7-27-2023

2:30 PM CST

PAGE 1 OF

1. REQUISITION NO.

2. CONTRACT NO.

3. AWARD/EFFECTIVE DATE

4. ORDER NO.

5. SOLICITATION NUMBER

6. SOLICITATION ISSUE DATE

a. NAME

b. TELEPHONE NO. (No Collect Calls)

8. OFFER DUE DATE/LOCAL

TIME

9. ISSUED BY

CODE

10. THIS ACQUISITION IS

UNRESTRICTED OR

SET ASIDE:

% FOR:

SMALL BUSINESS

HUBZONE SMALL

BUSINESS

SERVICE-DISABLED

VETERAN-OWNED

SMALL BUSINESS

WOMEN-OWNED SMALL BUSINESS

(WOSB) ELIGIBLE UNDER THE WOMEN-OWNED

SMALL BUSINESS PROGRAM

EDWOSB

8(A)

NAICS:

SIZE STANDARD:

11. DELIVERY FOR FOB DESTINA-

TION UNLESS BLOCK IS

MARKED

SEE SCHEDULE

12. DISCOUNT TERMS

13a. THIS CONTRACT IS A

RATED ORDER UNDER

DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION

RFQ

IFB

RFP

15. DELIVER TO

CODE

16. ADMINISTERED BY

CODE

17a. CONTRACTOR/OFFEROR

CODE

FACILITY CODE

18a. PAYMENT WILL BE MADE BY

CODE

TELEPHONE NO.

UEI:

EFT:

PHONE:

FAX:

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

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

SEE ADDENDUM

19.

20.

21.

22.

23.

24.

ITEM NO.

SCHEDULE OF SUPPLIES/SERVICES

QUANTITY

UNIT

UNIT PRICE

AMOUNT

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

25. ACCOUNTING AND APPROPRIATION DATA

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

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

ARE

ARE NOT ATTACHED.

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

ARE

ARE NOT ATTACHED

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

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

COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND

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

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

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

ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR

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

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

30c. DATE SIGNED

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

31c. DATE SIGNED

AUTHORIZED FOR LOCAL REPRODUCTION

(REV. NOV 2021)

PREVIOUS EDITION IS NOT USABLE

Prescribed by GSA - FAR (48 CFR) 53.212

7. FOR SOLICITATION

INFORMATION CALL:

STANDARD FORM 1449

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

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

86

36E79723R0021

7-13-2023

Kenneth Lay Kenneth.Lay@va.gov

708.786.4879

Department of Veterans Affairs

OPAL / National Acquisition Center

Building 37, NCS (003B6C3)

1st Avenue, One Block North of Cermak

Hines IL 60141

X

Y

325412

1250 Employees

N/A

N/A

X

VA & DoD Pharmaceutical Prime Vendors

Refer to Attachments A & B, located in

Section D.

Department of Veterans Affairs

OPAL / National Acquisition Center

Building 37, NCS (003B6C3)

1st Avenue, One Block North of Cermak

Hines IL 60141

VA & DoD Pharmaceutical Prime Vendors

Refer to Attachments A & B, located in

Section D.

See CONTINUATION Page

Donepezil Tablets

One award will be made in the aggregate for line items:

1,2,3,4,5 and 6

To be considered for award, offerors must submit a price

for the base year and all four one-year options for all

line items.

Prices offered shall not exceed two decimal places.

Offered prices must include the Cost Recovery Fee of 0.5%,

as outlined in Scope of Contract. Offerors must list an 11

digit National Drug Code (NDC) number for each offered drug that is unique to the

Offeror's company as outlined in scope of contract. If the

offeror is a distributor, the NDC number must be unique

to the distributor.

See CONTINUATION Page

X

X

1 scan

|  |
| --- |
|  |
|  |
| **Continuation of SF-1449, Block 3:**  **The following information shall be entered by the Contracting Officer at the time of contract award according to the timeframes specified in this solicitation’s Section B, Scope of Contract, Section 1.4** **Contract Effective Date, Implementation Period, and Ordering Period.**  Contract Award/Effective Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Implementation Period: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Ordering Period (Base Year): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Offerors shall not enter information into the above fields.**  **Continuation of SF-1449, Blocks 19 through 24:**  **Line items 1, 2, 4 and 5 are unit of use.** All unit-of-use packaging identified in the Schedule of Supplies (i.e., 30s, 90s) shall contain a safety-cap capable of having the outer part of the cap deshelled and/or a convertible cap to produce a non-safety cap and a bottle with a minimum required size of 120cc volume. The safety cap must not exceed the diameter of the bottle. The bottle must have a cylindrical body and minimum of 5.75” circumference. The bottle must fit a label with a dimension of 5.25” x 2”. The 0.5” additional space is required to keep the bar code exposed and/or allow for the display of the expiration date and lot number  To be considered for award, offerors must submit a price for line items 1, 2, 3, 4, 5 and 6 for the base year and all four option years. One award will be made in the aggregate for line items 1, 2, 3, 4, 5 and 6 for the base years and all four option years. Offered prices shall not exceed two decimal places.  Note: NDC is defined as National Drug Code. ANDA is defined as Abbreviated New Drug Application. |
| |  | | --- | | Line Item 1  DONEPEZIL HCL 10MG TAB, 30s (Unit of Use)  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Schedule of Supplies Quantity Unit Unit Price Amount**  Base Year 21,749 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 21,749 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 21,749 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 21,749 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 21,749 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_ | | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Line Item 2  DONEPEZIL HCL 10MG TAB, 90s (Unit of Use)  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Schedule of Supplies Quantity Unit Unit Price Amount**  Base Year 86,432 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 86,432 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 86,432 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 86,432 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 86,432 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_ | | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Line Item 3  DONEPEZIL HCL 10MG TAB, 1000s  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    **Schedule of Supplies Quantity Unit Unit Price Amount**  Base Year 11,518 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 11,518 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 11,518 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 11,518 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 11,518 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Line Item 4  DONEPEZIL HCL 5MG TAB, 30s (Unit of Use)  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    **Schedule of Supplies Quantity Unit Unit Price Amount**  Base Year 36,472 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 36,472 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 36,472 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 36,472 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 36,472 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Line Item 5  DONEPEZIL HCL 5MG TAB, 90s (Unit of Use)  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Schedule of Supplies Quantity Unit Unit Price Amount  Base Year 19,604 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 19,604 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 19,604 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 19,604 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 19,604 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Line Item 6  DONEPEZIL HCL 5MG TAB, 1000s  NDC # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  ANDA#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Schedule of Supplies Quantity Unit Unit Price Amount  Base Year 3,580 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year One 3,580 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Two 3,580 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Three 3,580 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_  Option Year Four 3,580 Bottles $\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_ | |

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# SECTION B - CONTINUATION OF SF 1449 BLOCKS

## CONTINUATION OF STANDARD FORM 1449: SCHEDULE OF SUPPLIES/SERVICES

Please be advised the following are included in the solicitation and are highlighted here.

Proposals will be accepted in Microsoft Word or PDF form via e-mail at Kenneth.Lay@va.gov with a scanned (pdf) copy of the signed SF-1449. Please note that faxed proposals are not acceptable and will be rejected. Please note, zip files and folders are rejected by Department of Veterans Affairs (VA) National Acquisition Center (NAC) servers, and emails with large attachments may not be received. VA suggests that offerors submit their proposals well before the deadline and confirm receipt of all attachments with the Contracting Officer listed on the SF-1449. Reference Federal Acquisition Regulation (FAR) 52.212-1(f) regarding timeliness of submission of offers.

If the offeror is not the manufacturer of the offered items, the offeror shall submit a Letter of Commitment from the manufacturer to the offeror which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period. “Manufacturer” is defined as the entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of active and inactive ingredients to form drug products, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. This process includes the measuring, mixing, weighing, and compounding both the active and inactive ingredients. The product is then converted into various drug forms, suitable for administration through tablets, capsules, liquids (in the form of solutions, suspensions, emulsions, gels, or injectables), creams, ointments, or aerosols. An acceptable Letter of Commitment is required from all distributor-offerors to be eligible for award. The offeror must maintain the same manufacturer (New Drug Application [NDA]/Abbreviated New Drug Application [ANDA]/Biologics License Application [BLA]) for the duration of the contract period, unless the Contracting Officer makes a determination that a change in the manufacturer is acceptable. This determination may take place before or after contract award. If the offeror is not a manufacturer, to be eligible for award, offerors must submit a Letter of Commitment that meets all requirements stated in the Addendum to FAR 52.212-1 INSTRUCTIONS TO OFFERORS-COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES.

One award will be made in the aggregate for all line items for the base year, including all four option years. To be considered for award, offerors must propose a price for line 1,2,3,4,5 and 6 for the base year and each option year. Proposals that fail to include a price for the base year and each of the four option years for line item 1,2,3,4,5 and 6 may be rejected and receive no further consideration.

*(Refer to Schedule of Supplies for package size details and estimates)*

Offered prices shall include a 0.50% Cost Recovery Fee (See Scope of Contract, Section 12).

The Government will evaluate offers in accordance with the policies and procedures of the FAR Part 12, Part 15, and Part 25.

Acknowledgement of Amendments. The following amendments are acknowledged as part of this solicitation. *(Please complete if applicable)*

|  |  |
| --- | --- |
| Amendment Number | Date Acknowledged by Offeror |
|  |  |
|  |  |

The System for Award Management (SAM) is the Official U.S. Government system for registering to do business with the federal government, completing company representations and certifications, listing contract opportunities, and more. Contractors should go to [www.sam.gov](http://www.sam.gov) to find their information. Training tools are available on the SAM website for familiarization with the SAM system. Prospective contractors shall maintain a current and accurate record in the SAM database. SAM updates are required, as necessary, but at least annually.

Subcontracting Plan Requirements: Pursuant to the requirements of 15 U.S.C. § 644, all large business concerns are required to have an approved subcontracting plan for contracts valued over $750,000 before the Government can award a contract (see FAR 52.219-9 and VAAR 852.219-70 for details). Offerors must submit a currently approved commercial plan or a new plan for review and approval. Attachment “D” includes all of the elements required to be addressed and is included to facilitate the submission of a subcontracting plan.

As prescribed in FAR Subpart 42.15, VA evaluates contractor performance on all contracts that exceed the Simplified Acquisition Threshold and shares those evaluations with other federal government agencies. The FAR requires that the contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement, VA will be using an online database, the Contractor Performance Assessment Reporting System (CPARS). Annual reporting of past performance will be completed at <http://www.cpars.gov> and uploaded to PPIRS (Past Performance Information Retrieval System).

SCOPE OF CONTRACT

**1. INTRODUCTION**

**1.1 Background**. All Ordering Activities under the VA and all Ordering Activities under the Department of Defense (DoD) acquire their pharmaceutical requirements through their respective Pharmaceutical Prime Vendor (PPV) Programs, hereafter referred to as the VA PPV Program and DoD PPV Program or jointly as PPV Programs. The PPV Programs are separate contracts which establish the fees for the distribution of pharmaceutical products that are distributed through the PPV Programs on Federal Government (i.e., Federal Supply Schedules, National Standardization) contracts. A contract resulting from this solicitation establishes the VA National Contract prices for the products listed in the schedule of supplies that will be distributed through the PPV Programs. Section 2.1, “Government Participants” lists the PPV Program participants that will be authorized users of the contract resulting from this solicitation. The contractor shall follow all appropriate requirements as implemented in Drug Supply Chain Security Act (DSCSA). See Section 7 of the Scope of Contract for DSCSA details.

