necessary GPOE and IT. *GPOE* means equipment normally found in a business office such as desks, chairs, typewriters, calculators, file cabinets, etc. "*IT*" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, movement, control, display, switching, interchange, transmission, or reception of data or information. IT includes computers, ancillary equipment, software, firmware and similar products, services (including support services), and related resources.

## H.5 Clause Refresh

DHS reserves the right to update the clauses in this contract based upon changes to the Federal Acquisition Regulation upon written notification to the contractor and by written agreement of the parties.

## H.6 Government Property, Information, Workspace

The Government may provide the items listed below as necessary, for the Contractor to fulfill the tasks described in Order SOWs.

(a) *Government Furnished Property (GFP).* The Government may provide hardware and/or software requiring technical analysis, evaluation, verification, or study in support of a specific task. Such GFP will be specified in individual Orders. GFP provided to the Contractor in support of individual Orders shall be tracked through applicable procedures provided by the Order level CO in accordance with the FAR. Property shall be accounted for and marked accordingly for identification and tracking purposes with the Contract Number, Order Number, Serial Number and other information as required by the Order level CO. The Government will not provide hardware/software equipment required to accomplish day-to-day

work requirements in support of the overall contract-level effort. All GFP shall be returned to the Government at the completion of each Order unless otherwise specified.

(b) *Government Furnished Information (GFI).* The Government may provide information (e.g., technical data, applicable documents, plans, regulations, specifications, etc.) in support of a specific task. Such GFI will be specified in individual Orders.

(c) *Government-Furnished Workspace.* Office space, online network communications, phone services and other basic facilities will be provided by the Government for contractor personnel when working at Government site. All Government unique material, forms and information related to a respective Order under this IDIQ, and which is necessary for contractor performance, will be made available to contractor. The COR will be the point of contact for identification of any required information to be supplied by the Government. All information provided to the contractor shall only be used in the manner that the Government intends it to be used and with the Government's permission and only for the duration of the Order.

*Safeguarding and Disclosure of Information:* All information and documents provided for Contractor use shall be handled in accordance with the terms and conditions of the Order, IDIQ, and the classification marking (e.g. For Official Use Only (FOUO), confidential, etc.); and shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person, except as may be necessary in the performance of the contract per the direction of the tasking Government official.

Contractor/subcontractor at any tier can only disclose FOUO information in accordance with the guidance provided by the appropriate tasking Government official. Any Contractor or subcontractor personnel at any tier who is communicating "Official Use Only" information shall ensure the recipient of the disclosed information is notified in writing of the purpose to which the information may be used, with the following disclosure:

> *"Be advised that Official Use Only information disclosed to an individual can be used only for a stated purpose, and to the extent authorized herein, and that further disclosure of any such Official Use Only information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years, or both."*

## H.7 Past Performance Evaluation

In accordance with FAR Subpart 42.15, Federal agencies are required to prepare evaluations of the contractor performance for certain contract actions, including this contract and some orders that may be issued against this contract. The Contractor should register itself at *http://www.cpars.gov* so it can participate in this process.

## H.8 Disclosure of "Official Use Only" Information Safeguards

Any Government information made available, or to which access is provided, and which is marked *"Official Use Only,"* shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person, except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employees of the Contractor or Subcontractor at any tier shall require prior written approval of the Order level CO. Requests to make such disclosure should be addressed to the Order level CO.

## H.9 Disclosure of Information--Official Use Only

Each officer or employee of the Contractor or Subcontractor at any tier to whom *"Official Use Only"* information may be made available or disclosed, shall be notified in writing by the Contractor that *"Official Use Only"* information disclosed to that individual can be used only for a purpose, and to the extent authorized herein, and that further disclosure of any such *"Official Use Only"* information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years, or both.

## H.10 Standard of Conduct at Government Installations

The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity; and shall be responsible for taking such disciplinary action with respect to its employees in consultation with Order and EFiMS CO and COR and other Government officials, as necessary. All work under this contract shall be performed in a skillful and professional 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.

## H.11 Advertisements, Publicizing Awards and News Releases

Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any publicity/news release or commercial advertising without first obtaining explicit written consent to do so from the EFiMS IDIQ Contracting Officer. This restriction does not apply to marketing materials developed for presentation to potential Government customers of this contract vehicle.

For task orders, the Contractor shall obtain the written consent of the Order level CO. The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state, or imply that the product or service provided is endorsed or preferred by the Federal Government, or is considered by the Government to be superior to other products or services.

## H.12 Branding

*Use of Department of Homeland Security Seal*

In accordance with DHS Management Directive 123-06, 18 U.S.C. § 506, 18 U.S.C. § 701, 18 U.S.C. § 1017 and 28 U.S.C. § 1733(b), the usage of the DHS seal shall be requested by completing DHS Form 0030 (12/08).

Request shall be submitted to the Contracting Officer, who will be responsible for submitting the form for review by the DHS Office of Public Affairs.

DHS must be acknowledged in any presentation (oral or written) of work that is a direct result of contractor's support work to DHS. Any presentation that contractor makes that relates to work conducted by or funded by or for DHS must be provided to the Order level COR with a courtesy copy to the Order level CO for review prior to presentation. Contractor must obtain Order level COR or CO guidance and permission prior to development of presentation or acceptance of invitation to make presentation.

Contractor is not permitted to present DHS work or their participation in DHS work for business promotional purposes, prior to Order level COR and CO permission.

Any questions, comments, or concerns on presentations shall be addressed to the respective Order level COR and CO.

## H.13 Contractor Employees' Identification

During the period of this contract, the rights of ingress and egress to and from any office for the Contractor's personnel shall be made available, as deemed necessary by the Government. All Contractor employees, whose duties under this contract require their presence at any Government facility, shall be clearly identifiable by a distinctive badge furnished by the Government. In addition, corporate identification badges shall be worn on the outer garment at all times. Obtaining the corporate identification badge is the sole responsibility of the Contractor. All prescribed information shall immediately be delivered to the appropriate Government Security Office for cancellation or disposition upon the termination of employment of any Contractor personnel. All on-site Contractor personnel shall abide by security regulations applicable to that site.

## H.14 Substitution of Key Personnel

No changes in Key Personnel will be made unless the Contractor can demonstrate that the qualifications of prospective replacement personnel are equal to, or better than the qualifications of the labor category being replaced. All proposed substitutes shall have qualifications equal to, or higher than the qualifications of the labor category to be replaced. The EFiMS Contract level CO shall be

notified in writing of any proposed substitution at least fifteen (15), or thirty (30) calendar days if a security clearance is to be obtained, in advance of the proposed substitution. Such notification shall include:

(a) an explanation of the circumstances necessitating the substitution;

(b) a complete resume of the proposed substitute; and,

(c) any other information requested by the EFiMS Contract level CO to enable him/her to determine whether or not the Contractor is maintaining the same high quality of personnel that provided the partial basis for award.

The EFiMS CO will evaluate substitutions at the contract level; and the Order level COR will evaluate Order level substitutions. These individuals will evaluate such requests and promptly notify the Contractor of his/her approval or disapproval in writing. All disapprovals will require resubmission of another substitution within fifteen (15) calendar days by the Contractor.

## H.15 Interrelationships of Contractors

(a) The Government has entered into other contractual relationships in order to provide technical support services in the conduct of studies, analyses and engineering activities separate from the work to be performed under this contract, yet having links and interfaces to them. Further, the Government may extend these existing relationships or enter into new relationships. The Contractor may be required to coordinate with such other Contractor(s) through the Task Manager in providing suitable, non-conflicting technical interfaces and avoidance of duplication of effort. Through suitable taskings, these other Contractor(s) may be requested to assist the Government in the technical review of the Contractor's technical efforts. Information on reports provided under this SOW may, at the discretion of the Government, be provided to such other Contractor(s) for the purpose of such review.

(b) A Non-Disclosure Agreement (NDA), DHS Form 11000-6, shall be signed by all Contractor employees assigned to perform services under a TO *prior* to any work commencing on the TO.

## H.16 Service Contract Act and Wage Determination

The entirety of the labor categories sought under this IDIQ are considered professional services. If the principal purpose of an order against this contract is to furnish services in the United States through the use of service employees, that order will include a wage determination.

## H.17 Section 508 Requirements

Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (P.L. 105-220) (codified at 29 U.S.C. § 794d) requires that when Federal agencies develop, procure, maintain, or use information and communications technology (ICT), it shall be accessible to people

with disabilities. Federal employees and members of the public with disabilities must be afforded access to and use of information and data comparable to that of Federal employees and members of the public without disabilities.

1. All products, platforms and services delivered as part of this work statement that, by definition, are deemed ICT or that contain ICT shall conform to the revised regulatory implementation of Section 508 Standards, which are located at 36 C.F.R. § 1194.1 & Apps. A, C & D, and available at https://www.gpo.gov/fdsys/pkg/CFR-2017-title36-vol3/pdf/CFR-2017-title36-vol3-part1194.pdf. In the revised regulation, ICT replaced the term electronic and information technology (EIT) used in the original 508 standards.

Item that contains Information and Communications Technology (ICT): Enterprise Financial Management Software Applicable Exception: N/A Authorization #: N/A Applicable Functional Performance Criteria: All functional performance criteria in Chapter 3 apply to when using an alternative design or technology that results to achieve substantially equivalent or greater accessibility and usability by individuals with disabilities than would be provided by conformance to one or more of the requirements in Chapters 4 and 5 of the Revised 508 Standards, or when Chapters 4 or 5 do not address one or more functions of ICT.

Applicable 508 requirements for electronic content features and components (including Internet and Intranet website; Electronic documents; Electronic forms; Electronic document templates; Electronic reports; Electronic training materials): All requirements in E205 apply, including all WCAG Level AA Success Criteria Apply Applicable 508 requirements for software features and components (including Web, desktop, server, mobile client applications; Electronic content and software authoring tools and platforms; Service Offerings): All requirements in Chapter 5 apply, including all WCAG Level AA Success Criteria, 502 Interoperability with Assistive Technology, 503 Application, 504 Authoring Tools Applicable 508 requirements for hardware features and components: Does not apply Applicable 508 requirements for support services and documentation: All requirements in Chapter 6 apply.

2. When providing installation, configuration or integration services for ICT, the contractor shall not reduce the original ICT item's level of Section 508 conformance prior to the services being performed.

3. When providing maintenance upgrades, substitutions, and replacements to ICT, the contractor shall not reduce the original ICT's level of Section 508 conformance prior to upgrade, substitution or replacement. The agency reserves the right to request an Accessibility Conformance Report (ACR) for proposed substitutions and replacements prior to acceptance. The ACR should be created using the on the Voluntary Product Accessibility Template Version 2.2 508 (or later). The template can be located at https://www.itic.org/policy/accessibility/vpat

4. Contractor personnel shall possess the knowledge, skills and abilities necessary to address the applicable revised Section 508 Standards for each ICT.

5. Exceptions for this work statement have been determined by DHS and only the exceptions described herein may be applied. Any request for additional exceptions shall be sent to the Contracting Officer and a determination will be made according to DHS Directive 139-05, Office of Accessible Systems and Technology, dated November 12, 2018 and DHS Instruction 139-05-001, Managing the Accessible Systems and Technology Program, dated November 20, 2018.

### H.17.1 Instructions for Orders Requiring Delivery of ICT

1. For each commercially available Information and Communications Technology (ICT) item offered through this contract, the Offeror shall provide an Accessibility Conformance Report (ACR). The ACR shall be created using the Voluntary Product Accessibility Template Version 2.0 508 (or later). The template can be found at https://www.itic.org/policy/accessibility/vpat. Each ACR shall be completed in accordance with all the instructions provided in the VPAT template. Each ACR must address the applicable Section 508 requirements referenced in the Work Statement. Each ACR shall state exactly how the ICT meets the applicable standards in the remarks/explanations column, or through additional narrative. All "Supports", "Supports with Exceptions", "Does Not Support", and "Not Applicable" (N/A) responses must be explained in the remarks/explanations column or through additional narrative. The offeror is cautioned to address each standard individually and with specificity, and to be clear whether conformance is achieved throughout the entire ICT Item (for example - user functionality, administrator functionality, and reporting), or only in limited areas of the ICT Item. The ACR shall provide a description of the evaluation methods used to support Section 508 conformance claims. The agency reserves the right, prior to making an award decision, to perform testing on some or all of the Offeror's proposed ICT items to validate Section 508 conformance claims made in the ACR.

2. For each ICT Item that will be developed, modified, installed, configured, integrated, maintained, or hosted by the contractor pursuant to this contract, the offeror shall provide an acknowledgement of the Section 508 requirements and a detailed explanation of the Offerors plan to ensure conformance with the requirements. The Offeror shall also describe the evaluation methods that will be used to validate for conformance to the Section 508 Standards.