**1.2 Purpose and Objectives**. The purpose of this solicitation is to establish a supply source that will provide the drugs listed in the schedule for purchase through the PPV Programs. The total annual estimated usage for VA, Federal Health Care Center (FHCC), State Veterans Homes (SVH) - Option 2, DoD, Indian Health Service (IHS), and Bureau of Prisons (BOP) appears on the Schedule of Supplies section of this Solicitation. The objective of such a contract is to ensure availability and consistency of product for nationwide usage and to obtain volume-based, committed-use pricing.

**1.3 Government Purchase Compliance**. VA, FHCC, SVH (Option 2), DoD, IHS, and BOP will purchase their requirements for the strengths of the drugs listed in the schedule through the PPV Programs except when: (1) the contracted items are unavailable to meet the needs of the Government, or (2) an alternate is requested by the prescribing healthcare provider, or (3) additionally, IHS will not participate if the awardee does not have a Centers of Medicare or Medicaid (CMS) reimbursable product(s). In the event that exception 1, 2, or 3 applies, these instances will be considered exceptions to Section C.2 – 52.216-21, Requirements. VA’s PPV contract has ordering lock-out procedures in place to support VA contract compliance and to prevent purchases of non-contract products. Participants of the VA PPV Program include VA, FHCC, SVH (Option 2), IHS, and BOP. DoD manages compliance through individual facility tracking reports.

* 1. **Contract Effective Date, Implementation Period, and Ordering Period**.

**(A) Contract Effective Date.** The contract will be effective on the date the Contracting Officer signs the SF-1449 and notifies the offeror (contractor) of award.

**(B) Implementation Period.** The timeframe beginning on the Contract Effective Date and ending at the start of the Ordering Period in which PPVs begin placing orders with the contractor for delivery to the multiple PPV distribution centers is the Implementation Period.

Contractors will be allowed a maximum of a 60-day Implementation period (but may be shorter than 60 calendar days if mutually agreed between the contractor and the Government), if the contract is awarded after 9/4/2023. If the contract is awarded prior to 9/4/2023, the Implementation period will begin when the contract is awarded and end on 11/4/2023.

There are approximately 31 VA PPV Distribution Centers and approximately 25 DoD PPV Distribution Centers located nationwide. The contractor shall ensure that sufficient inventory of contract items awarded under this solicitation is available, and that chargeback agreements with the PPVs have been executed with sufficient time to permit the PPVs to begin timely distribution of Government orders by the expiration of the contract implementation period. The current PPVs are listed as attachments “A” and “B” of this solicitation. The current PPVs may change and the contractor will be notified of any changes in PPV contractors during the term of the contract resulting from this solicitation. Payment terms, time and place of delivery to PPV distribution centers and other business-to-business agreement terms shall be agreed upon between the PPV contractors and the contractor awarded a contract from this solicitation. The Contracting Officer shall be notified by the contractor if any business-to-business-agreements cannot be reached with the PPVs by 15 calendar days before commencement of the Ordering Period. Failure or refusal to reach agreement with the PPVs shall constitute sufficient cause for terminating the contract under FAR 52.212-4(m), Contract Terms and Conditions-Commercial Products and Commercial Services, Termination for Cause.

**(C) Ordering Period.** The Ordering Period begins at the expiration of the Implementation Period. The base year Ordering Period will be in effect for the period of one (1) year. During this period, Government participants place orders with the PPVs, who ship product to the Government participants. The PPVs shall order product from the Contractor and the Contractor shall ship to the PPVs in accordance with the terms of the Contractor and PPV business-to-business agreements.

**(D)** At the time of contract award, the Contracting Officer shall indicate the contract Effective Date, Implementation Period, and Ordering Period on Page 2 of the SF-1449, in accordance with the timeframes specified in this section.

**1.5 Contract Duration**. The contract resulting hereunder will be in effect for the duration of the Implementation Period described in Section 1.4 plus one (1) year Ordering Period with four (4) one (1) year pre-priced option (ordering) periods that may be exercised unilaterally by the Government in accordance with FAR 17.207 and FAR 52.217-9.

**1.6 Special Contract Considerations.** As discussed in Section 1.2, this solicitation establishes a supply source to provide the drugs listed in the schedule for purchase through the PPV programs. Additionally, as outlined in Section 1.4, the awarded offeror (contractor) under this solicitation must reach a business-to-business agreement with the respective PPV programs. Because the PPV programs distribute the supplies sourced from this solicitation, special contract considerations apply.

Under this resulting contract, the contractor will be receiving payments from the PPV programs instead of directly from the Government. Due to this unique payment structure, contractors are not permitted to assign their rights to receive payment under this contract. Additionally, disputes arising between a contractor and any authorized Government Prime Vendor(s) do not give rise to a “claim” under the Disputes Clause. Finally, no invoices will be provided from the contractor to the Government ordering facilities. Instead, the contractor shall submit invoices in accordance with the business-to-business agreements reached with the PPV programs.

**2. EXTENT OF OBLIGATION**

**2.1 Government Participants**. The contractor shall provide the products specified in the schedule at the prices awarded herein for the facilities/agencies below:

* All Department of Veterans Affairs (VA) facilities
* All Ordering Activities under the Department of Defense (DoD) Pharmaceutical Prime Vendor Program
* All Indian Health Service (IHS) facilities
* All Bureau of Prisons (BOP) facilities
* Captain James A. Lovell Federal Health Care Center (FHCC)
* All Option 2 State Veteran Homes (See Section 2.2 State Veteran Homes)

A database of all facilities authorized to use the VA PPV Program may be downloaded from the National Acquisition Center’s web site at <http://www.va.gov/oal/business/nc/ppv.asp>.

**2.2 State Veteran Homes (SVHs)**. There are numerous SVHs that have entered into sharing agreements with VA Medical Centers (VAMCs). The SVHs with sharing agreements that participate in the VA PPV Program are identified as being one of two types: Option 1 or Option 2.

**Option 1:** The SVH orders pharmaceuticals directly from the VA PPV and pays the VA PPV for all items purchased. An Option 1 SVH is not eligible for national contract prices awarded under this solicitation unless it is specifically named in the scope of contract or added after award by mutual agreement between the contractor and the Government.

**Option 2:** The VAMC authorizes the SVH’s order, and the VAMC makes payment to the VA PPV for all pharmaceuticals ordered by the SVH. An Option 2 SVH is eligible for the national contract prices awarded under this solicitation.

**2.3 Consolidated Mail Outpatient Pharmacies (CMOPs) (VA ONLY) and Tricare Mail Order Pharmacies (TMOPs) (DoD ONLY)**. Many drugs are prescribed and mailed directly to patients’ homes in three-month or 90-day supply and VA CMOPs/DoD TMOPs may place an initial order with the VA PPV/DoD PPV contractor for up to 30% of the estimated VA/DoD annual contract quantities immediately upon the commencement of the ordering period. An initial order of up to 30% of the estimated VA/DoD annual contract quantities may be placed by the VA PPV/DoD PPV contractor with the contractor awarded a contract under this solicitation to fulfill the CMOP and/or TMOP 30% initial order requirements.

**2.4 Estimated Quantities**. The quantities in the schedule reflect the combined usage of all VA (inclusive of FHCC and Option 2 SVH), DoD, IHS, and BOP activities currently participating in the PPV Programs. These estimated annual requirements do not include those of any other Government agency, including those currently participating in the VA PPV Program (e.g. Immigration and Customs Enforcement, Option 1 State Veteran’s Homes). The estimated usage cited in the Schedule is the Government’s total estimated usage for the strengths listed. There is no expressed or implied guarantee that the estimated quantity will be purchased under this contract. Actual quantities purchased may exceed or be less than those represented.

**3. PRODUCT REGISTRATION**

Product information pertaining to all items offered under this solicitation, including the offeror’s unique National Drug Code(s) (NDC), must be submitted to First Databank, Medispan and Multum prior to the start of the ordering period. A New Product Submission Form can be obtained by contacting First Databank at (800) 633-3453, extension 566, or information can be obtained at http://www.fdbhealth.com/solutions/manufacturer-relations/. Medispan information can be obtained at <https://www.wolterskluwer.com/en/solutions/medi-span> . A New Product Submission Form can be obtained by emailing MultumSupport@Cerner.com.All new products and product updates should be sent to Cerner Multum at mfgproducts@cerner.com.

**4. NATIONAL CONTRACT ITEM BACKORDERS**

A contract awarded under this solicitation will be the Government’s primary source of supply (See FAR 52.216-21 Requirements). The Government’s ability to provide quality healthcare to its patient population is severely impaired when a national contract product is not available due to backorders. The purpose of this paragraph is to provide guidance to the awarded offeror (contractor) regarding a temporary solution to national contract item backorders that may be implemented in lieu of the Government terminating the contract for cause. However, consideration of this paragraph shall not waive any of the Government’s rights to terminate the contract for cause in accordance with FAR 52.212-4(m) Termination for Cause.

For purposes of this contract, a backorder occurs when the PPVs issue an order with the contractor, and the complete order quantity is not delivered to the PPVs within 15 calendar days after receipt of order. This includes initial CMOP orders. If a national contract item is backordered by the PPVs, the Contracting Officer will investigate the backorder to determine if the national contract contractor bears responsibility for the backorder. The awarded contractor shall inform the Contracting Officer within four calendar days after a backorder occurs. In addition to informing the Contracting Officer of the backorder, the contractor shall provide an estimated date when the backorder will be shipped, and may propose a solution to satisfy the Government’s needs for the contract items until the backorder is resolved. The Government reserves the right to accept or reject any possible solutions that the contractor may propose to alleviate a national contract backorder situation. If the contracting officer determines that the contractor bears responsibility for the backorder, and the contractor is not able to provide a solution that is acceptable to the Government, (i.e., acceptable solution to the backorder, in lieu of Termination for Cause), the parties agree that the Government may buy against the contractor by acquiring the same or similar items from another source and billing the contractor for any excess procurement costs. In other words, if the Government must purchase product from another vendor because of a national contract backorder, the contractor will issue credit or reimburse the Government for the difference between the purchase price and the contract price within 30 calendar days after receipt of notification. The contractor shall also provide written verification to the Contracting Officer when credits or reimbursement have been made within 30 calendar days from date of reimbursement. After a backorder incident occurs for which the Contractor is responsible, the Government’s decision to enter into a buy-against agreement described above will not deprive the Government of its right under FAR 52.212-4(m) to terminate the contract for a breach of the buy-against agreement, for a subsequent contractor-caused backorder, or for any other sufficient cause.

**5. PACKAGING REQUIREMENTS**

Offerors must state the exact name and strength of the drug being supplied as it will appear on the label. Offerors shall also provide a unique 11-digit NDC number for all items offered; the NDC number must be specific to the offering company and to the drug being supplied. All bottles of 400 tablets/capsules or less must have a safety-cap capable of having the outer part of the cap deshelled and/or a convertible cap to produce a non-safety cap child resistant closure. All tablets/capsules must be compatible with automated dispensing units (Baxter ATC Canisters, Optifill, etc.). Glass bottles are not acceptable. Items are identified in the Schedule of Supplies and in Attachment C.

**Unit of Use Bottle Size** All unit of use packaging identified in the Schedule of Supplies, (i.e., 30s, 90s), shall contain a safety-cap capable of having the outer part of the cap deshelled and / or a convertible cap to produce a non-safety cap and a bottle with a minimum required size of 120cc volume. The safety cap must not exceed the diameter of the bottle. The bottle must have a cylindrical body and minimum of 5.75” circumference. The bottle must fit a label with a dimension of 5.25” x 2”. The 0.5” additional space is required to keep the bar code exposed and/or allow for the display of the expiration date and lot number.

**6. BAR CODING**

All pharmaceutical products provided under this contract shall include bar code labeling at the unit-of-use package level. The bar code labeling must be in a linear format that conforms to all GS1-128 (formerly EAN.UCC) or Health Industry Business Communication Council (HIBCC) Health Industry Bar Code (HIBC) supplier labeling standards. The bar code symbology must comply with all GS1 or HIBCC HIBC parameters including, but not limited to: symbology type or encoded pattern, bar and space dimensions and tolerances, and allowable ratio of wide to narrow elements.

The bar code may be any linear bar code symbology such as GS1-128 (formerly EAN.UCC), GS1 DataBar (formerly RSS), or Universal Product Code (UPC) (if the UPC contains the National Drug Code or NDC). The bar code must encode the NDC, either alone or within the GS1 data structure (Global Trade Item Number (GTIN).

The bar code printing must be American National Standards Institute (ANSI)/International Organization for Standardization (ISO)/IEC Quality Grade C or better. Manufacturers and packagers must ensure that production runs include an initial verification check, as well as routine audits to ensure the bar code is printed clearly and consistently to meet the quality standard of Grade C or better. Contractors shall be responsible for ensuring that bar code labels meet the quality requirements specified in this section prior to shipping pharmaceutical products to any Government Prime Vendor under this contract.

The bar code must be on the outside container or wrapper of the medication as well as on the immediate container, unless the bar code is readily visible *and* machine-readable through the outside container or wrapper. When the bar code is not easily machine-readable through the over wrap, the over wrap must contain the bar code.

If applicable, the bar code must go on each cell of a blister pack. Furthermore, the bar code must remain intact under normal conditions of use; thus it should not be printed across the perforations of a blister pack.

When applicable to the symbology used, bar codes shall be surrounded by sufficient quiet zone so that the bar code can be scanned correctly. Bar code placement shall minimize curvature of the bar code. For example, bar codes should be placed in “ladder orientation” on vials or bottles to minimize curvature of the bar code. Bar code labeling shall not be placed solely on outer packaging. The Drug Supply Chain Security Act (DSCSA) now requires a two-dimensional data matrix bar code (GS-1 data matrix bar code preferred) for each product down to the lowest saleable package size (see Section 7, below, for additional DSCSA requirements); however, the Food and Drug Administration (FDA) bar code rule for linear bar codes still applies to all packaging as stated above. A human readable number must be placed adjacent (preferably below) the encoded bar code to ensure product is usable with VA Bar Code Medication Administration (BCMA) in the event the bar code is in some way damaged.

It is recommended that bar code labeling also include the lot number and expiration date. If two separate distinctive bar codes are used, one for NDC and the other for lot number/expiration date; the lot number and expiration date bar code must not be in close proximity to the NDC barcode or in a format that may be confused with the NDC bar code. When applicable, all Healthcare Distribution Alliance (HDA) guidelines (formerly HDMA) shall be followed.

**7. DRUG SUPPLY CHAIN SECURITY ACT (DSCSA) REQUIREMENTS**

Title II of the Drug Quality and Security Act (DQSA), known as the DSCSA, applies to all drug products, with the exception of those listed on the DSCSA exemption list: [Title II of the Drug Quality and Security Act | FDA](https://www.fda.gov/drugs/drug-supply-chain-security-act-dscsa/title-ii-drug-quality-and-security-act). As part of the requirement of the DSCSA, drug products are required to provide serialized DSCSA Transaction Information and Transaction Statements using GS1 industry standard Electronic Product Code Information Services (EPCIS) files following the *GS1 US Implementation Guideline:* [The GS1 US DSCSA Implementation Suite (gatewaychecker.com)](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fportal.gatewaychecker.com%2Fresources%2FApplying_GS1Stds_for_DSCSA_Traceability_IG_1-2.pdf&data=05%7C01%7C%7Ce146e0b4af064cfa277b08db24c197ab%7Ce95f1b23abaf45ee821db7ab251ab3bf%7C0%7C0%7C638144186110829926%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=jnwxCopIWnEELLaT1Qlp9%2FVZ53Ljzi5FV1wwSo%2BP2a0%3D&reserved=0) in order to transmit the files needed for tracking.

DSCSA also requires that all trading partners of manufacturers, wholesale distributors, dispensers, and repackagers meet applicable requirements for being authorized trading partners. The National Association of Boards of Pharmacy (NABP) has established a trading partner directory, which is a repository of authorized trading partners that can be accessed to authenticate authorized trading partners in real time. All VA and other participating agency pharmacies will be entered in this directory as authorized trading partners using unique identifiers. Current and prospective trading partners of the VA other participating agencies are required to complete a registration prior to selling pharmaceuticals to these agencies. Neither the Government, nor the vendors will be charged a fee to participate in the directory.

DSCSA drug products are required to provide the serialized DSCSA Transaction Information and Transaction Statement required for the interoperable electronic DSCSA system using GS1 industry standard EPCIS files following the *GS1 US Implementation Guideline.* Suppliers establishing an EPCIS connection for DSCSA will need to inform their trading partners of the master data for the Global Trade Item Number (GTIN) and Global Location Numbers (GLNs) that they utilize. These are necessary to establish the EPCIS connection in addition to being able to transmit the file using AS2 or another method. Suppliers are encouraged to do this onboarding very soon as product may not be purchased or sold without the serial DSCSA Transaction Information in late 2023. Registration and valid status in the National Association of Boards of Pharmacy (NABP) Trading Partner Directory is required also for all VA contract holders pursuant to DSCSA.

**8. NATIONAL DRUG CODES**

Offerors shall provide a separate and distinct eleven-digit NDC Number unique to the offeror (e.g., 00012-3456-78) for each product proposed, in the space provided following each item in block 20 of the SF-1449, “Schedule of Supplies and Prices” of the solicitation. The first five numbers of the eleven-digit NDC number for each product proposed shall identify the offeror.

Offerors must provide their own labeler code, to be used in the NDC number for the offered items. If an offeror is a dealer/distributor and does not have a labeler code, it must apply and be approved with the FDA for its own labeler code prior to making an offer under this solicitation. Offers that fail to provide the information required by this paragraph by the solicitation closing date may be rejected and receive no further consideration.

**9. DRUG APPLICATION**

By signing this solicitation, the offeror certifies that it has on file (if any of the following are required by the FDA for the offered drugs): an FDA approved New Drug Application (NDA), an approved abbreviated NDA (ANDA), or an approved Biologics License Application (BLA), as appropriate for the items offered in response to the solicitation.

**10. RECALLS**

If a drug recall is initiated for any drug provided under this contract, regardless of whether it is a voluntary recall by the manufacturer or a recall required by the FDA; or, if FDA withdraws its approval to manufacture any drug that is included on this contract, the contractor shall immediately forward the recall notification, along with any pertinent information via email to the assigned Contracting Officer and to:

Erika Moreno

Chief, Pharmaceutical Division (003B6C3)

VA National Acquisition Center

National Contract Service

1st Ave., 1 Block North of Cermak Rd., Bldg. 37

P.O. Box 76, Hines, IL 60141

[Erika.Moreno@va.gov](mailto:Erika.Moreno@va.gov)

Deputy Chief Consultant (M/S119D)

VHA Pharmacy Benefits Management Services

1st Ave., 1 Block North of Cermak Rd., Bldg. 37, Rm 139

Hines, IL 60141

[Patientlevelrecalls@va.gov](mailto:Patientlevelrecalls@va.gov)

Manager, Product Recall Office

National Center for Patient Safety

Veterans Health Administration

24 Frank Lloyd Wright Drive, Lobby M

Ann Arbor, MI 48106

[VHANCPSRecallsNotification@va.gov](mailto:VHANCPSRecallsNotification@va.gov)

Phone Number: (734) 930-5890

All Government Prime Vendors that were sent shipments of the affected product(s) shall also be provided a copy of the recall notification along with any pertinent information.

**11. COVERED DRUGS**

Should a covered drug (as defined in 38 U.S.C. § 8126(h)(2)) be proposed and awarded as a result of this solicitation, the awarded prices shall meet the requirements of 38 U.S.C. § 8126 and shall apply to all Government participants listed in Section 2.1 of the Scope of Contract, regardless of whether the participant is covered under the law. Therefore, prices for the base year and all option years shall not exceed the annually established Federal Ceiling Price (FCP), plus the 0.5% Cost Recovery Fee (CRF).

Attention is directed to the fact that although 38 U.S.C. § 8126 applies to all covered drugs, competitively negotiated and awarded prices for the base year and any option years exercised by the Government will govern *unless the annually established FCP results in a price lower than competitively awarded contract prices*. In this instance, the contract shall be modified to reflect the lower annually established FCP, plus the 0.5% CRF.

Both parties (Offeror and VA) understand the VA National Contract Service will obtain FCPs from VA’s Pharmacy Benefits Management (PBM). The parties agree the FCP will be calculated pursuant to the requirements of 38 U.S.C. § 8126 and any related requirements contained in the contractor’s Master Agreement, Pharmaceutical Pricing Agreement, and relevant VA Dear Manufacturer Letters. Refer to the VA Federal Supply Schedule (FSS) website at <https://www.fss.va.gov/> and Public Law 102-585 (Veterans Health Care Act of 1992) page on the VA FSS website at <https://www.va.gov/opal/nac/fss/publicLaw.asp> for further information and a list of published Dear Manufacturer Letters.

Contractors submitting a proposal for a covered drug are required to complete the following paragraph:

**MASTER AGREEMENTS AND PHARMACEUTICAL PRICING AGREEMENTS**

In compliance with 38 U.S.C. § 8126, Offerors of covered drug products (including biologics) must state below whether they currently have a Master Agreement (MA) and a Pharmaceutical Pricing Agreement (PPA), that includes the offered drug products/NDCs, in place with the Department of Veterans Affairs (VA) and confirm that the proposed covered drug products are present on the Offeror’s FSS contract or interim agreement.

\_\_\_\_\_ YES, Offeror has an MA and PPA (inclusive of the proposed drug products/NDCs) in place with VA FSS and proposed drugs are present on Offeror’s FSS contract/interim agreement.

\_\_\_\_\_ NO, Offeror does not have an MA and PPA (inclusive of the proposed drug products/NDCs) in place with VA FSS and/or products are not present on Offeror’s FSS contract/interim agreement.

Offers of covered drugs (including biologics that fall within 21 CFR § 600.3) will only be considered for award if the Offeror has an executed MA and PPA (which includes the proposed drug products/NDCs) on file with the VA National Acquisition Center, FSS (in accordance with 38 U.S.C. § 8126(h)(4)(B)). Furthermore, in order to be considered for award under this solicitation, all proposed covered drug products/NDCs must be present on the Offeror’s FSS contract or interim agreement by the solicitation due date and time. Offers failing to meet these criteria will be rejected and receive no further consideration.