3. For each commercially available authoring tool offered that generates electronic content (e.g., an authoring tool that is used to create html pages, reports, surveys, charts, dashboards, etc.), the Offeror shall describe the level of Section 508 compliance supported for the content that can be generated.

4. The offeror shall describe plans for features that do not fully conform to the Section 508 Standards.

### H.17.2 Acceptance Criteria

1. Before accepting items that contain Information and Communications Technology (ICT) that are developed, modified, or configured according to this contract, the government reserves the right to require the contractor to provide the following:

    - Accessibility test results based on the required test methods.
    - Documentation of features provided to help achieve accessibility and usability for people with disabilities.
    - Documentation of core functions that cannot be accessed by persons with disabilities.
    - Documentation on how to configure and install the ICT Item to support accessibility.
    - Demonstration of the ICT Item's conformance to the applicable Section 508 Standards, (including the ability of the ICT Item to create electronic content – where applicable).
2. Before accepting ICT required under the contract, the government reserves the right to perform testing on required ICT items to validate the offeror's Section 508 conformance claims. If the government determines that Section 508 conformance claims provided by the offeror represent a higher level of conformance than what is actually provided to the agency, the government shall, at its option, require the offeror to remediate the item to align with the offeror's original Section 508 conformance claims prior to acceptance.

## H.18 Post Award Conference

The Contractor shall participate in a post award conference that will be held within thirty (30) business days after contract award. The purpose of the post award conference is to aid both the Contractor and the Government in achieving a clear and mutual understanding of all contract requirements and identify and resolve potential problems (See FAR Subpart 42.5, *Post award Orientation*).

The EFiMS PM is responsible for establishing the time and place of the conference and will notify the appropriate Government representatives and the Contractors. The EFiMS PM will designate or act as the chairperson at the conference.

The conference may be conducted at a location within the Washington, DC, commuting area at the Government's discretion.

The Contractor further agrees to attend post award conferences on Orders as required. The Order post award conferences will establish work level points of contact for the Order, determine the Order administration strategy, roles and responsibilities and ensure prompt payment and Order closeout.

## H.19 Architectural Compliance

All software must be located in a DHS Consolidated Data Center unless a waiver is approved by the DHS CIO. All DHS Wide Area Network circuits must be part of the OneNet architecture unless a waiver is approved by the DHS CIO.

*DHS Enterprise Architecture Compliance*

All solutions and services shall meet DHS Enterprise Architecture policies, standards, and procedures. Specifically, the Contractor shall comply with the following Homeland Security Enterprise Architecture (HLS EA) requirements:

- All developed solutions and requirements shall be compliant with the HLS EA.
- All IT hardware or software shall be compliant with the HLS EA Technical Reference Model (TRM) Standards and Products Profile.
- All data assets, information exchanges and data standards, whether adopted or developed, shall be submitted to the DHS Enterprise Data Management Office (EDMO) for review and insertion into the DHS Data Reference Model.
- In compliance with OMB mandates, all network hardware shall be IPv6 compatible without modification, upgrade, or replacement.

## H.20 Security Review

The Government may elect to conduct periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. The Contractor shall afford DHS including the organization of the DHS Office of the Chief Information Officer, the Office of the Inspector General, authorized COR, and other Government oversight organizations, access to the Contractor's facilities, installations, operations, documentation, databases, and personnel used in the performance of this contract. The Contractor will contact the DHS Chief Information Security Officer to coordinate and participate in the review and inspection activity of Government oversight organizations external to the DHS. Access shall be provided to the extent necessary for the Government to carry out a program of inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of DHS data or the function of computer systems operated on behalf of DHS, and to preserve evidence of computer crime.

## H.21 Interconnection Security Agreements

Interconnections between DHS and non-DHS IT systems shall be established only through controlled interfaces and via approved service providers. The controlled interfaces shall be accredited at the highest security level of information on the network. Connections with other Federal agencies shall be documented based on interagency agreements; memoranda of understanding, service level agreements, or interconnect service agreements.

## H.22 Access to Unclassified Facilities, Information Technology Resources, and Sensitive Information

The assurance of the security of unclassified facilities, Information Technology (IT) resources, and sensitive information during the acquisition process and contract performance are essential to the DHS mission. DHS Management Directive (MD) 11042.1 *Safeguarding Sensitive But Unclassified (For Official Use Only) Information*, describes how contractors must handle sensitive but unclassified information. DHS MD 4300.1 *Information Technology Systems Security* and the *DHS Sensitive*

*Systems Handbook* prescribe policies and procedures on security for IT resources. Contractors shall comply with these policies and procedures, any replacement publications, or any other current or future DHS policies and procedures covering contractors specifically for all Orders under EFiMS that require access to facilities, IT resources or sensitive information. Contractors shall not use or redistribute any DHS information processed, stored, or transmitted by the Contractor except as specified in the TO.

## H.23 On Ramp

The Government reserves the right to utilize an "On Ramp" concept to manage and maintain a sufficient number of contract awardees. Consistent with FAR 16.504(c)(1)(ii)(A), the Government has determined that at all times during the term of the EFiMS contract, there remain an adequate number of EFiMS contractors eligible to compete for TOs. Over time, the total number of EFiMS contractors may fluctuate due to various reasons including industry consolidation, significant changes in the marketplace or advances in technology, general economic conditions, or other reasons. Recognizing this, DHS intends to periodically review the total number of EFiMS contractors participating in the EFiMS ordering process, and determine whether it would be in the Government's best interest to initiate an open season to add new contractors to the EFiMS contract program. The review by DHS may include an assessment of the market and new innovations available. This is a discretionary, unilateral authority of the Government, and may be used at any time during the IDIQ performance period. Any new contracts will contain terms and conditions identical to those in this contract. It is anticipated that the On Ramp of new contractors or technology will be done through a competitive process.

## H.24 Off Ramp

If at any point during the 20-year period of performance the contractor decides that it no longer wishes to participate in the contract, then the contractor may submit the request to the Contracting Officer requesting termination of their contract. If the Contracting Officer accepts the contractor's request, the Contracting Officer will "ramp off' the contractor using FAR 49.109-4, *No-Cost Settlement*. This provision is independent of any other action permitted under the contract terms and conditions. If a "ramped off" contractor is currently under contract to perform under any task order, the contractor will be required to continue to perform under the terms of the specific task order.

## H.25 Purchasing System

Contractor shall notify the order level CO in writing of any change in the status of its approved purchasing system and provide the reason(s) for the change.

## H.26 Award Term Clause

Award Term Clause

In addition to the terms set forth elsewhere in the contract, the contractor may earn an extension or reduction to the IDIQ contract ordering period from a minimum of 5 to a maximum of 20 years on the basis of performance during the evaluation periods. Award Terms will be evaluated annually within the period that precedes each award term. An interim (mid-period) evaluation will be completed during each 12-month cycle in the period immediately preceding each Award Term. The earned award-term points will be based upon the Contractor's performance during each evaluation period. Up to 100 Points will be available for each evaluation period. An average of 61 points or above is required over the evaluation periods that immediately precede an Award Term award in order for the contractor to be eligible to receive award of the period. The Award Term period may also be reduced on the basis of the contractor's performance against the stated performance parameters.

(a) Award Term. The award-term concept is an incentive that permits extension of the contract period beyond the base period of performance for superior performance or reduction of the contract period of performance because of poor performance.

(b) Award-Term Plan. The evaluation criteria, the associated points, and the associated award-term extensions or reductions are specified in the award-term plan, which is included as an attachment to this contract.

(c) Contractor's Self-Assessment: The Contractor may, if it so desires, submit a written self-assessment to the CO 60-days prior to the end of an evaluation period. This self-assessment shall not exceed 5 pages. When weaknesses or deficiencies are noted, the Contractor shall describe actions planned or taken to correct them and prevent recurrence. This self-evaluation will be considered in the PEB's evaluation of the Contractor's performance during this period. The Contractor will not be penalized for a realistic self-assessment. Any costs associated with this effort will not be reimbursed.

(d) Disputes. Decisions regarding the award term, including—but not limited to— the length of the award term, if any; the methodology used to calculate the award term; calculation of the award term; and the nature and success of the contractor's performance, are made by the Term Determining Official (TDO). Any disagreement with the TDO's decision is subject to the Disputes clause in this contract.

Award-term contract arrangements: Award-term arrangements are very similar to award-fee contracts, however, instead of money as compensation for quality performance, the contractor is awarded additional periods of performance. Or, if performance is habitually below standard, the period of performance can be shortened. Award-term arrangements are most suitable when establishing a long-term relationship is valuable both to the government and to the potential contractor. They differ from options in that award terms are based on a formal evaluation process and do not entail the regulatory procedures associated with priced options.

(e) Order Level Award Term. An Award Term maybe included at the order level at the discretion of the task order CO subject to the limitation in section B.3 (periods of performance of the IDIQ) on the length of orders under this IDIQ.

## H.27 Security Requirements

All on-site contractor personnel shall abide by security regulations applicable to the Government facility site at which they are located. DHS has and will exercise full control over granting, denying, withholding, or terminating unescorted access to Government facility, Government systems and/or sensitive Government information for contractor employees, based upon the results of a DHS fitness (suitability) investigation. DHS may, as it deems appropriate, authorize and make a favorable entry of duty (EOD) decision based on preliminary security checks. The favorable EOD decision would allow the contactor to commence work temporarily prior to the completion of the full investigation. The granting of a favorable EOD decision shall not be considered as assurance that a full employment contractor fitness (suitability) authorization will follow as a result thereof. The granting of a favorable EOD decision or a full contractor fitness (suitability) authorization determination shall in no way prevent, preclude, or bar the withdrawal or termination of any such access by DHS, at any time during the term of the task order. No employee of contractor shall be allowed unescorted access to a Government facility, access to any sensitive information, or access to DHS information systems without a favorable EOD decision or contractor fitness (suitability) determination by the DHS Office of Security. Contract employees assigned to the task order not needing access to sensitive DHS information, DHS systems or access to DHS facilities will not be subject to security contractor fitness (suitability) screening. Contract employees waiting an EOD decision may not begin work on the task order. Limited access to Government buildings is allowable prior to the EOD decision if contractor is escorted by a Government employee. This limited access is to allow contractors to attend briefings, nonrecurring meetings, and begin transition work. Classified information is Government information which requires protection in accordance with Executive Order 13526, National Security Information (NSI) as amended and supplemental directives. If any contractor personnel has access to classified information at a DHS owned or leased facility, such personnel shall comply with the security requirements of DHS and the facility. If contractor is required to have access to classified information at another Government agency facility, it shall abide by the requirements set forth by that agency.

In addition to the DHS suitability check, contractor personnel may require security clearances based on the needs of the Government. Orders issued under the IDIQ may be required to have up to a TOP SECRET (TS) security clearance with Sensitive Compartmented Information (SCI) eligibility. Prior to commencement of services, contractor personnel must successfully transfer security clearances as required by DHS Security Office protocols. Subcontractors shall comply with the same security clearance requirements as the contractor. Contractor shall issue a DD Form 254 to each subcontractor, as directed by the Government, reflecting the level of security requirements applicable respective to the level of support provided by the subcontractor.

Contractor personnel requiring security clearance to provide support to DHS are expected to have that clearance prior to being assigned such work. The Government will, in general, not sponsor or request background investigations and adjudication of contractor personnel not already in possession of the required security clearance. No classified work is authorized without an approved DD Form 254 and the appropriate personnel security clearances.

Classified materials up to a SECRET level may be transmitted to contractor for safeguarding, storage or retention on contractor site. Contractor shall adhere to all applicable laws, regulations, orders, guides, and directives pertaining to Classified, Sensitive But Unclassified, FOUO, and personally identifiable information. Contractor shall safeguard Sensitive But Unclassified, FOUO information specifically in accordance with DHS Management Directive 11042.1. Contractor shall establish and implement appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of classified and sensitive Government information, data, and/or equipment. If contractor personnel are ever uncertain about the handling or treatment of any information or data, they shall consult the TO COR.

Contractor personnel will be provided with a Government-issued contractor identification card once all security requirements have been met. Each contractor personnel shall prominently display the Government Issued ID at all times when in the Government facility. Contractor may also be provided a proximity pass for after-hours access to the building or secured facility pass to access a Government secured terminal on an as needed basis to conduct work under a TO and at the discretion of the TO COR. This access shall be provided solely at the discretion of the Government and may be revoked or withdrawn at any time, without notice or cause, by Security Office officials, the COR, or the CO.