**12. COST RECOVERY FEE AND SUBMISSION OF QUARTERLY SALES REPORTS**

**12.1**  Quarterly Sales Reports.The Contractor shall report all contract sales under this contract and submit collected Cost Recovery Fees as follows:

**(A)**  The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales made under this contract by calendar quarter (January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31). Reported sales must include all sales made to all authorized contract users, whether shipped directly to the users or through Prime Vendor contractors. The report shall reflect sales by contract line item and shall segment sales by the Department of Veterans Affairs (VA) and Other Government Agencies (OGA). A Cost Recovery Fee equivalent to 0.5 % of the current contract price shall be collected from all contract users.  The 0.5 % Cost Recovery Fee shall be imbedded in the awarded contract prices, and offers submitted in response to this solicitation shall include the Cost Recovery Fee in every line item price offered. The reported contract sales shall include the Cost Recovery Fee and each quarterly report shall show the total Cost Recovery Fee amount collected on the reported sales. The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor’s established commercial accounting practice.

**(B)**  Contract sales reports are due to the Contracting Officer within 60 calendar days following the completion of each reporting quarter or completion of the contract, whichever occurs first. A report is required even when no billings or invoices are issued or no orders are received during the contract period.

**(C)** The sales report signed by an authorized representative of the contractor shall be emailed to the Contracting Officer.

**(D)** In addition to the submission of quarterly sales reports due to the Contracting Officer within 60 calendar days after the end of each reporting quarter, contractors shall provide copies of sales reports simultaneously with contractor’s Cost Recovery Fee payment submissions via email to: [AMMHINBOCFISCAL@VA.GOV](mailto:AMMHINBOCFISCAL@VA.GOV).

**12.2** The 0.5% Cost Recovery Fee amount shall be paid electronically via Collections Information Repository (CIR)/Automated Clearing House (ACH). CIR/ACH credit instructions will be provided to the contractor upon contract award. When the contractor has multiple national contracts, the fee may be consolidated into one electronic payment. When the electronic payment is made, the contractor shall submit an email to [AMMHINBOCFISCAL@VA.GOV](mailto:AMMHINBOCFISCAL@VA.GOV) to identify the contract number (or numbers, if the payment covered multiple contracts) included, dollar amount remitted for each contract number, and reporting quarter. The Cost Recovery Fee payment is due to the VA Fiscal Division at the same time the sales report is due to the Contracting Officer (i.e., within 60 calendar days following the completion of each reporting quarter or completion of the contract).

Cost Recovery Fee payments shall not be combined with any Industrial Fund Fee payments. Contractors shall remit separately any Industrial Fund Fee payments in support of any of the Contractor’s Federal Supply Schedule contracts.

**12.3** The Government reserves the right to inspect without further notice, such records of the Contractor as pertain to sales under any contract resulting from this solicitation. Willful failure or refusal to furnish the required reports, or falsification thereof, shall constitute sufficient cause for terminating the contract under FAR 52.212-4(m), Contract Terms and Conditions - Commercial Products and Commercial Services, Termination for Cause.

**12.4**  Failure to remit the full amount of the Cost Recovery Fee within 60 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.212-4(i)(6)). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the Cost Recovery Fee, the Government shall have, in addition to the rights and remedies described in this section, all other rights and remedies permitted by Federal law and statutes.

**13. MANUFACTURING FACILITIES/PLACE OF PERFORMANCE**

**13.1** The FDA is the Government agency responsible for providing and enforcing pharmaceutical current Good Manufacturing Practices (cGMP) standards for human drugs, pharmaceutical products, biologics, medical devices, chemical products, medical cylinder oxygen, reagents, diagnostics, test kits and sets included in this solicitation. Only offers from companies that have an acceptable cGMP status on record with the FDA for the facilities identified by the offeror in Section 13.7 below will be considered for award. The FDA will evaluate a prospective offeror for VA procurements only if the offeror has had a qualifying cGMP inspection within the previous two years. Before a contract can be awarded, any successful offeror’s manufacturing facilities shall have a current acceptable cGMP status with the FDA, or shall have had an acceptable report from the last FDA facility inspection on record. In the absence of a current cGMP evaluation, an offeror is required to include with its proposal documentation on the acceptable outcome of a FDA facility inspection that occurred within two years prior to submission of the offer.

**13.2** If at any time during the life of the contract, the contractor’s facility or the source from which the contractor obtains any of the products offered on this contract is informed in a FDA “warning letter” that it fails to meet FDA current Good Manufacturing Practices (cGMPs) (21 CFR Part 210 and 211), and/or a facility’s unacceptable FDA cGMP status is communicated to the VA NAC, the Contracting Officer will apply the procedures outlined in Section 13.3 below.

**13.3** The Contracting Officer will review the contractor’s (or its source’s) unacceptable cGMP status with appropriate VHA clinical staff and will either: 1) instruct the contractor to stop the shipment of products listed on this contract that were manufactured and/or packaged in a facility with unacceptable cGMP status, or 2) authorize the contractor to continue to supply such contract products for 90 calendar days from the date when unacceptable cGMP status was communicated to VA NAC, provided that the products have not been subjected to a consumer-level recall. An additional 90 calendar day extension may be authorized at the discretion of the Contracting Officer. Contractors are cautioned that products that were manufactured and /or packaged in a facility with unacceptable cGMP status and then shipped without written authorization from the Contracting Officer shall be returned to the contractor at the contractor’s risk and expense. The contractor shall have corrected all significant cGMP deficiencies or have an acceptable plan with the FDA for the correction of such deficiencies which led to unacceptable status by the end of the 90-calendar day authorization period and any extensions of such period granted by the Contracting Officer. Additionally, the contractor is responsible for keeping the Contracting Officer informed of all corrections made and shall provide the Contracting Officer with: 1) written documentation of the correction plan, 2) Notification from FDA of acceptance of plan, and 3) a copy of any reinspection requests and subsequent reinspection reports, upon availability. If FDA’s evaluation of contractor’s (or its source’s) compliance efforts and/or re-inspection of the non-compliant facility does not result in an acceptable rating by the FDA within 90 calendar days from the date when unacceptable cGMP status was communicated to VA NAC, or by the end of a Contracting Officer’s authorization period (whichever is the greater period of time), the contract may be terminated for cause in accordance with FAR Clause 52.212-4(m). The contractor’s (or its source’s) failure to correct the cGMP deficiencies in a timely manner shall not constitute or give rise to any “excusable delays” pursuant to FAR Clause 52.212-4(f). (Nothing in this section shall be read as limiting the recognized grounds upon which a Contracting Officer may terminate this contract or delete products pursuant to the applicable sections contained in the contract.)

**13.4** The contractor shall use only the FDA-inspected manufacturing facilities provided in Section 13.7, below, for the duration of the contract, unless substitution of manufacturing facilities is approved by the Contracting Officer. In case of any manufacturing facility relocation or substitution of manufacturing facilities, the contractor shall immediately notify the Contracting Officer of the pending change, and the contractor shall request approval from the Contracting Officer to supply the contracted products from the new location. If the change is approved by the Contracting Officer, after an inquiry to the FDA for cGMP status of the new location, approval will be provided by means of a formal contract modification.

**13.5** If the products are to be manufactured at more than one location, each manufacturing facility and each facility address shall be listed along with the products manufactured at the facility. Subcontractors (i.e., packagers, labelers, etc.) that participate in the production of the products offered on this solicitation shall also be listed along with their addresses. All facilities described in this section and listed below shall be substantially in compliance with applicable FDA cGMP standards prior to contract award.

**13.6** Offeror shall identify below or by attachment (if additional space is needed), the products offered on this solicitation (products shall be identified by product name and by solicitation item number); whether the offeror manufactures the products; and/or whether the offeror is a distributor of the products offered. “Manufacturer” is defined as the entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of active and inactive ingredients to form drug products, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. This process includes the measuring, mixing, weighing, and compounding both the active and inactive ingredients. The product is then converted into various drug forms, suitable for administration through tablets, capsules, liquids (in the form of solutions, suspensions, emulsions, gels, or injectables), creams, ointments, or aerosols.

**13.7** The offeror is required to indicate below the complete name and address(es) of the manufacturer. The offeror is also required to check the box below that is applicable to its offer. Please note that the information required below must be the name and address of the manufacturing facility, rather than the address of the foreign headquarters, distributor or agent.

( ) OFFEROR IS THE MANUFACTURER (AT THE FOLLOWING LOCATIONS) OF THE PRODUCTS OFFERED ON THIS SOLICITATION.

( ) OFFEROR IS A DISTRIBUTOR OF THE PRODUCTS OFFERED ON THIS SOLICITATION.

The offeror must maintain the same manufacturer (NDA/ANDA/BLA) for the duration of the contract period, unless the Contracting Officer makes a determination that a change in the manufacturer is acceptable. This determination may take place before or after contract award.

**THE PRODUCTS WILL BE MANUFACTURED BY THE FOLLOWING COMPANY AT THE FOLLOWING LOCATIONS:**

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(Name of Manufacturing Company)

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(Street Address) (Post Office Address Not Acceptable)

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(U.S.A. Point of Contact, e-Mail Address and U.S.A Telephone Number)

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(FDA Establishment Identification [FEI] number of Manufacturing Company)

**PHARMACEUTICALS – PARENTERALS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Solicitation Item # & Product Name |  | Location and Owner of Facility where ingredients are manufactured per definition in Scope of Contract, Section 13.6 (Facility Owner Name, Address, City, County, State and Zip Code) |  | Point of Contact including Phone # |
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**PHARMACEUTICALS – PARENTERALS, STERILIZATION**

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| Solicitation Item # & Product Name |  | Sterilization and Owner Location (Facility Owner Name, Address, City, County, State and Zip Code) |  | Point of Contact Including Phone # |
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**TABLETS, CAPSULES AND PILLS**

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| --- | --- | --- | --- | --- |
| Solicitation Item # & Product Name |  | Location and Owner of Facility where ingredients are manufactured per definition in Scope of Contract, Section 13.6 (Facility Owner Name, Address, City, County, State and Zip Code) |  | Point of Contact including Phone # |
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**OTHER PHARMACEUTICAL PRODUCTS**

*(Solutions, syrups, mixtures, powders, ointments, pastes, creams, etc.)*

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| --- | --- | --- | --- | --- |
| Solicitation Item # & Product Name |  | Location and Owner of Facility where ingredients are manufactured per definition in Scope of Contract, Section 13.6 (Facility Owner Name, Address, City, County, State and Zip Code |  | Point of Contact including Phone # |
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**PACKAGING**

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| Solicitation Item # & Product Name |  | Location of Facilities where Intermediate containers will be filled and labeled (Facility Name, Location, City, County, State and Zip Code) |  | Point of Contact including Phone # |
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**PACKING**

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| --- | --- | --- | --- | --- |
| Solicitation Item # & Product Name |  | Location of Facilities where products will be packed and prepared for shipment (Facility Name, Location, City, County, State and Zip Code) |  | Point of Contact including Phone # |
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**14. INCORPORATION OF DOCUMENTS**

The following documents are hereby incorporated by reference and made a part of this solicitation. The United States Pharmacopeia-National Formulary (USP-NF) designation "USP" and "NF" shall be considered interchangeable when monographs for ingredients or preparations are transferred from one official compendium to the other. For ingredients or preparations which no longer appear in the latest revision of the USP or NF, the previous volume shall apply. Ingredients or preparations for which monographs appear for the first time in the Official Compendia shall comply with the applicable monographs unless the word "modified" appears as part of the item name. The requirements that an item or ingredient comply with test standards and requirements of the USP or the NF does not delete any other applicable portions of the compendia, such as, but not limited to, General Notices. Thus, for USP/NF items, alternative test methods are permitted.

AMERICAN CHEMICAL SOCIETY (ACS), Reagent Chemicals, American Chemical Society Specifications. Information about ACS Reagent Chemicals can be found at <https://pubs.acs.org/>.

U. S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, FOOD AND DRUG ADMINISTRATION (FDA). Federal Food, Drug, and Cosmetic Act and Regulations promulgated thereunder. FDA Rules and Regulations can be found at <https://www.fda.gov/regulatory-information/fda-rules-and-regulations> and can be found under Title 21 of the Code of Federal Regulation at <https://www.ecfr.gov/>.

U. S. PHARMACOPEIAL CONVENTION, INC. (USP/NF). Pharmacopoeia of the United States. Information about USP/NF can be found at <https://www.uspnf.com/>.

# SECTION C - CONTRACT CLAUSES

## C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEC 2022)

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

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

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

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

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

(d) Disputes. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at Federal Acquisition Regulation (FAR) 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

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

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

(g) Invoice*.*

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

(i) Name and address of the Contractor;

(ii) Invoice date and number;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Payment.—

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

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

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

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

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

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

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

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

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

(D) Contractor point of contact.

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

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

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

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

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

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

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

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 4701 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

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

(1) The schedule of supplies/services.

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

(3) The clause at 52.212-5.

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

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) [Reserved]

(u) *Unauthorized Obligations*.

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

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

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

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

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

(v) *Incorporation by reference*. The Contractor’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

## ADDENDUM to FAR 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

**1. Ordering**. This solicitation provides for the award of a contract in support of VA’s standardization program. Products awarded on the resultant contract will be distributed through Government Prime Vendor contract(s). Order placement for supplies awarded will be made by Government Prime Vendor contractor(s) to the awarded contractor and, any supplies to be furnished under this contract shall be ordered by issuance of delivery orders by the individuals or facilities directly to Prime Vendor contractor(s). Government Prime Vendor contractor(s) will accept orders and payment for the contracted item(s) on behalf of the Contractor. Such orders may be issued from the first day of the ordering period of the contract through the expiration date of the final option period exercised. All delivery orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order and this contract, the contract shall control.

**2. Delivery**. Delivery order requirements such as product quantities, time and place of delivery, and method of delivery for product(s) awarded on resultant contract will be determined between the awarded Contractor and Government Prime Vendor contractors.

**3. Chargeback Arrangements**. Chargeback arrangements/agreements shall be coordinated between the Government Prime Vendor contractors and the successful Contractor. The Government will not become involved in this area nor will the Government assume any responsibility for any monies involved with such arrangements.

**4. Inspection/Acceptance**. Products will be ordered by the Government through Government Prime Vendor contracts. The Government’s inspection rights become effective upon receipt at the Government ordering facility.

**5. Risk of Loss**. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor, and shall pass to the Government upon delivery by the Contractor to any Government-contracted Prime Vendor contractor.

## C.2 52.216-21 REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) 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 15 calendar days from the expiration date of the contract.

(End of Clause)

## ADDENDUM to FAR 52.216-21 REQUIREMENTS

As detailed in the Addendum to FAR 52.212-4, products awarded on the resulting contract from this solicitation will be distributed through Government Prime Vendor contract(s). As such, details specific to contract(s) resulting from this solicitation regarding 52.216-21, Requirements, have been specified below.

1. Delivery or performance shall be made only as authorized by orders issued through Prime Vendor contract(s). Subject to any limitations specified in this contract, the Contractor shall deliver to the Prime Vendor contractor(s) the supplies specified in the Schedule and called for by orders issued by the Prime Vendor(s). Prime Vendor contractor(s) may issue orders requiring delivery to multiple Prime Vendor contractor distribution centers.

2. The Government shall order from the Contractor through the Prime Vendor contractor(s) all the supplies specified in the Schedule that are required to be purchased by the Department of Veterans Affairs and other Government agencies as specified in the Schedule.

3. If the Government urgently requires delivery of any quantity of an item that the Prime Vendor contractors(s) do not have available for delivery as required by the Prime Vendor contract terms, the Government may acquire the urgently required item(s) from any other available source.

4. Any order(s) issued by the Prime Vendor contractor(s) during the implementation/ordering period of this contract and not completed within the ordering period shall be completed by the Contractor within the time specified in the Prime Vendor contractor issued order. This contract shall govern the rights and obligations between the Contractor(s) of this contract, the Prime Vendor contractor(s) and the Government with respect to the order(s) to the same extent as if the order(s) were completed during the contract period, provided that, the Contractor shall not be required to make any deliveries under this contract after 15 calendar days from the expiration date of the contract.

## C.3 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

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

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

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

## C.4 52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2018)

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

*Electronic Funds Transfer (EFT) indicator* means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management (SAM) records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

*Registered in the System for Award Management (SAM)* means that—

(1) The Contractor has entered all mandatory information, including the unique entity identifier and the EFT indicator (if applicable), the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into SAM;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

*System for Award Management (SAM)* means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

*Unique entity identifier* means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See <http://www.sam.gov> for the designated entity for establishing unique entity identifiers.

(b) If the solicitation for this contract contained the provision 52.204–7 with its Alternate I, and the Contractor was unable to register prior to award, the Contractor shall be registered in SAM within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

(c) The Contractor shall maintain registration in SAM during contract performance and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement. The Contractor is responsible for the currency, accuracy and completeness of the data within SAM, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in SAM after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in SAM to ensure it is current, accurate and complete. Updating information in SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(d)(1)(i) If a Contractor has legally changed its business name or ‘‘doing business as’’ name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to—

(A) Change the name in SAM;

(B)Comply with the requirements of subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (d)(1)(i) of this clause, or fails to perform the agreement at paragraph (d)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the ‘‘Suspension of Payment’’ paragraph of the electronic funds transfer (EFT) clause of this contract.

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

(3) The Contractor shall ensure that the unique entity identifier is maintained with the entity designated at [*www.sam.gov*](http://www.sam.gov) for establishment of the unique entity identifier throughout the life of the contract. The Contractor shall communicate any change to the unique entity identifier to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the unique entity identifier does not necessarily require a novation be accomplished.

(e) Contractors may obtain additional information on registration and annual confirmation requirements at [*www.sam.gov*](http://www.sam.gov)*.*

(End of Clause)

## C.5 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (JUN 2023)

(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 products and commercial services:

           (1) [52.203-19](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_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](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#id189A70O0P1N), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

           (3) [52.204-25](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#unique_1390665200), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).

           (4) [52.209-10](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1062680), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801).

           (6) [52.233-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1048661), Protest After Award (Aug 1996) ([31 U.S.C. 3553](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

           (7) [52.233-4](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1048698), Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 ([19 U.S.C. 3805note](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3))).

(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 products and commercial services:

     [Contracting Officer check as appropriate.]

            \_X\_ (1) [52.203-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1063319), Restrictions on Subcontractor Sales to the Government (June 2020), with Alternate I (Nov 2021) ([41 U.S.C. 4704](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and 10 U.S.C. 4655).

            \_\_ (2) [52.203-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1063504), Contractor Code of Business Ethics and Conduct (Nov 2021) ([41 U.S.C. 3509](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)

            \_\_ (3) [52.203-15](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1063607), 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](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1064087), Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) ([31 U.S.C. 6101 note](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section6101&num=0&edition=prelim)).

            \_\_ (5) [Reserved].

            \_\_ (6) [52.204-14](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1064214), Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

            \_\_ (7) [52.204-15](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1064243), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

            \_X\_ (8) 52.204-27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

\_\_\_ (9) [52.209-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1062590), Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) (31 U.S.C. 6101 note).

            \_X\_ (10) [52.209-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1062651), Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) ([41 U.S.C. 2313](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title41-section2313&num=0&edition=prelim)).

            \_\_ (11) [Reserved].

          \_\_ (12) (i) [52.219-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057314), Notice of HUBZone Set-Aside or Sole-Source Award (Oct 2022) ([15 U.S.C.657a](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section637a&num=0&edition=prelim)).

          \_X\_ (13) (i) [52.219-4](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057352), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (14) [Reserved]

          \_\_ (15) (i) [52.219-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057393), Notice of Total Small Business Set-Aside (NOV 2020) ([15 U.S.C.644](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                  \_\_ (ii) Alternate I (Mar 2020) of [52.219-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057393).

          \_\_ (16) (i) [52.219-7](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057419), Notice of Partial Small Business Set-Aside (NOV 2020) ([15 U.S.C. 644](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                  \_\_ (ii) Alternate I (Mar 2020) of [52.219-7](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057419).

            \_X\_ (17) [52.219-8](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-8), Utilization of Small Business Concerns (Oct 2022) ([15 U.S.C. 637(d)(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and (3)).

          \_X\_ (18) (i) [52.219-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-9), Small Business Subcontracting Plan (Nov 2021) ([15 U.S.C. 637(d)(4)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                  \_\_ (ii) Alternate I (Nov 2016) of [52.219-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-9).

                  \_X\_ (iii) Alternate II (Nov 2016) of [52.219-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-9).

                  \_\_ (iv) Alternate III (Jun 2020) of [52.219-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-9).

                  \_\_ (v) Alternate IV (Sep 2021) of [52.219-9.](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-9)

            \_\_ (19) (i) [52.219-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057715), Notice of Set-Aside of Orders (Mar 2020) ([15 U.S.C. 644(r)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (Mar 2020) of [52.219-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057715).

            \_\_ (20) [52.219-14](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057730), Limitations on Subcontracting (Oct 2022) ([15 U.S.C.637(a)(14)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_X\_ (21) [52.219-16](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057758), Liquidated Damages-Subcontracting Plan (Sep 2021) ([15 U.S.C. 637(d)(4)(F)(i)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (22) [52.219-27](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057823), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Oct 2022) ([15 U.S.C. 657f](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

          \_X\_ (23) (i) [52.219-28](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057874), Post Award Small Business Program Rerepresentation (MAR 2023) ([15 U.S.C. 632(a)(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (ii) Alternate I (MAY 2020) of [52.219-28](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057874).

            \_\_ (24) [52.219-29](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057902), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022) ([15 U.S.C. 637(m)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (25) [52.219-30](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1057947), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Oct 2022) ([15 U.S.C. 637(m)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (26) 52.219-32, Orders Issued Directly Under Small Business Reserves (Mar 2020) ([15 U.S.C. 644](https://www.govinfo.gov/content/pkg/USCODE-2018-title15/html/USCODE-2018-title15-chap14A-sec644.htm)(r)).

            \_\_ (27) 52.219-33, Nonmanufacturer Rule (Sep 2021) ([15 U.S.C. 637](https://www.govinfo.gov/content/pkg/USCODE-2018-title15/html/USCODE-2018-title15-chap14A-sec637.htm)(a)(17)).

            \_X\_(28) [52.222-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055332), Convict Labor (Jun 2003) (E.O.11755).

            \_X\_(29) [52.222-19](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055664), Child Labor-Cooperation with Authorities and Remedies (Dec 2022) (E.O.13126).

            \_X\_ (30) [52.222-21](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055713), Prohibition of Segregated Facilities (Apr 2015).

          \_X\_ (31) (i) [52.222-26](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055793), Equal Opportunity (Sep 2016) (E.O.11246).