Contractor personnel must report the loss of any Government issued item to the COR, CO and the issuing office immediately after it is realized the item is missing. Contractor shall prepare and maintain a roster of all its employees (both former and current) by TO. Moreover, the list shall identify all Government furnished items (badge, pass, computer, phone, etc.) that have been issued to each of these personnel. The roster shall be maintained for the duration of the IDIQ contract or the TO, whichever is longer. Contractor personnel under this IDIQ contract shall return all Government issued badges and passes, equipment, information and materials to the issuing office in accordance with applicable and current DHS security forms (e.g. DHS Form 400-4, 141-4, 560-3, etc.).

## H.28 Disclosure and Avoidance of Inherently Governmental Functions

Contractor shall not perform or give the appearance of performing inherently governmental functions as described in FAR Parts 2 and subpart 7.5, and all applicable DHS policy. Hence, no contractor personnel shall exercise judgement that constitutes or gives the appearance of making a decision, or providing approval/disapproval in the conduct of any official process. Such includes, but is not limited to:

- The determination of federal program priorities for budget requests.
- The selection or non-selection of individuals for federal Government employment, including the interviewing of individuals for employment.
- Services that involve or relate to the evaluation of another Contractor's performance.
- The approval of position descriptions and performance standards for Federal employees.

- Determining what supplies or services are to be acquired by the Government.
- Participating as an evaluator of technical proposals or as a voting member on any source selection boards;
- Contractor employees are prohibited from the drafting of congressional testimony, responses to congressional correspondence, or agency responses to audit reports from the Inspector General, the Government Accountability Office, or other Federal audit entity.

Some functions are not inherently governmental but may approach such status if care is not exercised by both the Government and contractor in how contractor performs the function. Examples of such functions that are likely to be encountered in the exercise of this contract include, but are not limited to:

- Services that involve or relate to budget preparation, including workload modeling, fact finding, efficiency studies, and should-cost analyses, etc.
- Services that involve or relate to reorganization and planning activities.
- Services that involve or relate to analyses, feasibility studies, and strategy options to be used by agency personnel in developing policy

## H.29 Contractor Protocol

Contractor personnel shall not disseminate any information without the review and approval of the tasking Government personnel. Contractor personnel shall follow all emergency procedures established by the Government for accountability of contractor personnel. Contractor personnel shall follow all DHS guidance and requirements for document preparation, archival, and management. Where no such criteria of procedures exist, industry best practices shall be followed, as approved by the designated Order level COR.

Correspondence and interaction by contractor support relating to day-to-day tasks, projects, requests, or other subjects in discussion should transpire with courtesy copy (CC) to relevant party or Government official in concern if by email; and with the permission or presence of the Government official in concern if by telephone, or face-to-face.

All documents or reports produced by contractor shall be marked as prepared by contractor support or otherwise indicate that contractor participation is disclosed. All contractor personnel shall identify themselves as contracted support personnel in all forms of communication and settings with all entities with whom DHS has business dealings. Moreover, all contractor personnel attending meetings, answering Government telephones, and working in other situations where their contractor status is not obvious to third parties are required to identify themselves as such to avoid creating an impression that they are Government officials. Therefore, contractor shall:

- Answer all telephone calls and establish a personalized voice message with an introductory statement that includes the individual is contracted support citing the name of the company of which they are an employee.
- Include a signature block in all emails that states the individual is contracted support citing the name of the company of which they are an employee.

- Ensure all those with whom contractor individual interacts in any face-to-face dealings while supporting DHS program offices understand that the person is contracted support citing and displaying the name of the company of which they are an employee.
- Ensure that as contracted support, contractor personnel are not representing a government official as a general POC for all inquiries or a lead alternative POC; if, for example, the Government official is out of the office.
- All government workspace provided to the contractor personnel must identify the company the contractor personnel represents.

### H.30 Applicability of Contract Clauses to Orders

The contract clause at FAR 52.212-4 (alt. I) is written for a contract for commercial items, but it also applies to orders issued against this contract. In all appropriate order contexts, the word "contract" in this clause is understood to mean "order." For example, for a time-and-materials order, the ceiling price in Alt. I of the clause applies at the order level, as does the requirement for the contractor to give notice to the contracting officer when the contractor's accrued costs approach reaching a certain percentage of the ceiling price. This same principle also applies to other clauses in this contract. The contracting officer may issue guidance from time to time on how this principle applies in specific contexts.

### H.31 No Private use of Contract Data

Pursuant to FAR clause 52.227-14 paragraph (d)(2) of the Rights & Data – General (Dec 2007) of this contract, Contractor shall not use any data first produced in the performance of this contract for any purpose other than the performance of this contract. This data may be used for private purposes if the Department has previously made the particular data available to the public.

### H.32 Price Re-Opener Clause

The Government reserves the right to re-negotiate the pricing in the contract prior to issuing an Award Term based upon changes in market prices over the potential 20-year period of performance. The Contracting Officer will notify the contractor of the Government's desire to re-open the pricing for an upcoming period at least 60-days prior to the effective date of the next available Award Term.

### H.33 Contractor Responsibility for Software Licenses Provided to the Government

(a) The Contractor acknowledges that it is providing a solution to the Government, and that it (the Contractor) is responsible for providing a solution that the Government can reasonably and responsibly use to achieve the scope of the contract.

(b) The Contractor shall studiously analyze all third-party software license agreements that it proposes to sell or otherwise provide to the Government to make sure that the terms of those agreements are compatible with Government needs and operations, and shall negotiate those agreements as necessary before providing them to the Government.

(c) The Contractor agrees that neither the Government nor any Government employee or contractor employee user shall have any obligation to any third-party software provider under any license

agreement as part of the Contractor's solution, and that the Contractor shall indemnify, hold harmless, and defend the Government and its employees and contractor employee users against any infringement or other improper use claims that arise from use of any software the Contractor includes as part of its solution under this contract; provided, the use has been reasonable and compatible with Government needs and operations.

(End of clause)

## H.34 EULA Addendum for Government Licensees or Users

(a) The Contractor acknowledges that all references to terms such as "internal business purposes," and "course of business" of Licensees and Affiliates that are governmental entities (or Government contractors while performing Government work) include all actions and purposes of Licensee and its Affiliates that are authorized by law or regulation to accomplish agency missions.

(b) The Contractor acknowledges that statutes and regulations of the U.S. Government, including procurement laws and regulations, may sometimes require that aspects of commercial EULAs are limited and may become ineffective and inoperative. The Contractor acknowledges that such aspects of commercial EULAs may include indemnification, commitments of funds from future appropriation years, dispute resolution, jurisdiction, and the right to stop work. In all such instances, the Contractor acknowledges that the provisions of any License Agreement yield and are superseded where, and to the extent, required by applicable U.S. law and regulation.

(c) The Contractor acknowledges Federal Acquisition Regulation ("FAR") 52.232-39 Unenforceability of Unauthorized Obligations, and FAR 52.212-4(u) Contract Terms and Conditions—Commercial Items/Unauthorized Obligations, as well as equivalent provisions of agencies that are exempt from the FAR or that are state or local U.S. governments.

(d) The Contractor specifically acknowledges that provisions of any License Agreement that may be limited in part, or superseded in part or in whole, by said laws and regulations include:

(1) Any text pertaining to rights to modify or combine the software;

(2) Any text pertaining to use prior to actual receipt of payment by the Contractor;

(3) Any text pertaining to the right of the Contractor to approve Licensee's chosen counsel;

(4) Any text pertaining to rights of the Contractor to termination upon notice and to indemnity;

(5) Any text pertaining to the unilateral rights of the Contractor to terminate;

(6) Any text pertaining to date of payment owed for underpayment of fees;

(7) Any text pertaining to assignment, novation, or other transfer of a contract with, or claim against, the United States;

(8) Any text pertaining to a License Agreement as the entire agreement with Licensee;

(9) Any text pertaining to governing law, venue, and jurisdiction;

(10) Any text pertaining to jurisdiction over intellectual property disputes, and pertaining to collection of payments;

(11) Any text pertaining to the date of payment in full;

(12) Any text pertaining to interest payments;

(13) Any text pertaining to indemnity; and

(14) Any text pertaining to the process for recovery of fees for unauthorized use.

(e) The Contractor further acknowledges that unique needs or requirements of a particular U.S. Government Licensee or User may sometimes be incompatible with other aspects of this License Agreement. The Contractor specifically acknowledges that provisions of this License Agreement that may be limited in part, or expressly superseded in part or in whole, include:

(1) Any text pertaining to direct and remote communication with the Products and collection of certain information;

(2) Any text pertaining to use of information collected pursuant to (i) automatic communications with the Contractor's (or the reseller or distributor's) servers to deliver the functionality described in the product description or through new features as they are introduced, and to record usage metrics; or (ii) user preferences or data stored on Licensee's device/

(3) Any text pertaining to listing and publishing of Licensee's name and logo;

(4) Any text pertaining to self-audits and formal audits; and

(5) Any text pertaining to subcontracting.

(f) When the Contractor provides software licenses to the Government from third party sources, the Contractor shall include a clause substantially the same as this clause in its subcontract or other agreement with the third party source.

(End of clause)

**(End of Section H)**

# Part II – Contract Clauses

## I Contract Clauses

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### I.1 Clauses

**FAR 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)**
(a) *Definitions*. As used in this clause--
"Covered contractor information system" means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.
"Federal contract information" means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.
"Information" means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).
"Information system" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).
"Safeguarding" means measures or controls that are prescribed to protect information systems.
(b) Safeguarding requirements and procedures.

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

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
(iii) Verify and control/limit connections to and use of external information systems.
(iv) Control information posted or processed on publicly accessible information systems.
(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
(xii) Identify, report, and correct information and information system flaws in a timely manner.
(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
(xiv) Update malicious code protection mechanisms when new releases are available.
(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

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

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

(End of clause)

**52.212-4 Contract Terms and Conditions -- Commercial Items (Oct 2018) Alternate I (Jan 2017)**

**FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Jan 2019)**

(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) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and

Further Continuing Appropriations Act 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)

(4) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(5) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77, 108-78 (19 U.S.C. 3805 note)).

(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. 4704 and 10 U.S.C. 2402).

_X__ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

_X__ (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 (Oct 2018) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) [Reserved]

___ (6) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

_X__ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

_X__ (8) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) (31 U.S.C. 6101 note).

_X__ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).

___ (10) [Reserved]

___ (11) (i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

___ (ii) Alternate I (Nov 2011) of 52.219-3.

___ (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

___ (ii) Alternate I (Jan 2011) of 52.219-4.

___ (13) [Reserved]

___ (14) (i) 52.219-6, Notice of Total Small Business Aside (Nov 2011) (15 U.S.C. 644).

___ (ii) Alternate I (Nov 2011).

___ (iii) Alternate II (Nov 2011).

___ (15) (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.

___ (16) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).

___ (17) (i) 52.219-9, Small Business Subcontracting Plan (Aug 2018) (15 U.S.C. 637 (d)(4)).

___ (ii) Alternate I (Nov 2016) of 52.219-9.

___ (iii) Alternate II (Nov 2016) of 52.219-9.

___ (iv) Alternate III (Nov 2016) of 52.219-9.

___ (v) Alternate IV (Aug 2018) of 52.219-9.

___ (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).

___ (19) 52.219-14, Limitations on Subcontracting (Jan 2017) (15 U.S.C. 637(a)(14)).

___ (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

___ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).

___ (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

___ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).

___ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).

_X__ (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

_X__ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jan 2018) (E.O. 13126).

_X__ (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

_X__ (28) (i) 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246).

___ (ii) Alternate I (Feb 1999) of 52.222-26.

X___ (29) (i) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

___ (ii) Alternate I (July 2014) of 52.222-35.

_X__ (30) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

___ (ii) Alternate I (July 2014) of 52.222-36.

_X__ (31) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).

_X__ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

_X__ (33) (i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

___ (ii) Alternate I (Mar 2015) of 52.222-50, (22 U.S.C. chapter 78 and E.O. 13627).

___ (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 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) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O.13693).

___ (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).

___ (38) (i) 52.223-13, Acquisition of EPEAT® -Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514

___ (ii) Alternate I (Oct 2015) of 52.223-13.

___ (39) (i) 52.223-14, Acquisition of EPEAT® -Registered Television (Jun 2014) (E.O.s 13423 and 13514).

___ (ii) Alternate I (Jun 2014) of 52.223-14.

_X__ (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

_X__ (41) (i) 52.223-16, Acquisition of EPEAT® -Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

___ (ii) Alternate I (Jun 2014) of 52.223-16.

_X__ (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011) (E.O. 13513).

_X__ (43) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).

___ (44) 52.223-21, Foams (Jun 2016) (E.O. 13696).

_X__ (45) (i) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

_X__ (ii) Alternate I (Jan 2017) of 52.224-3.

___ (46) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).

___ (47) (i) 52.225-3, Buy American--Free Trade Agreements--Israeli Trade Act (May 2014) (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 (May 2014) of 52.225-3.

___ (iii) Alternate II (May 2014) of 52.225-3.

___ (iv) Alternate III (May 2014) of 52.225-3.

___ (48) 52.225-5, Trade Agreements (Aug 2018) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

_X__ (49) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (50) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

___ (51) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (52) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

_X__ (53) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505), 10 U.S.C. 2307(f)).

___ (54) 52.232-30, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

_X__ (55) 52.232-33, Payment by Electronic Funds Transfer--System for Award Management (Oct 2018) (31 U.S.C. 3332).

___ (56) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (57) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

_X__ (58) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (59) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(12)).

___ (60) (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.

___ (iii) Alternate II (Feb 2006) 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) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495)

___ (2) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67.).

___ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C.206 and 41 U.S.C. chapter 67).

___ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-- Requirements (May 2014) (41 U.S.C. chapter 67).

___ (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Requirements (May 2014) (41 U.S.C. chapter 67).

___ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).

___ (9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

___ (10) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792).

(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 (Jan 2019) (41 U.S.C. 3509).

(ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $700,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(v) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (1) of FAR clause 52.222-17.

(vi) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(vii) 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246).

(viii) 52.222-35, Equal Opportunity for Veterans (Oct 2019) (38 U.S.C. 4212).

(ix) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(x) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).

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

(xii) 52.222-41, Service Contract Labor Standards (Aug 2018), (41 U.S.C. chapter 67).

(xiii) (A) 52.222-50, Combating Trafficking in Persons (Jan 2019) (22 U.S.C. chapter 78 and E.O. 13627).

(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 E.O. 13627).

(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (May 2014) (41 U.S.C. chapter 67.)

(xv) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Requirements (May 2014) (41 U.S.C. chapter 67)

(xvi) 52.222-54, Employment Eligibility Verification (Oct 2015) (E. O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015).

(xviii) 52.222-62, Paid sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

(xix) (A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

(B) Alternate I (Jan 2017) of 52.224-3.

(xx) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

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

(xxii) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (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)

**FAR 52.216-18 Ordering (Oct 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from **date of contract award** through last day of ordering 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)

**FAR 52.216-19 Order Limitations (Oct 1995)**
(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than **$2,500**, 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 $300 million;

(2) Any order for a combination of items in excess of $300 million_; or
(3) A series of orders from the same ordering office within _30 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 5 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)

**FAR 52.216-22 Indefinite Quantity (Oct 1995)**

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 12 months after the final ordering period *[insert date]*.

(End of Clause)

**FAR 52.217-8 -- Option to Extend Services (Nov 1999) (Available at the order level)**

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

(End of Clause)

**52.217-9 Option to Extend the Term of the Contract (Mar 2000) (Available at the task order level)**

(a) The Government may extend the term of this contract by written notice to the Contractor within _____ **(TO BE DETERMINED AT THE ORDER LEVEL)**.; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least _____ days **(TO BE DETERMINED AT THE ORDER LEVEL)** 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 _____ (months) (years) **(TO BE DETERMINED AT THE ORDER LEVEL).**

(End of clause)

## I.2 Clauses Incorporated By Reference

**FAR 52.252-2 Clauses Incorporated by Reference (Feb 1998)**

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

- FAR 52.202-1 Definitions (Nov 2013)
- FAR 52.204-16 Commercial and Government Entity Code Reporting (Jul 2016)
- FAR 52.204-18 Commercial and Government Entity Code Maintenance (Jul 2016)
- FAR 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.
- FAR 52.209-10 Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)
- FAR 52.223-5 Pollution Prevention and Right-to-Know Information (May 2011)
- FAR 52.223-10 Waste Reduction Program (May 2011)
- FAR 52.223-15 Energy Efficiency in Energy-Consuming Products (Dec 2007)
- FAR 52.227-1 Authorization and Consent (Dec 2007)

- FAR 52.227-3 Patent Indemnity (Apr 1984)
- FAR 52.227-19 Commercial Computer Software License (Dec 2007)

- 52.244-2 Subcontracts (Oct 2010)

(End of Clause)

## I.3 HSAR Clauses

**HSAR 3052.203-70 Instructions for Contractor Disclosure of Violations (Sep 2012)**

When making a written disclosure under the clause at FAR 52.203-13, paragraph (b)(3), the Contractor shall use the Contractor Disclosure Form at http://www.oig.dhs.gov and submit the disclosure electronically to the Department of Homeland Security Office of Inspector General. The Contractor shall provide a copy of the disclosure to the Contracting Officer by email or facsimile on the same business day as the submission to the Office of Inspector General. The Contractor shall provide the Contracting Officer a concurrent copy of any supporting materials submitted to the Office of Inspector General.

(End of clause)

**HSAR 3052.211-70 Index for specifications (Dec 2003)**

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specifications. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

(End of clause)

**HSAR 3052.212-70 Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items (Sep 2012)**

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

[The Contracting Officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The Contracting Officer may add the date of the provision or clause if desired for clarity.]

(a) Provisions.

____3052.209-72 Organizational Conflicts of Interest.
____3052.216-70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.
____3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.

(b) Clauses.

____3052.203-70 Instructions for Contractor Disclosure of Violations.
____3052.204-70 Security Requirements for Unclassified Information Technology Resources.
____3052.204-71 Contractor Employee Access.
____Alternate I
____Alternate II
__X__3052.205-70 Advertisement, Publicizing Awards, and Releases.
___ 3052.209-73 Limitation on Future Contracting.
____3052.215-70 Key Personnel or Facilities.
____3052.216-71 Determination of Award Fee.
____3052.216-72 Performance Evaluation Plan.
____3052.216-73 Distribution of Award Fee.
____3052.217-91 Performance. (USCG)
____3052.217-92 Inspection and Manner of Doing Work. (USCG)
____3052.217-93 Subcontracts. (USCG)
____3052.217-94 Lay Days. (USCG)
____3052.217-95 Liability and Insurance. (USCG)
____3052.217-96 Title. (USCG)
____3052.217-97 Discharge of Liens. (USCG)
____3052.217-98 Delays. (USCG)
____3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)
____3052.217-100 Guarantee. (USCG)
____3052.219-70 Small Business Subcontracting Plan Reporting.
____3052.219-71 DHS Mentor Protégé Program.
____3052.228-70 Insurance.
____3052.228-90 Notification of Miller Act Payment Bond Protection. (USCG)
____3052.228-91 Loss of or Damage to Leased Aircraft. (USCG)
____3052.228-92 Fair Market Value of Aircraft. (USCG)
____3052.228-93 Risk and Indemnities. (USCG)
____3052.236-70 Special Provisions for Work at Operating Airports.
_X_ 3052.242-72 Contracting Officer’s Technical Representative.
____3052.247-70 F.o.B. Origin Information.
____Alternate I
____Alternate II
____3052.247-71 F.o.B. Origin Only.

____3052.247-72 F.o.B. Destination Only.

(End of clause)

**HSAR 3052.215-70 Key personnel or facilities (Dec 2003)**

(a) The personnel or facilities specified below are considered essential to the work being performed under this contract and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel or facilities, as appropriate.

(b) Before removing or replacing any of the specified individuals or facilities, the Contractor shall notify the Contracting Officer, in writing, before the change becomes effective. The Contractor shall submit sufficient information to support the proposed action and to enable the Contracting Officer to evaluate the potential impact of the change on this contract. The Contractor shall not remove or replace personnel or facilities until the Contracting Officer approves the change.

The Key Personnel or Facilities under this Contract:

To be completed at Time of Award

(End of clause)

**HSAR 3052.222-70 Strikes or picketing affecting timely completion of the contract work (Dec 2003)**

Notwithstanding any other provision hereof, the Contractor is responsible for delays arising out of labor disputes, including but not limited to strikes, if such strikes are reasonably avoidable. A delay caused by a strike or by picketing which constitutes an unfair labor practice is not excusable unless the Contractor takes all reasonable and appropriate action to end such a strike or picketing, such as the filing of a charge with the National Labor Relations Board, the use of other available Government procedures, and the use of private boards or organizations for the settlement of disputes.

(End of clause)

**HSAR 3052.222-71 Strikes or picketing affecting access to a DHS facility (Dec 2003)**

If the Contracting Officer notifies the Contractor in writing that a strike or picketing: (a) is directed at the Contractor or subcontractor or any employee of either; and (b) impedes or threatens to impede access by any person to a DHS facility where the site of the work is located,

the Contractor shall take all appropriate action to end such strike or picketing, including, if necessary, the filing of a charge of unfair labor practice with the National Labor Relations Board or the use of other available judicial or administrative remedies.

(End of clause)

**HSAR 3052.223-70 Removal or disposal of hazardous substances – applicable licenses and permits (Jun 2006)**

The Contractor shall have all licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services. If the Contractor does not currently possess these documents, it shall obtain all requisite licenses and permits within 30 days after date of award. The Contractor shall provide evidence of said documents to the Contracting Officer or designated Government representative prior to commencement of work under the contract.

(End of clause)

## I.4 Security Requirements for Unclassified Information Technology Resources

**HSAR 3052.204-70 Security Requirements for Unclassified Information Technology Resources (Jun 2006) (available at the order level if applicable)**
**(a)** The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location. This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission.

**(b)** The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract.
(1) Within 60 days after contract award, the Contractor shall submit for approval its IT Security Plan, which shall be consistent with and further detail the approach contained in the offeror's proposal. The plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document.
(2) The Contractor's IT Security Plan shall comply with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.); the Government Information Security Reform Act of 2000; and the Federal Information Security Management Act of 2002; and with Federal policies and procedures that include, but are not limited to, OMB Circular A-130.
(3) The security plan shall specifically include instructions regarding handling and protecting sensitive information at the Contractor's site (including any information stored, processed, or transmitted using the Contractor's computer systems), and the secure management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems.
(c) Examples of tasks that require security provisions include--

(1) Acquisition, transmission or analysis of data owned by DHS with significant replacement cost should the Contractor's copy be corrupted; and
(2) Access to DHS networks or computers at a level beyond that granted the general public (e.g., such as bypassing a firewall).
(d) At the expiration of the contract, the Contractor shall return all sensitive DHS information and IT resources provided to the Contractor during the contract, and certify that all non-public DHS information has been purged from any Contractor-owned system. Components shall conduct reviews to ensure that the security requirements in the contract are implemented and enforced.
(e) Within 6 months after contract award, the Contractor shall submit written proof of IT Security accreditation to DHS for approval by the DHS Contracting Officer. Accreditation will proceed according to the criteria of the DHS Sensitive System Policy Publication, 4300A (Version 2.1, July 26, 2004) or any replacement publication, which the Contracting Officer will provide upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document. The Contractor shall comply with the approved accreditation documentation.

(End of clause)

## I.5 Contractor Employee Access

**HSAR 3052.204-71 Contractor Employee Access. (Sep 2012) (Available at the order level if applicable)**
(a) Sensitive Information, as used in this clause, means any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:
(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, Part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);
(2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, Part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);
(3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.
(b) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.
(c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All Contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.
(d) The Contracting Officer may require the Contractor to prohibit individuals from working on the contract if the Government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.
(e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those Contractor employees authorized access to sensitive information, the Contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.
(f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

(End of clause)

## I.6 Organizational Conflict of Interest

HSAR 3052.209-72 Organizational Conflict of Interest (Jun 2006) (To be completed at the Task Order Level, if applicable).

(a) Determination. The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting. ["contracting officer shall insert description here"]

(b) If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include the appropriate provisions to avoid, neutralize, mitigate, or waive such conflict in the contract awarded. After discussion with the offeror, the Contracting Officer may determine that the actual conflict cannot be avoided, neutralized, mitigated or otherwise resolved to the satisfaction of the Government, and the offeror may be found ineligible for award.

(c) Disclosure: The offeror hereby represents, to the best of its knowledge that:
___ (1) It is not aware of any facts which create any actual or potential organizational conflicts of interest relating to the award of this contract, or
___ (2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this provision.

(d) Mitigation. If an offeror with a potential or actual conflict of interest or unfair competitive advantage believes the conflict can be avoided, neutralized, or mitigated, the offeror shall submit a mitigation plan to the Government for review. Award of a contract where an actual or potential conflict of interest exists shall not occur before Government approval of the mitigation plan. If a mitigation plan is approved, the restrictions of this provision do not apply to the extent defined in the mitigation plan.

(e) Other Relevant Information: In addition to the mitigation plan, the Contracting Officer may require further relevant information from the offeror. The Contracting Officer will use all information submitted by the offeror, and any other relevant information known to DHS, to determine whether an award to the offeror may take place, and whether the mitigation plan adequately neutralizes or mitigates the conflict.