                  \_\_ (ii) Alternate I (Feb 1999) of [52.222-26](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055793).

          \_X\_ (32) (i) [52.222-35](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056230), Equal Opportunity for Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section4212&num=0&edition=prelim)).

                  \_\_ (ii) Alternate I (Jul 2014) of [52.222-35](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056230).

          \_X\_ (33) (i) [52.222-36](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056250), Equal Opportunity for Workers with Disabilities (Jun 2020) ([29 U.S.C.793](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title29-section793&num=0&edition=prelim)).

                  \_\_ (ii) Alternate I (Jul 2014) of [52.222-36](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056250).

            \_X\_ (34) [52.222-37](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056265), Employment Reports on Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section4212&num=0&edition=prelim)).

            \_X\_ (35) [52.222-40](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056304), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

          \_X\_ (36) (i) [52.222-50](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056535), Combating Trafficking in Persons (Nov 2021) ([22 U.S.C. chapter 78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O. 13627).

                  \_\_ (ii) Alternate I (Mar 2015) of [52.222-50](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056535) ([22 U.S.C. chapter78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O. 13627).

            \_\_ (37) [52.222-54](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056753), Employment Eligibility Verification (May 2022). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR [22.1803](https://www.acquisition.gov/content/part-22-application-labor-laws-government-acquisitions#i1095479).)

          \_\_ (38) (i) [52.223-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053138), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ([42 U.S.C. 6962(c)(3)(A)(ii)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

                  \_\_ (ii) Alternate I (May 2008) of [52.223-9](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053138) ([42 U.S.C. 6962(i)(2)(C)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

            \_\_ (39) [52.223-11](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053180), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).

            \_\_ (40) [52.223-12](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053196), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).

          \_\_ (41) (i) [52.223-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053207), Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).

                  \_\_ (ii) Alternate I (Oct 2015) of [52.223-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053207).

          \_\_ (42) (i) [52.223-14](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053232), Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

                  \_\_ (ii) Alternate I (Jun 2014) of [52.223-14](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053232).

            \_\_ (43) [52.223-15](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053246), Energy Efficiency in Energy-Consuming Products (May 2020) ([42 U.S.C. 8259b](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

          \_\_ (44) (i) [52.223-16](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053274), Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

                  \_\_ (ii) Alternate I (Jun 2014) of [52.223-16](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053274).

            \_X\_ (45) [52.223-18](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053316), Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (E.O. 13513).

            \_\_ (46) [52.223-20](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_223_20), Aerosols (Jun 2016) (E.O. 13693).

            \_\_ (47) [52.223-21](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#id1668D08086F), Foams (Jun 2016) (E.O. 13693).

          \_\_ (48) (i) [52.224-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_224_3) Privacy Training (Jan 2017) (5 U.S.C. 552 a).

                  \_\_ (ii) Alternate I (Jan 2017) of [52.224-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_224_3).

            \_\_ (49) [52.225-1](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053372), Buy American-Supplies (Nov 2021) ([41 U.S.C. chapter 83](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

          \_\_ (50) (i) [52.225-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053446), Buy American-Free Trade Agreements-Israeli Trade Act (DEC 2022) (19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 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 [Reserved].

                  \_\_ (iii) Alternate II (Dec 2022) of [52.225-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053446).

                  \_\_ (iv) Alternate III (Jan 2021) of [52.225-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053446).

\_\_ (v) Alternate IV (Oct 2022) of [52.225-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053446).

            \_X\_ (51) [52.225-5](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1053648), Trade Agreements (Dec 2022) ([19 U.S.C. 2501](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section2501&num=0&edition=prelim), et seq., [19 U.S.C. 3301](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section3301&num=0&edition=prelim) note).

            \_X\_ (52) [52.225-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1054249), Restrictions on Certain Foreign Purchases (Feb 2021) (E.O.’s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

            \_\_ (53) [52.225-26](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1054921), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

            \_\_ (54) [52.226-4](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055038), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (55) [52.226-5](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055048), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (56) [52.229-12](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#id205VI30B0ZS), Tax on Certain Foreign Procurements (Feb 2021).

            \_\_ (57) [52.232-29](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1050508), Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) ([41 U.S.C.4505](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), 10 U.S.C. 3805).

            \_\_ (58) [52.232-30](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1050540), Installment Payments for Commercial Products and Commercial Services (Nov 2021) ([41 U.S.C.4505](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), 10 U.S.C. 3805).

            \_\_ (59) [52.232-33](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1050674), Payment by Electronic Funds Transfer-System for Award Management (Oct 2018) ([31 U.S.C. 3332](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section3332&num=0&edition=prelim)).

            \_\_ (60) [52.232-34](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1050705), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) ([31 U.S.C.3332](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (61) [52.232-36](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1050789), Payment by Third Party (May 2014) ([31 U.S.C.3332](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (62) [52.239-1](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1049272), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5-section552a&num=0&edition=prelim)).

            \_X\_ (63) [52.242-5](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_242-5), Payments to Small Business Subcontractors (Jan 2017) ([15 U.S.C. 637(d)(13)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

          \_\_ (64) (i) [52.247-64](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1046560), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](https://www.govinfo.gov/content/pkg/USCODE-2019-title46/html/USCODE-2019-title46-subtitleV-partD-chap553-subchapI-sec55305.htm) and [10 U.S.C. 2631](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                  \_\_ (ii) Alternate I (Apr 2003) of [52.247-64](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1046560).

                  \_\_ (iii) Alternate II (Nov 2021) of [52.247-64](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1046560).

      (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 products and commercial services:

     [Contracting Officer check as appropriate.]

            \_\_ (1) [52.222-41](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_222_41), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (2) [52.222-42](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056410), Statement of Equivalent Rates for Federal Hires (May 2014) ([29 U.S.C. 206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (3) [52.222-43](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056443), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) ([29 U.S.C. 206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (4) [52.222-44](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056463), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ([29 U.S.C. 206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (5) [52.222-51](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056685), 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](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (6) [52.222-53](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056732), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

            \_\_ (7) [52.222-55](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056818), Minimum Wages Under Executive Order 13658 (JAN 2022).

            \_\_ (8) [52.222-62](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_222_62), Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

            \_\_ (9) [52.226-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055065), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ([42 U.S.C. 1792](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

      (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, as defined in FAR [2.101](https://www.acquisition.gov/content/part-2-definitions-words-and-terms#i1125359), on the date of award of this contract, and does not contain the clause at [52.215-2](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1059150), 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](https://www.acquisition.gov/content/part-4-administrative-and-information-matters#i1122629), 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 products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

                (i) [52.203-13](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1063504), Contractor Code of Business Ethics and Conduct (Nov 2021) ([41 U.S.C. 3509](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (ii) [52.203-19](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_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](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#id189A70O0P1N), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

                (iv) [52.204-25](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#unique_1390665200), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

                (v) 52.204-27, Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L.117-328).

                (vi) [52.219-8](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-8), Utilization of Small Business Concerns (Oct 2022) ([15 U.S.C.637(d)(2)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section637&num=0&edition=prelim) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](https://www.acquisition.gov/content/part-19-small-business-programs#i1100224)(a) on the date of subcontract award, the subcontractor must include [52.219-8](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_219-8) in lower tier subcontracts that offer subcontracting opportunities.

                (vii) [52.222-21](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055713), Prohibition of Segregated Facilities (Apr 2015).

                (viii) [52.222-26](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055793), Equal Opportunity (Sep 2015) (E.O.11246).

                (ix) [52.222-35](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056230), Equal Opportunity for Veterans (Jun 2020) ([38 U.S.C.4212](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (x) [52.222-36](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056250), Equal Opportunity for Workers with Disabilities (Jun 2020) ([29 U.S.C.793](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (xi) [52.222-37](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056265), Employment Reports on Veterans (Jun 2020) ([38 U.S.C.4212](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (xii) [52.222-40](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056304), 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](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056304).

                (xiii) [52.222-41](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_222_41), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter 67](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title41-chapter67-front&num=0&edition=prelim)).

                (xiv) (A) [52.222-50](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056535), Combating Trafficking in Persons (Nov 2021) ([22 U.S.C. chapter 78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O 13627).

                     (B) Alternate I (Mar 2015) of [52.222-50](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056535)([22 U.S.C. chapter 78 and E.O 13627](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (xv) [52.222-51](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056685), 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](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (xvi) [52.222-53](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056732), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                (xvii) [52.222-54](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056753), Employment Eligibility Verification (May 2022) (E.O. 12989).

                (xviii) [52.222-55](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1056818), Minimum Wages Under Executive Order 13658 (JAN 2022).

                (xix) [52.222-62](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_222_62), Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

                (xx) (A) [52.224-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_224_3), Privacy Training (Jan 2017) ([5 U.S.C. 552a](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

                     (B) Alternate I (Jan 2017) of [52.224-3](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i52_224_3).

                (xxi) [52.225-26](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1054921), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

                (xxii) [52.226-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055065), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ([42 U.S.C. 1792](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1055065).

(xxiii) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801). Flow down required in accordance with paragraph (c) of 52.232-40.

                (xxiv) [52.247-64](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1046560), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](https://www.govinfo.gov/content/pkg/USCODE-2019-title46/html/USCODE-2019-title46-subtitleV-partD-chap553-subchapI-sec55305.htm) and [10 U.S.C. 2631](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses#i1046560).

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

## C.6 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

|  |  |  |
| --- | --- | --- |
| **FAR/VAAR Clause** | **Title** | **Date** |
| 52.203-17 | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS | JUN 2020 |
| 52.204-4 | PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER | MAY 2011 |
| 852.203-70 | COMMERCIAL ADVERTISING | MAY 2018 |
| 852.219-70 | VA SMALL BUSINESS SUBCONTRATING PLAN MINIMUM REQURIEMENTS | JAN 2023 (DEVIATION) |
| 852.246-71 | REJECTED GOODS | OCT 2018 |

# SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

## D.1 ATTACHMENT “A”

**VA PHARMACEUTICAL PRIME VENDOR CONTRACTOR**

McKesson Corporation

6555 State Highway 161

Irving, TX 75039

[OTCProductMaintenance@McKesson.com](mailto:OTCProductMaintenance@McKesson.com)

[BrandRx@McKesson.com](mailto:BrandRx@McKesson.com)

[GxSupplierOps2@mckesson.com](mailto:GxSupplierOps2@mckesson.com)

## D.2 ATTACHMENT “B”

**DOD PHARMACEUTICAL PRIME VENDOR (PPV) CONTRACTORS**

|  |  |
| --- | --- |
| McKesson Corp.  1220 Senlac Drive  Carrollton, TX 75006  POC: Lori White, V.P Government  Phone: (972) 446-5758  Fax: (972) 446-5337  Email: [Lori.White@McKesson.com](mailto:Lori.White@McKesson.com) | AmeriSource Bergen Drug Co.  9900 J.E.B. Stuart Parkway  Glen Allen, VA 23060  POC: Alex Merritt, Director of Gov’t Accounts  Phone: (312) 533-8015  Email: [amerritt@amerisourcebergen.com](mailto:amerritt@amerisourcebergen.com) |
| Dakota Drug, Inc.  1101 Lund Blvd  PO Box 877  Anoka, MN 55303  POC: Matthew Kipp  Phone: (763) 432-4333 x1158  Fax: (763) 421-0661  Email: [mkipp@dakdrug.com](mailto:mkipp@dakdrug.com) | DMS Pharmaceutical Group, Inc.  810 Busee Highway  Park Ridge, IL 60068  POC: Misko Dragin, Comptroller  Phone: (847) 518-1100 ext. 229  Fax: (847) 518-1105  Email: [mdragin@dmspharma.com](mailto:mdragin@dmspharma.com) |
| Cardinal Health  3651 Birchwood Drive  Waukegan, IL 60085  POCs: Christopher Duncan and Patricia Bonaguidi  Phone: (951) 602-0915 and (847) 578-3133  Email: [Christopher.duncan@cardinalhealth.com](mailto:Christopher.duncan@cardinalhealth.com) and [Patricia.Bonaguidi@cardinalhealth.com](mailto:Patricia.Bonaguidi@cardinalhealth.com) |  |