(f) Corporation Change. The successful offeror shall inform the Contracting Officer within thirty (30) calendar days of the effective date of any corporate mergers, acquisitions, and/or divestitures that may affect this provision.

(g) Flow-down. The Contractor shall insert the substance of this clause in each first tier subcontract that exceeds the simplified acquisition threshold.

(End of provision)

HSAR 3052.209-73 Limitation of future contracting (Jun 2006) (To be completed at the Task Order Level, if applicable).

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective offerors is invited to FAR Subpart 9.5--Organizational Conflicts of Interest.

(b) The nature of this conflict is: To be determined at the task order level, if applicable.

(c) The further restrictions upon future contracting are as follows:

(1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing DHS contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to

avoid unfair competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). DHS shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

(2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

(End of clause)

## I.7 Homeland Security Acquisition Regulation (HSAR) Cyber Hygiene Clauses

Information Technology Security and Privacy Training (MAR 2015) (Note: As applicable to each Order)

(a) Applicability. This clause applies to Contractor, its subcontractors, and Contractor employees (hereafter referred to collectively as "Contractor"). Contractor shall insert the substance of this clause in all subcontracts.

(b) Security Training Requirements.

(1) All users of Federal information systems are required by Title 5, Code of Federal Regulations, Part 930.301, Subpart C, as amended, to be exposed to security awareness materials annually or whenever system security changes occur, or when the user's responsibilities change. The Department of Homeland Security (DHS) requires that Contractor employees take an annual Information Technology Security Awareness Training course before accessing sensitive information under the contract. Unless otherwise specified, the training shall be completed within thirty (30) days of contract award and be completed on an annual basis thereafter not later than October 31st of each year. Any new Contractor employees assigned to the contract shall complete the training before accessing sensitive information under the contract. The training is accessible at http://www.dhs.gov/dhs-security-and-training-requirements-contractors. Contractor shall maintain copies of training certificates for all Contractor and subcontractor employees as a record of compliance. Unless otherwise specified, initial training certificates for each Contractor and subcontractor employee shall be provided to the Contracting Officer's Representative (COR) not later than thirty (30) days after contract award. Subsequent training certificates to satisfy the annual training requirement shall be submitted to the COR via e-mail notification not later than October 31st of each year. The e-mail notification shall state the required training has been completed for all Contractor and subcontractor employees.

(2) The DHS Rules of Behavior apply to every DHS employee, Contractor and subcontractor that will have access to DHS systems and sensitive information. The DHS Rules of Behavior shall be signed before accessing DHS systems and sensitive information. The DHS Rules of Behavior is a document that informs users of their responsibilities when accessing DHS systems and holds users accountable

for actions taken while accessing DHS systems and using DHS Information Technology resources capable of inputting, storing, processing, outputting, and/or transmitting sensitive information. The DHS Rules of Behavior is accessible at http://www.dhs.gov/dhs-security-and-training-requirements-contractors. Unless otherwise specified, the DHS Rules of Behavior shall be signed within thirty (30) days of contract award. Any new Contractor employees assigned to the contract shall also sign the DHS Rules of Behavior before accessing DHS systems and sensitive information. Contractor shall maintain signed copies of the DHS Rules of Behavior for all Contractor and subcontractor employees as a record of compliance. Unless otherwise specified, Contractor shall e-mail copies of the signed DHS Rules of Behavior to the COR not later than thirty (30) days after contract award for each employee. The DHS Rules of Behavior will be reviewed annually and the COR will provide notification when a review is required.

(c) Privacy Training Requirements. All Contractor and subcontractor employees that will have access to Personally Identifiable Information (PII) and/or Sensitive PII (SPII) are required to take Privacy at DHS: Protecting Personal Information before accessing PII and/or SPII. The training is accessible at http://www.dhs.gov/dhs-security-and-training-requirements-contractors. Training shall be completed within thirty (30) days of contract award and be completed on an annual basis thereafter not later than October 31st of each year. Any new Contractor employees assigned to the contract shall also complete the training before accessing PII and/or SPII. Contractor shall maintain copies of training certificates for all Contractor and subcontractor employees as a record of compliance. Initial training certificates for each Contractor and subcontractor employee shall be provided to the COR not later than thirty (30) days after contract award. Subsequent training certificates to satisfy the annual training requirement shall be submitted to the COR via e-mail notification not later than October 31st of each year. The e-mail notification shall state the required training has been completed for all Contractor and subcontractor employees.

(End of clause)

Safeguarding of Sensitive Information (MAR 2015) (Note: As applicable to each Order)

(a) Applicability. This clause applies to Contractor, its subcontractors, and Contractor employees (hereafter referred to collectively as "Contractor"). Contractor shall insert the substance of this clause in all subcontracts.

(b) Definitions. As used in this clause—

"Personally Identifiable Information (PII)" means information that can be used to distinguish or trace an individual's identity, such as name, social security number, or biometric records, either alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, or mother's maiden name. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important for an agency to recognize that non-personally identifiable information can become personally identifiable information whenever additional information is made publicly available—in any medium and from any source—that, combined with other available information, could be used to identify an individual.

PII is a subset of sensitive information. Examples of PII include, but are not limited to: name, date of birth, mailing address, telephone number, Social Security number (SSN), email address, zip code, account numbers, certificate/license numbers, vehicle identifiers including license plates, uniform resource locators (URLs), static Internet protocol addresses, biometric identifiers such as fingerprint, voiceprint, iris scan, photographic facial images, or any other unique identifying number or characteristic, and any information where it is reasonably foreseeable that the information will be linked with other information to identify the individual.

"Sensitive Information" is defined in HSAR clause 3052.204-71, Contractor Employee Access, as any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of Title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, Part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, Part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

"Sensitive Information Incident" is an incident that includes the known, potential, or suspected exposure, loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or unauthorized access or attempted access of any Government system, Contractor system, or sensitive information.

"Sensitive Personally Identifiable Information (SPII)" is a subset of PII, which if lost, compromised or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or

unfairness to an individual. Some forms of PII are sensitive as stand-alone elements. Examples of such PII include: Social Security numbers (SSN), driver's license or state identification number, Alien Registration Numbers (A-number), financial account number, and biometric identifiers such as fingerprint, voiceprint, or iris scan. Additional examples include any groupings of information that contain an individual's name or other unique identifier plus one or more of the following elements:

(1) Truncated SSN (such as last 4 digits)
(2) Date of birth (month, day, and year)
(3) Citizenship or immigration status
(4) Ethnic or religious affiliation
(5) Sexual orientation
(6) Criminal History
(7) Medical Information
(8) System authentication information such as mother's maiden name, account passwords or personal identification numbers (PIN)

Other PII may be "sensitive" depending on its context, such as a list of employees and their performance ratings or an unlisted home address or phone number. In contrast, a business card or public telephone directory of agency employees contains PII but is not sensitive.

(c) Authorities. Contractor shall follow all current versions of Government policies and guidance accessible at http://www.dhs.gov/dhs-security-and-training-requirements-contractors, or available upon request from the Contracting Officer, including but not limited to:

(1) DHS Management Directive 11042.1 Safeguarding Sensitive But Unclassified (for Official Use Only) Information
(2) DHS Sensitive Systems Policy Directive 4300A
(3) DHS 4300A Sensitive Systems Handbook and Attachments
(4) DHS Security Authorization Process Guide
(5) DHS Handbook for Safeguarding Sensitive Personally Identifiable Information
(6) DHS Instruction Handbook 121-01-007 Department of Homeland Security Personnel Suitability and Security Program
(7) DHS Information Security Performance Plan (current fiscal year)
(8) DHS Privacy Incident Handling Guidance
(9) Federal Information Processing Standard (FIPS) 140-2 Security Requirements for Cryptographic Modules accessible at: http://csrc.nist.gov/groups/STM/cmvp/standards.html
(10) National Institute of Standards and Technology (NIST) Special Publication 800-53 Security and Privacy Controls for Federal Information Systems and Organizations accessible at http://csrc.nist.gov/publications/PubsSPs.html
(11) NIST Special Publication 800-88 Guidelines for Media Sanitization accessible at http://csrc.nist.gov/publications/PubsSPs.html

(d) Handling of Sensitive Information. Contractor compliance with this clause, as well as the policies and procedures described below, is required.

(1) Department of Homeland Security (DHS) policies and procedures on Contractor personnel security requirements are set forth in various Management Directives (MDs), Directives, and Instructions. MD 11042.1, Safeguarding Sensitive But Unclassified (For Official Use Only) Information describes how Contractors must handle sensitive but unclassified information. DHS uses the term "FOR OFFICIAL USE ONLY" to identify sensitive but unclassified information that is not otherwise categorized by statute or regulation. Examples of sensitive information that are categorized by statute or regulation are PCII, SSI, etc. The DHS Sensitive Systems Policy Directive 4300A and the DHS 4300A Sensitive Systems Handbook provide the policies and procedures on security for Information Technology (IT) resources. The DHS Handbook for Safeguarding Sensitive Personally Identifiable Information provides guidelines to help safeguard SPII in both paper and electronic form. DHS Instruction Handbook 121-01-007 Department of Homeland Security Personnel Suitability and Security Program establishes procedures, program responsibilities, minimum standards, and reporting protocols for the DHS Personnel Suitability and Security Program.

(2) Contractor shall not use or redistribute any sensitive information processed, stored, and/or transmitted by Contractor except as specified in the contract.

(3) All Contractor employees with access to sensitive information shall execute DHS Form 11000-6, Department of Homeland Security Non-Disclosure Agreement (NDA), as a condition of access to such information. Contractor shall maintain signed copies of the NDA for all employees as a record of compliance. Contractor shall provide copies of the signed NDA to the Contracting Officer's Representative (COR) no later than two (2) days after execution of the form.

(4) Contractor's invoicing, billing, and other recordkeeping systems maintained to support financial or other administrative functions shall not maintain SPII. It is acceptable to maintain in these systems the names, titles and contact information for the COR or other Government personnel associated with the administration of the contract, as needed.

(e) Authority to Operate. Contractor shall not input, store, process, output, and/or transmit sensitive information within a Contractor IT system without an Authority to Operate (ATO) signed by the Headquarters or Component CIO, or designee, in consultation with the Headquarters or Component Privacy Officer. Unless otherwise specified in the ATO letter, the ATO is valid for three (3) years. Contractor shall adhere to current Government policies, procedures, and guidance for the Security Authorization (SA) process as defined below.

(1) Complete the Security Authorization process. The SA process shall proceed according to the DHS Sensitive Systems Policy Directive 4300A (Version 11.0, April 30, 2014), or any successor publication, DHS 4300A Sensitive Systems Handbook (Version 9.1, July 24, 2012), or any successor publication, and the Security Authorization Process Guide including templates.

Security Authorization Process Documentation. SA documentation shall be developed using the Government provided Requirements Traceability Matrix and Government security documentation templates. SA documentation consists of the following: Security Plan, Contingency Plan, Contingency Plan Test Results, Configuration Management Plan, Security Assessment Plan, Security Assessment Report, and Authorization to Operate Letter. Additional documents that may be required include a Plan(s) of Action and Milestones and Interconnection Security Agreement(s). During the

development of SA documentation, Contractor shall submit a signed SA package, validated by an independent third party, to the COR for acceptance by the Headquarters or Component CIO, or designee, at least thirty (30) days prior to the date of operation of the IT system. The Government is the final authority on the compliance of the SA package and may limit the number of resubmissions of a modified SA package. Once the ATO has been accepted by the Headquarters or Component CIO, or designee, the Contracting Officer shall incorporate the ATO into the contract as a compliance document. The Government's acceptance of the ATO does not alleviate Contractor's responsibility to ensure the IT system controls are implemented and operating effectively.

(ii) Independent Assessment. Contractors shall have an independent third party validate the security and privacy controls in place for the system(s). The independent third party shall review and analyze the SA package, and report on technical, operational, and management level deficiencies as outlined in NIST Special Publication 800-53 Security and Privacy Controls for Federal Information Systems and Organizations. Contractor shall address all deficiencies before submitting the SA package to the Government for acceptance.

(iii) Support the completion of the Privacy Threshold Analysis (PTA) as needed. As part of the SA process, Contractor may be required to support the Government in the completion of the PTA. The requirement to complete a PTA is triggered by the creation, use, modification, upgrade, or disposition of a Contractor IT system that will store, maintain and use PII, and must be renewed at least every three (3) years. Upon review of the PTA, the DHS Privacy Office determines whether a Privacy Impact Assessment (PIA) and/or Privacy Act System of Records Notice (SORN), or modifications thereto, are required. Contractor shall provide all support necessary to assist the Department in completing the PIA in a timely manner and shall ensure that project management plans and schedules include time for the completion of the PTA, PIA, and SORN (to the extent required) as milestones. Support in this context includes responding timely to requests for information from the Government about the use, access, storage, and maintenance of PII on Contractor's system, and providing timely review of relevant compliance documents for factual accuracy. Information on the DHS privacy compliance process, including PTAs, PIAs, and SORNs, is accessible at http://www.dhs.gov/privacy-compliance.

(2) Renewal of ATO. Unless otherwise specified in the ATO letter, the ATO shall be renewed every three (3) years. Contractor is required to update its SA package as part of the ATO renewal process. Contractor shall update its SA package by one of the following methods: (1) Updating the SA documentation in the DHS automated information assurance tool for acceptance by the Headquarters or Component CIO, or designee, at least 90 days before the ATO expiration date for review and verification of security controls; or (2) Submitting an updated SA package directly to the COR for approval by the Headquarters or Component CIO, or designee, at least 90 days before the ATO expiration date for review and verification of security controls. The 90 day review process is independent of the system production date and therefore it is important that Contractor build the review into project schedules. The reviews may include onsite visits that involve physical or logical inspection of Contractor environment to ensure controls are in place.

(3) Security Review. The Government may elect to conduct random periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. Contractor shall afford DHS, the Office of the Inspector General, and other Government organizations access to

Contractor's facilities, installations, operations, documentation, databases and personnel used in the performance of this contract. Contractor shall, through the Contracting Officer and COR, contact the Headquarters or Component CIO, or designee, to coordinate and participate in review and inspection activity by Government organizations external to the DHS. Access shall be provided, to the extent necessary as determined by the Government, for the Government to carry out a program of inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of Government data or the function of computer systems used in performance of this contract and to preserve evidence of computer crime.

(4) Continuous Monitoring. All Contractor-operated systems that input, store, process, output, and/or transmit sensitive information shall meet or exceed the continuous monitoring requirements identified in the Fiscal Year 2014 DHS Information Security Performance Plan, or successor publication. The plan is updated on an annual basis. Contractor shall also store monthly continuous monitoring data at its location for a period not less than one year from the date the data is created. The data shall be encrypted in accordance with FIPS 140-2 Security Requirements for Cryptographic Modules and shall not be stored on systems that are shared with other commercial or Government entities. The Government may elect to perform continuous monitoring and IT security scanning of Contractor systems from Government tools and infrastructure.

(5) Revocation of ATO. In the event of a sensitive information incident, the Government may suspend or revoke an existing ATO (either in part or in whole). If an ATO is suspended or revoked in accordance with this provision, the Contracting Officer may direct Contractor to take additional security measures to secure sensitive information. These measures may include restricting access to sensitive information on Contractor IT system under this contract. Restricting access may include disconnecting the system processing, storing, or transmitting the sensitive information from the Internet or other networks or applying additional security controls.

(6) Federal Reporting Requirements. Contractors operating information systems on behalf of the Government or operating systems containing sensitive information shall comply with Federal reporting requirements. Annual and quarterly data collection will be coordinated by the Government. Contractors shall provide the COR with requested information within three (3) business days of receipt of the request. Reporting requirements are determined by the Government and are defined in the Fiscal Year 2014 DHS Information Security Performance Plan, or successor publication. Contractor shall provide the Government with all information to fully satisfy Federal reporting requirements for Contractor systems.

(f) Sensitive Information Incident Reporting Requirements.

(1) All known or suspected sensitive information incidents shall be reported to the Headquarters or Component Security Operations Center (SOC) within one hour of discovery in accordance with 4300A Sensitive Systems Handbook Incident Response and Reporting requirements. When notifying the Headquarters or Component SOC, Contractor shall also notify the Contracting Officer, COR, Headquarters or Component Privacy Officer, and US-CERT using the contact information identified in the contract. If the incident is reported by phone or the Contracting Officer's email address is not immediately available, Contractor shall contact the Contracting Officer immediately after reporting the incident to the Headquarters or Component SOC. Contractor shall not include any sensitive

information in the subject or body of any e-mail. To transmit sensitive information, Contractor shall use FIPS 140-2 Security Requirements for Cryptographic Modules compliant encryption methods to protect sensitive information in attachments to email. Passwords shall not be communicated in the same email as the attachment. A sensitive information incident shall not, by itself, be interpreted as evidence that Contractor has failed to provide adequate information security safeguards for sensitive information, or has otherwise failed to meet the requirements of the contract.

(2) If a sensitive information incident involves PII or SPII, in addition to the reporting requirements in 4300A Sensitive Systems Handbook Incident Response and Reporting, Contractors shall also provide as many of the following data elements that are available at the time the incident is reported, with any remaining data elements provided within 24 hours of submission of the initial incident report:

(i) Data Universal Numbering System (DUNS);
(ii) Contract numbers affected unless all contracts by the company are affected;
(iii) Facility CAGE code if the location of the event is different than the prime Contractor location;
(iv) Point of contact (POC) if different than the POC recorded in the System for Award Management (address, position, telephone, email);
(v) Contracting Officer POC (address, telephone, email);
(vi) Contract clearance level;
(vii) Name of subcontractor and CAGE code if this was an incident on a subcontractor network;
(viii) Government programs, platforms or systems involved;
(ix) Location(s) of incident;
(x) Date and time the incident was discovered;
(xi) Server names where sensitive information resided at the time of the incident, both at Contractor and subcontractor level;
(xii) Description of the Government PII and/or SPII contained within the system;
(xiii) Number of people potentially affected and the estimate or actual number of records exposed and/or contained within the system; and
(xiv) Any additional information relevant to the incident.

(g) Sensitive Information Incident Response Requirements.

All determinations related to sensitive information incidents, including response activities, notifications to affected individuals and/or Federal agencies, and related services (e.g., credit monitoring) will be made in writing by the Contracting Officer in consultation with the Headquarters or Component CIO and Headquarters or Component Privacy Officer.

(2) Contractor shall provide full access and cooperation for all activities determined by the Government to be required to ensure an effective incident response, including providing all requested images, log files, and event information to facilitate rapid resolution of sensitive information incidents.

(3) Incident response activities determined to be required by the Government may include, but are not limited to, the following:

(i) Inspections,
(ii) Investigations,

(iii) Forensic reviews, and
(iv) Data analyses and processing.

(4) The Government, at its sole discretion, may obtain the assistance from other Federal agencies and/or third-party firms to aid in incident response activities.

(h) Additional PII and/or SPII Notification Requirements.

(1) Contractor shall have in place procedures and the capability to notify any individual whose PII resided in Contractor IT system at the time of the sensitive information incident not later than 5 business days after being directed to notify individuals, unless otherwise approved by the Contracting Officer. The method and content of any notification by Contractor shall be coordinated with, and subject to prior written approval by the Contracting Officer, in consultation with the Headquarters or Component Privacy Officer, utilizing the DHS Privacy Incident Handling Guidance. Contractor shall not proceed with notification unless the Contracting Officer, in consultation with the Headquarters or Component Privacy Officer, has determined in writing that notification is appropriate.

(2) Subject to Government analysis of the incident and the terms of its instructions to Contractor regarding any resulting notification, the notification method may consist of letters to affected individuals sent by first class mail, electronic means, or general public notice, as approved by the Government. Notification may require Contractor's use of address verification and/or address location services. At a minimum, the notification shall include:

(i) A brief description of the incident;
(ii) A description of the types of PII and SPII involved;
(iii) A statement as to whether the PII or SPII was encrypted or protected by other means;
(iv) Steps individuals may take to protect themselves;
(v) What Contractor and/or the Government are doing to investigate the incident, to mitigate the incident, and to protect against any future incidents; and
(vi) Information identifying who individuals may contact for additional information.

(i) Credit Monitoring Requirements. In the event that a sensitive information incident involves PII or SPII, Contractor may be required to, as directed by the Contracting Officer:

Provide notification to affected individuals as described above; and/or

Provide credit monitoring services to individuals whose data was under the control of Contractor or resided in Contractor IT system at the time of the sensitive information incident for a period beginning the date of the incident and extending not less than 18 months from the date the individual is notified. Credit monitoring services shall be provided from a company with which Contractor has no affiliation. At a minimum, credit monitoring services shall include:

(i) Triple credit bureau monitoring;
(ii) Daily customer service;
(iii) Alerts provided to the individual for changes and fraud; and
(iv) Assistance to the individual with enrollment in the services and the use of fraud alerts; and/or

Establish a dedicated call center. Call center services shall include:

(i) A dedicated telephone number to contact customer service within a fixed period;
(ii) Information necessary for registrants/enrollees to access credit reports and credit scores;
(iii) Weekly reports on call center volume, issue escalation (i.e., those calls that cannot be handled by call center staff and must be resolved by call center management or DHS, as appropriate), and other key metrics;
(iv) Escalation of calls that cannot be handled by call center staff to call center management or DHS, as appropriate;
(v) Customized FAQs, approved in writing by the Contracting Officer in coordination with the Headquarters or Component Chief Privacy Officer; and
(vi) Information for registrants to contact customer service representatives and fraud resolution representatives for credit monitoring assistance.

(j) Certification of Sanitization of Government and Government-Activity-Related Files and Information. As part of contract closeout, Contractor shall submit the certification to the COR and the Contracting Officer following the template provided in NIST Special Publication 800-88 Guidelines for Media Sanitization.

(End of clause)

**(End of Section I)**

# Part III – List of Documents, Exhibits, and Other Attachments

## J List of Attachments

Attachment J-1 Statement of Work
Attachment J-2 Pricing Structure
Attachment J-3 EFiMS Requirements
Attachment J-4 Past performance questionnaire
Attachment J-5 Ordering Guide

**(End of Section J)**

# Part IV – Representations and Instructions

## K Representations, Certifications, and Other Statement of Offerors or Respondents

### K.1 Provisions

**52.204-24** Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019)

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

"Covered telecommunications equipment or services", "Critical technology", and "Substantial or essential component" have the meanings provided in clause52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b)*Prohibition*. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractors are not prohibited from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

(c)*Representation.* The Offeror represents that—

It □ will, □ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(d)*Disclosures.* If the Offeror has responded affirmatively to the representation in paragraph (c) of this provision, the Offeror shall provide the following information as part of the offer

(1) All covered telecommunications equipment and services offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);

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

(3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and

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

(End of provision)

**52.209-2** Prohibition on Contracting with Inverted Domestic Corporations-Representation (Nov 2015)

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

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

(c) *Representation*. The Offeror represents that-

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

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

(End of provision)

**52.209-5 Certification Regarding Responsibility Matters. (Oct 2015)**

(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

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

(B) 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 public (Federal, State, or local) 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 (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are□ are not□ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have□, have not□, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,500 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i)*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.

(ii)*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.

(2) *Examples*.

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

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax

Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

(iv) 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).

(ii) The Offeror has⇐ has not⇐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, 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).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section1001, Title18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

**FAR 52.209-7 Information Regarding Responsibility Matters (Oct 2018)**

(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 proceeding 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 (FAPIIS) 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 which can be accessed via https://www.sam.gov (see 52.204-7).

(End of provision)

**52.212-3 Offeror Representations and Certifications -- Commercial Items (Oct 2018)**
The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through https://www.sam.gov. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (u)) 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—

(6) 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

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

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

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

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

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

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

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

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

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

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

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

(8) PSC 9610, Ores;

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

(10) PSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be

provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.
"Predecessor" means an entity that is replaced by a successor and includes any predecessors of the predecessor.

"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.

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

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

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

(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

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

“Subsidiary” means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

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

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

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

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

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the 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 in SAM.*

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through http://www.sam.gov. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications--Commercial 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), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs __. [Offeror to identify the applicable paragraphs at (c) through (u) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in

this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]

(c) Offerors must complete the following representations when the resulting contract is to 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 that it [_] is, [_] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

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

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

(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.

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

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

_____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) 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--Free Trade Agreements--Israeli Trade Act."

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

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

| LINE ITEM NO. | COUNTRY OF ORIGIN |
|---|---|
| | |
| | |

| | |
|---|---|
| | |

[*List as necessary*]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) or this provision) as defined in the clause of this solicitation entitled "Buy American—Free Trade Agreements—Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *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—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—Free Trade Agreements—Israeli Trade Act":
Canadian End Products:

Line Item No.:

_____

*[List as necessary]*

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

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

Canadian or Israeli End Products:

| Line Item No.: | Country of Origin: |
|---|---|
| | |
| | |
| | |

[*List as necessary*]

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

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

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

| Line Item No.: | Country of Origin: |
|---|---|
| | |
| | |
| | |

[*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 statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

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

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

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

(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 $3,500 for which the liability remains unsatisfied.