## D.3 ATTACHMENT “C”

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **ESTIMATED ANNUAL REQUIREMENTS BY AGENCY** | | | | | | | |
| **ITEM** | **DESCRIPTION** | **PKG SIZE (TABS PER BT)** | **VA EST. ANNUAL USAGE (BT)** | **DOD EST. ANNUAL USAGE (BT)** | **BOP EST. ANNUAL USAGE (BT)** | **IHS EST. ANNUAL USAGE (BT)** | **TOTAL EST. ANNUAL USAGE (BT)** |
| 1 | DONEPEZIL HCL 10MG TAB | 30 | 19,639 | 298 | 6 | 1,806 | 21,749 |
| 2 | DONEPEZIL HCL 10MG TAB | 90 | 59,352 | 26,105 | 90 | 885 | 86,432 |
| 3 | DONEPEZIL HCL 10MG TAB | 1000 | 6,771 | 4,701 | 0 | 46 | 11,518 |
| 4 | DONEPEZIL HCL 5MG TAB | 30 | 34,010 | 1,095 | 35 | 1,332 | 36,472 |
| 5 | DONEPEZIL HCL 5MG TAB | 90 | 10,305 | 8,504 | 89 | 706 | 19,604 |
| 6 | DONEPEZIL HCL 5MG TAB | 1000 | 1,149 | 2,394 | 2 | 35 | 3,580 |

D.4 ATTACHMENT “D”

**SMALL BUSINESS SUBCONTRACTING PLAN**

**(Model Outline\* – Template Effective 9/10/2021)**

**\*** *This template is a* ***suggested*** *model for use when formulating a subcontracting plan pursuant to the requirements at FAR 52.219-9(d). While this model plan has been designed to be consistent with FAR 52.219-9, other formats may be acceptable. However, failure to include the essential information as set forth in this model may be cause for either a delay in acceptance or the rejection of an offer where the clause is applicable. Further, the use of this model is not intended to waive other requirements that may be applicable under FAR 52.219-9 or that may appear in the Government’s solicitation. "SUBCONTRACT," as used in 52.219-9,* ***refers to your external company spend****, meaning any agreement (other than one involving an employer-employee relationship) entered into by a federal government prime contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract****.***

**SUBCONTRACTING PLAN PERIOD:** [Enter start date of fiscal year] - [Enter end date of fiscal year]

Individual plans should cover the entire period of performance, and commercial plans should coincide with the company’s fiscal year. In the event your company's fiscal year is for a period that will end before the contract periods of any federal contracts you hold which include the requirement to have a small business subcontracting plan, **you will be required to submit a new subcontracting plan for approval thirty (30) days prior to expiration of the existing subcontracting plan**. In the event an acceptable plan cannot be negotiated prior to expiration of the existing subcontracting plan, your contract(s) may be terminated.

**DATE SUBMITTED:** [Enter date submitted. If plan has been revised, enter revision date]

**NAME OF PLANHOLDER:**

**SUBSIDIARIES INCLUDED:** [Enter "None" or specific names of included subsidiaries]

**ADDRESS:**

**ITEM/SERVICE TYPE**: [Enter product/service type, not contract number, schedule, or SIN]

1. **TYPE OF PLAN**

Select only one of the following plan types (a or b), listing the total estimated dollar value of all planned subcontracting (to all types of business concerns, both **large and small**).

**Excluded Categories of Spend:** Per 52.219-9(g), **the following categories should not be included in the total subcontracting spend base in #1, the proposed goals in #2, nor in the categories of spend listed in #3:** Employee salaries and benefits; payments for petty cash; depreciation; interest; income taxes; property taxes; lease payments; bank fees; fines, claims, and dues; original equipment manufacturer relationships during warranty periods (negotiated up front with the product); utilities and other services purchased from a municipality or an entity solely authorized by the municipality to provide those services in a particular geographical region; and philanthropic contributions.

1. **Individual Plan** (This Contract Only) Contract #/Solicitation #

Total value of projected subcontracts (both **large and small** businesses**)**

Base Period $       5-Year Option $

Total Contract Value (including options) $

\*Separate goals **must** be included for each option period (see #2 and chart on last page)

1. **Commercial Plan *(select one of the following plan types*):**

**Company-wide *or***  **Division-wide**

Total value of projected subcontracts (both **large and small** businesses**)**, including all indirect costs except as described in #1 above$

Total projected sales $       (Subcontracts Represent      % of Total Annual Sales)

State separate dollar and percentage goals, expressed in terms of **percentages of the total available subcontracting dollars** listed in the previous section in #1.

***Commercial plans must complete 2a below with 1-year goals, and individual plans must complete 2b below with two separate 5-year goals. Complete only 2a OR 2b, as applicable. Round percentage goals to one decimal place (X.x%).***

**2a. GOALS FOR COMMERCIAL PLANS (1-Year Goals)**

1. Total estimated dollar value and percent of planned subcontracting with small businesses (SB) (including ANCs and Indian tribes), veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged (including ANCs and Indian tribes), and women-owned small business concerns: $      and      %
2. Total estimated dollar value and percent of planned subcontracting with **veteran-owned small businesses (VO):** $      and      %
3. Total estimated dollar value and percent of planned subcontracting with **service-disabled veteran-owned small businesses (SDVO)** (Note: This is a subset of veteran-owned): $      and      %
4. Total estimated dollar value and percent of planned subcontracting with **small disadvantaged businesses (SDB)** (including ANCs and Indian tribes): $      and      %
5. Total estimated dollar value and percent of planned subcontracting with **women-owned small businesses (WO)**: $      and      %
6. Total estimated dollar value and percent of planned subcontracting **with HUBZone small businesses (HUB)**: $      and      %

**2b. GOALS FOR INDIVIDUAL PLANS (Two, Five-Year Goals)**

1. Total estimated dollar value and percent of planned subcontracting with small businesses (SB) (including ANCs and Indian tribes), veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged (including ANCs and Indian tribes), and women-owned small business concerns:

Base (5-years): $      &      % & 5-Year Option: $      &      %

1. Total estimated dollar value and percent of planned subcontracting with **veteran-owned small businesses (VO):**

Base (5-years): $      &      % & 5-Year Option: $      &      %

1. Total estimated dollar value and percent of planned subcontracting with **service-disabled veteran-owned small businesses (SDVO)** (Note: This is a subset of veteran-owned):

Base (5-years): $      &      % & 5-Year Option: $      &      %

1. Total estimated dollar value and percent of planned subcontracting with **small disadvantaged businesses (SDB)** (including ANCs and Indian tribes):

Base (5-years): $      &      % & 5-Year Option: $      &      %

1. Total estimated dollar value and percent of planned subcontracting with **women-owned small businesses (WO)**:

Base (5-years): $      &      % & 5-Year Option: $      &      %

1. Total estimated dollar value and percent of planned subcontracting **with HUBZone small businesses (HUB)**:

Base (5-years): $      &      % & 5-Year Option: $      &      %

**3. PRODUCTS AND/OR SERVICES *Note: Commercial Plans must include all indirect costs.***

The types of products and/or services to be subcontracted are:

**LB:**

**SB:**

**VO:**

**SDVO:**

**SDB:**

**WO:**

**HUB:**

**4. GOAL DEVELOPMENT**

The following method was used in developing the subcontracting goals:

**5. IDENTIFYING POTENTIAL SOURCES**

The following methods were used to identify potential sources for solicitation purposes (See FAR 52.219-9(d)(5) for examples of methods that may be used.):

**6. INDIRECT COSTS  *Note: Commercial Plans must include all indirect costs.***

Indirect costs  have  have not been included in the dollar and percentage subcontracting goals stated above. (Check one.)

If "have been" is checked (and you are proposing an individual plan), explain the method used in determining the proportionate share of indirect costs to be incurred with small business (including Alaska Native Corporations and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged business (including ANCs and Indian tribes), women-owned small business, and HUBZone small business concerns. *Note: Commercial planholders are required to include all indirect costs and will not need to provide the aforementioned explanation because the costs will be applied at 100%.*

**7. PROGRAM ADMINISTRATOR**

The following individual will administer the subcontracting program:

NAME:

TITLE:

ADDRESS:

TELEPHONE:

E-MAIL:

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows:

**8. EQUITABLE OPPORTUNITY**

The following good faith efforts (internal and external) will be taken to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged business, women-owned small business, and HUBZone small business concerns will have an equitable opportunity to compete for subcontracts:

**9. FLOW-DOWN CLAUSE**

The offeror agrees that the FAR clause of this contract entitled “Utilization of Small Business Concerns” (52.219-8) will be included in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of FAR clause 52.219-9 Small Business Subcontracting Plan.

***NOTE: See exceptions listed in FAR 52.219-9(j).***

**10. REPORTING & COOPERATION**

The offeror agrees to

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

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

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts with individual subcontracting plans where the contract is intended for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of FAR 52.219-9 using the Electronic Subcontracting Reporting System (eSRS) at [http://www.esrs.gov](http://www.esrs.gov/). The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with 52.219-9, or as provided in agency regulations;

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

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

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

**11. RECORDKEEPING**

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

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

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

(iii) Records on each subcontract solicitation resulting in an award of more than the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, indicating—

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

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

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

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

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

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

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

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

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

(D) Veterans service organizations.

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

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

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

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

**12 & 13. UTILIZATION OF SMALL BUSINESS CONCERNS USED IN BID/PROPOSAL**

**12.** The offeror agrees to make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if–

(i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or

(ii) The Offeror used the small business concern’s pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

**13.** The Contractor agrees to provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (12) above. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

**14. SUBCONTRACTOR DISCUSSIONS WITH CO**

The Contractor agrees not to prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

**15. PROMPT PAYMENT OF SMALL BUSINESS SUBCONTRACTORS**

The Contractor agrees to pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see FAR 52.242-5).

**Signed:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date Signed:** \_\_\_\_\_\_\_\_\_\_\_

**Typed Name:**       **Title:**

|  |  |
| --- | --- |
| **Plan Approval Signature (Government Official)** |  |
| **Typed Name of Government Approver** |  |
| **Date Approved** |  |

**COMMERCIAL PLANS: SUMMARY OF GOALS**

This page is for ***commercial plans ONLY.***

Entries below should match your responses in #1 and #2a at the beginning of the template.