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

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a

judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

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

(ii) Examples.

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

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

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

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

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

(1) Listed End Product
(2)

| Listed End Product: | Listed Countries of Origin: |
|---|---|
| | |

| | |
|---|---|
| | |

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

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

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

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

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

(2) [_] Outside the United States.

(k) Certificates regarding exemptions from the application of the Service Contract Labor Standards. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

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

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

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

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

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

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

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));
(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

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

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

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

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

(l) *Taxpayer identification number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701)*. (Not applicable if the offeror is required to provide this information to 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) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a

subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(2) *Representation*. The offeror represents that—

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

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

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) Representation and Certification. 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 $3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50(U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx).

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

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

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

(p) *Ownership or Control of Offeror*. (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation.

(1) The Offeror represents that it [ ] has or [ ] does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates "has" in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code:_____

Immediate owner legal name:_____

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

Is the immediate owner owned or controlled by another entity:

[ ] Yes or [ ] No.

(3) If the Offeror indicates "yes" in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest level owner CAGE code:_____

Highest level owner legal name:_____

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

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

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

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

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

(2) The Offeror represents that--

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

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

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

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

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

Predecessor CAGE code _____(or mark "Unknown).

Predecessor legal name: _____.

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

(s) Reserved.

(t) Public Disclosure of Greenhouse Gas Emissions and Reduction Goals. Applies in all solicitations that require offerors to register in SAM (52.212-1(k)).

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

(2) Representation. [*Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)*].

(i) The Offeror (itself or through its immediate owner or highest-level owner) [ ] does, [ ] does not publicly disclose greenhouse gas emissions, i.e., makes

available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

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

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

(3) If the Offeror checked ``does'' in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported:_____.

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

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

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

(End of Provision)

**(End of Section K)**

# L Instructions, Conditions, and Notices to Offerors or Respondents

## L.1 Provision

**FAR 52.216-1 Type of Contract (Apr 1984)**

The Government contemplates award of multiple Indefinite-Delivery Indefinite-Quantity contracts resulting from this solicitation.

(End of Provision)

**FAR 52.233-2 Service of Protest (Sep 2006)**

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

Attention: David Ritter
Address:
245 Murray Lane SW
Mailstop MS0100
Washington DC 20528
Via email: EFiMS-SW@hq.dhs.gov

(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)

## L.2 Provisions Incorporated by Reference

**FAR 52.252-1 Solicitation Provisions Incorporated by Reference (Feb 1998)**

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

- FAR 52.204-7 System for Award Management (Oct 2018)

- FAR 52.204-16 Commercial and Government Entity Code Reporting (Jul 2016)
- FAR 52.207-6 Solicitation of Offers From Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts) (Oct 2016)
- FAR 52.212-1 Instructions to Offerors -- Commercial Items (Oct 2018)
- FAR 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Mar 2015)
- FAR 52.237-1 Site Visit (Apr 1984)

(End of Provision)

## L.3 Proposal Schedule

Proposals (in their entirety) are due **Tuesday November 26, 2019, @ 2:00 p.m. EST to the address in RFP Section L.5.**

## L.4 Communications and Questions

Communications and questions concerning this solicitation or requests for clarification shall be made in writing to the CO.

The due date for communications and questions concerning the **RFP is NO LATER THAN 2:00 P.M. Eastern Time on November 8, 2019.**

As soon as an Offeror is aware of any problems or ambiguities in interpreting the specifications, terms or conditions, instructions or evaluation criteria of this solicitation, the CO shall be notified.

Electronic submission of questions and comments shall be submitted via the EFiMS mailbox at EFiMS-SW@hq.dhs.gov. Electronic mail attachments, if included, shall be prepared using Microsoft Office.

When submitting questions and comments via email to the address listed above, use the below format and please refer to the specific text of the RFP.

Email Subject Line: RFP No. 70RTAC20R00000001
For each question: Reference - RFP Section , Paragraph(s) , Page(s) .

The Government intends to answer as many questions as practicable by posting on www.fbo.gov. No questions will be attributed to the respective Offerors.

## L.5 Delivery of Proposal

(1) The proposal (in its entirety) shall be delivered to the email address designated in the paragraph (a) below.

(a) EFiMS-SW@hq.dhs.gov

(b) DHS Solicitation Number: 70RTAC20R00000001.

## L.6 Solicitation Copies and Enclosures

An electronic copy of the solicitation and related documents will be available for download via Internet at: www.fbo.gov

## L.7 Proposal Preparation Costs

This RFP does not commit the Government to pay any cost for the preparation and submission of a proposal in response to this RFP. The CO is the only individual who can legally commit the Government to the expenditure of public funds in connection with this procurement.

## L.8 General Instructions

Offerors shall examine and follow all instructions. Failure to do so will be at the Offeror's own risk. Proposals shall be prepared in accordance with this section. To aid in the evaluations, proposals shall be clearly and concisely written as well as neat, indexed (cross-indexed as appropriate) and logically assembled. Prospective Offerors are asked to bear in mind that all material submitted should be directly pertinent to the requirements of this RFP. Extraneous narratives, elaborate brochures, uninformative "PR" material and so forth, shall not be submitted. All pages of each part shall be appropriately numbered, and identified with the name of the Offeror, the date, and the solicitation number to the extent practicable.

DHS anticipates the establishment of two IDIQ contracts from this solicitation. However, DHS reserves the right to increase the number of IDIQ awards based upon the results of the evaluation.

### L.8.1 Proposal Integrity

In responding to this RFP, it is the Offeror’s responsibility to provide current, complete and accurate information in their proposal. If in reviewing the proposal the Government identifies or otherwise learns that the provided proposal information is not accurate or misrepresents the Offeror’s status or capabilities, that information may be used by the CO as part of the Offeror’s responsibility determination and could result in the Offeror not being eligible for award.

### L.8.2 General Format Instructions

Offerors shall furnish the proposal in two (2) separate volumes, Volume I: Technical/ Management Proposal; and Volume II: Price Proposal. Each volume shall be complete in itself in order that evaluation of one volume may be accomplished independently of, and concurrently with, evaluation of the other. **Electronic copies must be provided in PDF format, with the exception of the Pricing Structure (Attachment J-2) and the Requirements Matrix (Attachment J-3), which must both be provided in MS Excel.** Electronic copies shall be provided as specified in the Proposal

Organization Table below. Electronic files shall be named as specified throughout the *Instructions to Offerors*. Individual file sizes shall not exceed 5 MB. It is the Offeror's responsibility to ensure email submissions of its proposal are submitted compliantly, and are cautioned that each individual email may not be accepted by the Government's systems if an email exceeds 5 MB.

Offers submitted in response to this solicitation shall be in the English language and in terms of U.S. dollars. The font (typewritten or printed letters) shall be 12-point Times New Roman (with the exception of pre-printed product literature). No reduction in font size is permitted except for headers, footers, organization charts or other graphic illustrations. In those instances where reduction is allowable, Offerors shall ensure that the print is easily readable; no less than 8-point font on graphic illustrations and 10-point font on tables, headers and footers; Arial font is acceptable for charts or other graphic illustrations. Each page shall have adequate margins on each side (at least one inch) of the page. Header/footer information (which does not include any information to be evaluated) may be included in the 1" margin space. Offerors' proposals shall not exceed the page limitations set forth below. Pages that exceed the maximum page limitation will not be evaluated.

### L.8.3 Subcontracting

Companies may be proposed as a subcontractor, at any tier, on multiple offers received under this solicitation.

## L.9 Alternate Proposals

Alternate proposals will be considered only to the extent they satisfy the requirements in the statement of work.

## L.10 Background and Submission Requirements

The Department of Homeland Security, Joint Program Management Office Financial Systems Modernization (JPMO FSM) has a requirement for Enterprise Financial Management Software (EFiMS), in accordance with the attached SOW. This requirement is broadly broken up into three areas: Financial, Procurement, and Asset Management support.

Interested firms are required to submit a Technical and Price Proposal Submission. The proposals will be provided to Government officials for the purposes of assuring that the prospective contractor has a complete understanding of the scope of this effort and has the capability to complete all required tasks of the Statement of Work (SOW). A pricing response must be provided for all tasks associated within each Area as requested with the Pricing Structure - pricing attachment (Attachment J-2).

1. **SUBMISSION REQUIREMENTS:**

All submissions shall be submitted electronically via email on or before the RFP closing date as stated above.

### A. Format for Submission

| Volume 1: Technical Proposal | Volume 2: Price Proposal |
|---|---|
| **Cover Sheet** | **Cover Sheet** |
| **Technical Assumptions** | **Price Assumptions** |
| **Technical Proposal:**<br>Factor 1: Experience<br>Factor 2: Functional Capability<br>Factor 3: License Terms and Conditions and Security ***Overview***<br>Factor 4: Past Performance<br>Factor 5 (optional): Site-Visit and Product Demonstration | **Price Proposal:**<br>Factor 6: Price Proposal |

| Proposal Submission | Page Limit |
|---|---|
| Volume 1 – Technical Proposal | |
| Cover Sheet | 2 Pages |
| Technical Assumptions | 5 Pages |
| Factor 1: Experience | 10 Pages |
| Factor 2: Functional Capability (Attachment J-3 - EFiMS Requirements)* | N/A |
| Factor 2: Functional Capability Narratives | 18 Pages |
| Factor 3: License Terms and Conditions and Security ***Overview*** | No Page Limit |
| Factor 4: Past Performance | 6 Pages |
| Factor 5 (optional): Site-Visit and Product Demonstration | N/A |
| Volume 2 – Price Proposal | |
| Cover Sheet | 2 Pages |
| Price Assumptions | 5 Pages |
| Factor 6: Price Proposal | N/A |

### B. Proposal Areas

This requirement is broadly broken up into three areas: Financial, Procurement, and Asset Management support. Attachment J-1 SOW and Attachment J-2 Pricing Structure, define what is required under each area.

Offerors must submit a response that covers all areas in the SOW and the Pricing Structure. The proposal must clearly indicate the SOW area that is covered in each section. Proposals that fail to state for which area they are being submitted may be removed from consideration or may be evaluated by the Government based upon the area that features most predominantly in the proposal.

## 2. REQUIRED COMPONENTS OF EACH VOLUME:

### Volume 1 – Technical Proposal

### Cover Sheet

This section shall include a cover sheet. This cover sheet shall only include the information listed below:

A. Name of Offeror
B. Address
C. City, State, Zip code
D. Data Universal Numbering System (DUNS) Number
E. Taxpayer Identification Number (TIN)
F. Points of Contact (Primary & Alternate) for both Technical and Pricing Submissions
G. Telephone Number
H. Electronic Mail Address
I. Solicitation/Proposal number
J. Date of Proposal
K. Small Business Representations made by the Vendor
L. Prompt Payment Terms
M. A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item
N. Names and contact information of persons authorized to negotiate on the vendor's behalf with the Government in connection with this solicitation
O. Program Manager: Identify the name of a Program Manager, at no cost the Government, who is responsible for comprehensive account support and will act as the central point of contact with the Government for all IDIQ-level issues.
P. Name, title, and signature of person authorized to sign the proposal.

Factor 1: Experience

Offerors shall demonstrate that the software proposed has been implemented in an agency similar to DHS, i.e., the agency has a federated (i.e., an agency that has units or components with some level of autonomy) environment and that it is a FAR based and/or Chief Financial Officers (CFO) Act agency.

The Offeror shall provide sufficient information for the Government to evaluate its level of confidence, regarding the Offeror's experience as it aligns to the requirements of the RFP, based on an assessment of Offeror's response to the questions below:

| # | **Question** | **Answer** |
|---|---|---|
| 1 | How has your software product been used by other federal agencies to provide integrated financial, procurement, and asset management functionality that minimizes the need for customizations and manual workarounds? | |
| 2 | How has your software product been used by other federal agencies to support financial reporting? | |
| 3 | How has your software product been used by other federal agencies to detect and resolve issues regarding internal controls and security while being adaptable to address future risks? | |
| 4 | How has your software product been used by other federal agencies to address emerging requirements, including new federal mandates? | |

Factor 2: Functional Capability

Offerors shall state the name of its proposed COTS software solution and demonstrate that the currently available software proposed meets or exceeds all functional requirements of Attachment J-3 EFiMS Requirements. When completing the requirements attachment, the following standards should be used:

- **Ability to Meet** – Yes if the software is able to meet the requirement. Otherwise, No.
- **If Meets Requirement = Yes (Select one of the following options)**
  - **Meets Out of Box** – Yes if the software meets the requirement without any configuration, extension, or enhancement.
  - **Meets with Configuration** – Yes if the software meets the requirement with some user Contractor configuration (as defined in the SOW - typically establishing configurable features of the out of the box software product through administration or settings), which the Contractor will include as part of any order requiring configuration.
  - **Meets with Extension** – Yes if the software meets the requirement by leveraging built-in extensions which the Contractor will provide as part of any solution. For purposes of this question, extension does not include customization or enhancement. Extension includes leveraging built-in flexibility in the software for additional modules, plug-ins, or other products that may exist for adding things such as workflows, user extensions, reports, or forms. These extensions leverage available features of the out of the box COTS ERP product.
  - **Meets with Enhancement** – Yes if the software is expected to meet the requirement with a future COTS ERP enhancement that will be provided at the Contractor's expense within six months from the date of its proposal submission. For purposes of this question, enhancement includes future functionality that will be incorporated into the COTS ERP product baseline and made available to all customers at no incremental cost. Maintenance and support of the enhancement will be covered in the same way as all other license products and not include any incremental cost for this future functionality.

Offerors shall demonstrate that the software is capable of supporting a large user load (target of 6,500 users or more).

Offerors shall demonstrate that the software is capable of allowing the government to move to a Software-as-a-Service (SaaS) offering and capable of obtaining a DHS Authority to Operate (ATO) within the applicable environment (cloud or DHS data center).

Vendors must either (i) demonstrate that they have a documented plan to migrate existing software to SaaS or (ii) meet one of the following three FedRAMP requirements: (a) Provisional Authority to Operate (P-ATO), (b) Agency Authority to Operate (ATO), or (c) FedRamp Ready. The proposed software must be configurable to support the ability to obtain an Authority to Operate (ATO).

**Narratives**

Offerors shall also provide a narrative for each business process area that describes how the currently available software satisfies the functional capabilities. This narrative is limited to three pages per business process area and must reference the proposed software product(s) that will meet the business requirements. All nine of the business processes from Attachment D of the SOW should be addressed.

Factor 3: License Terms & Conditions and Security ***Overview***

The Offerors shall provide an overview of its proposed services and software license terms and conditions, including:

- The License Name
- The License Description
- What the License supports (functions/technology)
- Licensing Metrics – Application User, Unlimited License, Perpetual, Server, Processor, service etc.
- Technology/Business Solution
- Functionality – Full, Read Only, Limited, unlimited license agreement (ULA), etc.
- License cost structure (pricing shall not be provided in this volume) – Initial cost per license, yearly maintenance cost, etc.

The Offeror shall also provide information on the following transfer requirements:

- The ability to transfer licenses between users
- Unlimited user license agreements
- Allow perpetual per current user licenses
- Upgrade current licenses to the latest version
- Allow usage of licenses for software testing and development
- Transfer of purchased licenses toward a subscription-based model
- Licenses purchased by any DHS Component shall be transferable to DHS HQ and other DHS Components
- Flexibility to transfer software between data centers at no additional cost to support disaster recovery and other activities
- Flexibility to transfer licenses from DHS to a cloud environment
- Flexibility to transfer licenses from DHS to the Quality Service Management Office (QSMO) for financial management.

The Offeror shall also provide how the software meets the requirements of SOW Section 5.2.1, Security.

Factor 4: Past Performance

Offerors shall provide up to three (3) relevant past performance references. At least one (1) of these references shall be for an experience utilized by the offeror in its Factor 1 – Experience submission. Past performance efforts shall be either on-going or successfully completed within the last three years. Relevant is defined as work similar in size, scope and complexity to the work identified in the solicitation. Offerors shall submit these references utilizing Attachment J-4 Past Performance Questionnaire (PPQ).

Each reference shall include, at a minimum: 1) when the experience took place, 2) the name of the federal agency, 3) the contract number, 4) task order number (if applicable) 5) the dollar value.

Factor 5 (Optional): Site-visit and Product Demonstration

The Government may conduct a site-visit to see a demonstration of the offeror's product. The product must be the same version and product proposed under the solicitation. This demonstration may occur at another federal agency, at the offeror's location or a DHS site. DHS will coordinate directly with other federal agencies on any site visits.

The demonstration may take place at any time after receipt of proposals. Further information will be provided to each offeror considered to be included for this optional factor. DHS will invite a representative from the Offeror (s) to attend any demonstration it conducts. The Government will coordinate with all relevant parties to ensure the Offeror has an opportunity to attend the demonstration, however it will not unduly delay its schedule if the Offeror is unavailable to attend the initial demonstration that is scheduled.

Each demonstration shall last no longer than 3 hours. It is the Government's discretion if the demonstration is complete prior to the 3-hour limit. Upon conclusion of the demonstration, the Government and Offeror personnel may have an additional hour (60 minutes) to ask and answer any remaining questions as an interactive dialogue.

If the Government decides to utilize factor 5, then all offerors will be invited to participate under this factor. However, if a competitive range is established, only those offerors included within the competitive range will be invited to participate under this factor.

**Exchanges during Demonstrations:** The Government intends for the demonstration to be an interactive dialogue between the Offeror and the Government. The exchanges will be designed to allow the government to gain a better understanding of the product's functionality. The exchanges will not be an opportunity for the offeror to submit a revised proposal.

**NOTE**: The Government may ask unstructured questions during the demonstration. It is the discretion of the Offeror to accommodate such requests. The Government may ask questions during the site visit and demo which may be used in the evaluation of Factor 5. The overall site-visit, product

demonstration, and Offeror's response to questions are included in the evaluation of Factor 5. It is not required that the Government ask questions, in the event it does not have any questions.

**Technical Assumptions:**

**Assumptions** – The Government understands that an Offeror must make certain assumptions in order to complete its proposal. Those assumptions are and forever remain the responsibility of the offeror. The Offeror must indicate, in this section only, if it has made any technical related assumptions, stipulations, or exceptions to the Statement of Work which might affect its ability to successfully complete the contract during post-award performance. If not noted in this Volume and this section of the proposal, it will be assumed that the vendor's proposal reflects no technical assumptions for award and the vendor promises to comply with all of the terms and conditions set forth herein. It is not the responsibility of the Government to seek out and identify assumptions, conditions, or exceptions buried within the vendor's proposal. Accordingly, any technical related assumptions listed in any other volume or section shall be without effect.

Any exceptions taken to the terms and conditions of the RFP shall be stated in this Section. The vendor is advised that any exception taken to the terms and conditions of the RFP may adversely impact its evaluation rating. Any assumptions or exceptions that are considered unacceptable by the Government and cannot be resolved may result in the offeror being removed from consideration.

The technical assumptions are not an independently evaluated component or factor and will not be assessed its own confidence assessment; however, as these assumptions relate to or touch on another separately listed factor or information provided in a factor, they may inform the confidence assessment of those factor(s).

**Volume 2 – Business**

**Cover Sheet:**

This section shall include a cover sheet. This cover sheet shall only include the information listed below:

A. Name of Vendor
B. Address
C. City, State, Zip code
D. Data Universal Numbering System (DUNS) Number
E. Taxpayer Identification Number (TIN)
F. Points of Contact (Primary & Alternate) for both Technical and Pricing Submissions
G. Telephone Number
H. Electronic Mail Address
I. Solicitation/Proposal number
J. Date of Proposal
K. Small Business Representations made by the Vendor
L. Prompt Payment Terms

M. A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item

N. Names and contact information of persons authorized to negotiate on the vendor's behalf with the Government in connection with this solicitation

O. Name, title, and signature of person authorized to sign the proposal.

**Price Assumptions:** Firms shall indicate, in this section only, if any pricing related assumptions have been made, conditions have been stipulated or exceptions have been taken with this RFP or the Statement of Work as written. If assumptions are not noted in this section of the proposal, it will be assumed that the firm's proposal reflects no assumptions for award and the firm agrees to comply with all of the terms and conditions set forth herein. It is not the responsibility of the Government to seek out and identify assumptions, conditions, or exceptions buried within the firm's proposal. **Accordingly, any pricing related assumptions listed in any other volume or section shall be ignored by the Government.**

Any assumptions that are considered unacceptable by the Government and cannot be resolved may result in the firm being removed from consideration.

Failure to use the attached EFiMS Pricing Structure (Attachment J-2) and submit it as an Excel Spreadsheet will result in the firm being removed from consideration for award.

**Software Terms and Conditions:**

Offerors shall provide a copy of the proposed service and software complete license terms and conditions.

**Factor 6: Price Proposal (Attachment J-2 Pricing Structure)**

Offerors shall complete Attachment J-2, EFiMS Pricing Structure, including all applicable worksheets within the Attachment. Offerors must complete at least one or both of the COTS tabs (Tab *2* - COTS Perpetual, Tab *3* - COTS Subscription) based upon the COTS licenses proposed to the Government. Tabs *4* (SaaS), *5* (Services), and *7* (Pricing Scenario) must all be completed. Vendors shall list their commercial rate and the discounted rate being proposed for each software area being proposed (Financial, Procurement, and Asset Management).

Under the Services Tab *5* in the spreadsheet, the contractor shall propose fully-burdened Government rates for work performed at Government site and fully-burdened Contractor site rates for work performed at Contractor site.

**Failure to use the Excel template (Attachment J-2) as provided, adding columns or manipulating the Excel sheet other than to provide information in the areas specifically designated for Vendor import will be viewed as unacceptable and the offeror will be removed from consideration for award.**

*****Non-compliant proposals may be removed from consideration for award*****

**(End of Section L)**

# M Evaluation Factors for Award

## M.1 Provisions

**Evaluation of Non-Price Factors:**

The evaluation of each non-price Factor will be done holistically with a rating scale of "*high confidence,"* "*some confidence,*" and "*low confidence*," representing the Government's confidence that the Offeror understands the requirement and will be successful in performing the work.

**Definitions:**

 **High Confidence**- The Government has high confidence that the Offeror can satisfy the requirement with little or no Government intervention.

 **Some Confidence**- The Government has some confidence that the Offeror can satisfy the requirement with some Government intervention.

 **Low Confidence** – The Government has low confidence that the Offeror can satisfy the requirement even with Government intervention.

Basis for Award:

Award will be made to the offeror(s) whose proposal is determined to represent the best value, price and non-price factors considered. Best Value is defined as the expected outcome of an acquisition that in the Government's estimation provides the greatest overall benefit in response to the requirement. This may result in an award to higher evaluated priced Offeror when a technical proposal represents the Best Value to the Government. However, the Government will not make an award at a significantly higher overall cost to the Government to achieve only slightly superior technical capability.

The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

The following factors shall be used to evaluate offers:

Factor 1: Experience
The Government will assess its confidence that the Offeror will be successful in performing the requirement based on the information submitted.

Factor 2: Functional Capability
The Government will assess its confidence that the Offeror will be successful in performing the requirement based on its completed Attachment J-3 and business process narratives, which demonstrate that the currently available software proposed meets or exceeds all functional requirements.

The Government will assess its confidence that the Offeror will be successful of supporting a large user load.

The Government will assess its confidence on whether the software proposed is able to allow the government to move to a Software-as-a-Service (SaaS) offering and the degree to which is it capable of obtaining a DHS ATO within the applicable environment (cloud or DHS data Center).

Factor 3: License Terms and Conditions Overview
The Government will assess its confidence that the Offeror will be successful in performing the requirement based on the degree to which the proposed services and software complete license terms and conditions are favorable to the Government and comply with Federal law.

Factor 4: Past Performance
The Government will assess its confidence that the offeror will be successful in performing the requirement based on the up to three (3) past performance references, to also consider whether the efforts are similar in size and scope and whether they are on-going or were completed within the last three years.

The Government reserves the right to review any information contained with the Contractor Performance Assessment Reporting System (CPARS) or any other Government source. The Government also may contact provided reference points of contact. Any of these sources may contain information that informs the Government's confidence assessment for this factor.

Factor 5 (Optional): Site Visit Demonstration and Product demonstration
The government will assess the offerors product through a demonstration. The assessment will include the functionality of the product and offerors the response to any government questions. This is an optional factor that maybe evaluated within the sole discretion of the government. If the government does not utilize optional factor 5 then the factor will not be included as a part of the evaluation.

If the Government decides to utilize factor 5, then all offerors will be invited to participate under this factor. However, if a competitive range is established, only those offerors included within the competitive range will be invited to participate under this factor.

Factor 6: Price

The Government will evaluate the commercial price and the discounted price. The Government will evaluate the Price Scenario to determine a Total Evaluated Price.

Factors 1 and 2 are of equal importance and more important than factors 3, 4 and 5 (if factor 5 is utilized by the Government), which are in descending order of importance. All the technical factors when combined are significantly more important than price (Factor 6).

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)

**(End of Section M)**