**Round percentages to one decimal place (X.x%) and dollar figures to the nearest whole dollar**.

**Prior Year Goals Prior Year Current Goals**

**Achievements\***

**1. Total Subcontracting Dollars** $       $       $

(both large & small businesses)

**2a. Small Business** Dollars $       $       $

**SB** Percent of Line 1      %      %      %

**2b. Small Veteran-owned** Dollars $       $       $

**VO** Percent of Line 1     %      %      %

**2c. Service-Disabled Veteran-**

**Owned** Dollars$       $       $

**SDVO** Percent of Line 1     %      %      %

**2d. Small Disadvantaged** Dollars $       $       $

**SDB** Percent of Line 1      %      %      %

**2e. Small Women-owned** Dollars $       $       $

**WO** Percent of Line 1      %      %      %

**2f. HUBZone** Small Business Dollars $       $       $

**HUB** Percent of Line 1      %      %      %

*\* If total prior year contract achievements are not available, use actual figures and estimate/prorate balance. Achievements based on Government’s Fiscal Year while Goals are based on Company’s Fiscal Year.*

# SECTION E - SOLICITATION PROVISIONS

## E.1 52.212-1 INSTRUCTIONS TO OFFERORS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (MAR 2023)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code(s) and small business size standard(s) for this acquisition appear elsewhere in the solicitation. However, the small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—

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

(2) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

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

      (b) Submission of offers. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the [SF 1449](https://www.gsa.gov/forms-library/solicitationcontractorder-commercial-items), letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

1. The solicitation number;

           (2) The time specified in the solicitation for receipt of offers;

           (3) The name, address, and telephone number of the offeror;

           (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

           (5) Terms of any express warranty;

           (6) Price and any discount terms;

           (7) “Remit to” address, if different than mailing address;

           (8) A completed copy of the representations and certifications at Federal Acquisition Regulation (FAR) [52.212-3](https://www.acquisition.gov/content/52212-3-offeror-representations-and-certifications-commercial-items#i1060550) (see FAR [52.212-3](https://www.acquisition.gov/content/52212-3-offeror-representations-and-certifications-commercial-items#i1060550)(b) for those representations and certifications that the offeror shall complete electronically);

           (9) Acknowledgment of Solicitation Amendments;

           (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

           (11) If the offer is not submitted on the [SF 1449](https://www.gsa.gov/forms-library/solicitationcontractorder-commercial-items), include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

      (c) Period for acceptance of offers. (**Tailored**) The offeror agrees to hold the prices in its offer firm for **120 calendar days** from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

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

      (e) Multiple offers. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with [subpart  4.10](https://www.acquisition.gov/content/subpart-410-uniform-use-line-items#iSubpart_4_10) of the Federal Acquisition Regulation), or alternative commercial products or services for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

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

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

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

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

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

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

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

           (3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

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

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

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

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

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

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

GSA Federal Supply Service Specifications Section

Suite 8100 470 East L’Enfant Plaza, SW

Washington, DC 20407

Telephone (202) 619-8925

Facsimile (202) 619-8978

                (ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

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

                (i) ASSIST (<https://assist.dla.mil/online/start/>).

                (ii) Quick Search ([http://quicksearch.dla.mil/](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3" \t "_blank)).

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

                (i) Using the ASSIST Shopping Wizard ([https://assist.dla.mil/wizard/index.cfm](https://assist.dla.mil/wizard/index.cfm" \t "_blank));

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

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

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

      (j) Unique entity identifier. (Applies to all offers that exceed the micro-purchase threshold, and offers at or below the micro-purchase threshold if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see FAR [subpart  32.11](https://www.acquisition.gov/content/subpart-3211-electronic-funds-transfer#i1080713)) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov/) for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at [www.sam.gov](http://www.sam.gov/) for establishing the unique entity identifier.

      (k)[Reserved]

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

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

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

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

           (4) A summary of the rationale for award;

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

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

(End of Provision)

## ADDENDUM to FAR 52.212-1 INSTRUCTIONS TO OFFERORS --COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

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

The following provisions are incorporated into FAR 52.212-1 as an addendum to this solicitation:

**Instructions for Proposal Submission**

1) Proposals will be accepted in Microsoft Word or PDF form via e-mail to Kenneth Lay at [**Kenneth.Lay@va.gov**](mailto:Kenneth.Lay@va.gov) with a scanned (pdf) copy of the **signed**SF-1449. Please note that faxed proposals are not acceptable and will be rejected. Please note, zip files and folders are rejected by VA NAC servers, and emails with large attachments may not be received. VA suggests that offerors submit their proposals well before the deadline and confirm receipt of all attachments with the Contracting Officer listed on the SF-1449. Reference FAR 52.212-1(f) regarding timeliness of submission of offers.

2) Offerors shall include its Unique Entity Identifier and Contractor and Government Entity (CAGE) code in block 17a of the SF-1449.

3)  For each item offered, offerors shall provide a separate and distinct eleven-digit National Drug Code (NDC) Number unique to the offeror as outlined in the Scope of Contract (Section 8).

4) Offerors shall meet the packaging requirements as outlined in Scope of Contract (Section 5).

5)  Offerors shall submit a price for all line items offered, inclusive of the base year and all option years. Offered prices must include .50% Cost Recovery Fee as outlined in the Scope of Contract (Section 12).

6) Offerors shall complete the solicitation representations at **FAR 52.209-7** and **FAR 52.204-26** as provided in Section E of the solicitation and shall complete solicitation provisions **FAR 52.203-2,** **FAR 52.204-24**, and **FAR** **52.225-6** as applicable.

7) Subcontracting Plan Requirements: Pursuant to the requirements of Public Law 95-507 (15 U.S.C. § 644), all large business concerns are required to have an approved subcontracting plan for contracts valued over $750,000 before the Government can award a contract (see FAR 52.219-9 and VAAR 852.219-70 for details). Offerors must submit a currently approved commercial plan or a new plan for review and approval. Attachment “D” includes all of the elements required to be addressed and is included to facilitate the submission of a subcontracting plan.

8) All offerors must complete FAR 52.212-3 Offeror Representations and Certifications-Commercial Products and Commercial Services; this can be completed online at www.SAM.gov. **However, offerors shall review and complete paragraph (b)(2) of 52.212-3 within solicitation Section E as applicable.**

9) The System for Award Management (SAM) is the Official U.S. Government system for registering to do business with the federal government, completing company representations and certifications, listing contract opportunities, and more. Contractors should go to <http://www.sam.gov> to find their information. Training tools are available on the SAM website for familiarization with the SAM system. Prospective contractors shall maintain a current and accurate record in the SAM database. SAM updates are required as necessary, but at least annually.

Please indicate below the offeror’s SAM Unique Entity Identifier, DUNS number, and Tax ID Number (TIN) for SAM verification purposes:

**SAM Unique Entity Identifier:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**DUNS:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**TIN:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

10) CONTACT FOR CONTRACT ADMINISTRATION

Offerors are requested to designate a person to be contacted for prompt contract administration.

|  |  |
| --- | --- |
| **NAME** |  |
| **TITLE** |  |
| **ADDRESS** |  |
|  |  |
| **CITY, STATE, ZIP CODE** |  |
| **E-MAIL ADDRESS** |  |
| **PHONE NO.** |  |
| **800 NO.** |  |
| **FAX NO.** |  |

**SALES REPORTS POC**

|  |  |
| --- | --- |
| **NAME & TITLE** |  |
| **Email Address** |  |
| **Phone Number** |  |

11) AUTHORIZED NEGOTIATORS

The offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals: (list names, titles, e-mail addresses, and telephone numbers of the authorized negotiators)

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

12) NOTICE TO DEALERS AND SUPPLIERS

(a) If the offeror is not the manufacturer of the offered items, the offeror shall submit: A Letter of Commitment from the manufacturer to the offeror which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period. “Manufacturer” is defined as the entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of active and inactive ingredients to form drug products, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. This process includes the measuring, mixing, weighing, and compounding both the active and inactive ingredients. The product is then converted into various drug forms, suitable for administration through tablets, capsules, liquids (in the form of solutions, suspensions, emulsions, gels, or injectables), creams, ointments, or aerosols. If the offeror and its manufacturer are affiliates, the Letter of Commitment or evidence as required herein is required of the manufacturing facility, regardless of the relationship with the offeror. The offeror must maintain the same manufacturer (NDA/ANDA/BLA) for the duration of the contract period, unless the Contracting Officer makes a determination that a change in the manufacturer is acceptable. This determination may take place before or after contract award. **If not a manufacturer, to be eligible for award, offerors must submit a Letter of Commitment that meets all requirements stated in section (b) below.**

The Government will evaluate offers in accordance with the policies and procedures of the FAR Part 12, Part 15, and Part 25.

(b) To be considered acceptable, the Letter of Commitment:

1. Shall be on the manufacturer’s letterhead.
2. Shall be dated.
3. Shall reference the solicitation number and the product committed to the manufacture.
4. Shall state that the manufacturer assures the offeror of an uninterrupted source of supply sufficient to satisfy the Government’s requirements for the contract period, and that the manufacturer is currently manufacturing the product.
5. Shall be signed by an officer of the manufacturer’s company (include printed name, title and telephone number).

## E.2 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offeror’s organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [insert full name of person(s) in the offeror’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror’s organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of Provision)

## E.3 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

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

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

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

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

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

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

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

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

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

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

(d) *Representations*. The Offeror represents that—

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

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

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

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

(i) For covered equipment—

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

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

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

(ii) For covered services—

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

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

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

(i) For covered equipment—

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

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

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

(ii) For covered services—

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

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

(End of Provision)

## E.4 52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (OCT 2020)

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

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

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

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

(End of Provision)

## E.5 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 proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than $10,000,000” means—

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] **has** [ ] **does not have** current active Federal contracts and grants with total value greater than $10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (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).

## E.6 52.225-6 TRADE AGREEMENTS CERTIFICATE (FEB 2021)

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

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

Other End Products

|  |  |
| --- | --- |
| Line item No. | Country of origin |
|  |  |
|  |  |
|  |  |

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. 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 those products are insufficient to fulfill the requirements of this solicitation.

(End of Provision)

## E.7 52.216-1 TYPE OF CONTRACT (APR 1984)

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

## E.8 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:

Email Addresses:

[Kenneth.Lay@va.gov](mailto:Kenneth.Lay@va.gov)

[Erika.Moreno2@va.gov](mailto:Erika.Moreno2@va.gov)

[Diana.Martinez1@va.gov](mailto:Diana.Martinez1@va.gov)

[Nicholas.McGregor@va.gov](mailto:Nicholas.McGregor@va.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.

## E.9 52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2018)

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

*Electronic Funds Transfer (EFT) indicator* means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see subpart 32.11) for the same entity.

*Registered in the System for Award Management (SAM)* means that—

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14) into SAM;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in SAM;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

*Unique entity identifier* means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [*http://www.sam.gov/*](http://www.sam.gov/) for the designated entity for establishing unique entity identifiers.

(b)(1) An Offeror is required to be registered in SAM when submitting an offer or quotation, and shall continue to be registered until time of award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation ‘‘Unique Entity Identifier’’ followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in SAM.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [*http://www.sam.gov/*](http://www.sam.gov/) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(3) Company physical street address, city, state, and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within your entity).

(d) Processing time should be taken into consideration when registering. Offerors who are not registered in SAM should consider applying for registration immediately upon receipt of this solicitation. See [*https://www.sam.gov/*](https://www.sam.gov/) for information on registration.

(End of Provision)

## E.10 52.212-2 EVALUATION—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (NOV 2021)

A contract will be awarded to the responsible offeror that submits an offer meeting the solicitation requirements, and is the lowest price technically acceptable offer. An offer will be considered to be technically acceptable if it meets all the following criteria:

1. The offered items must fully meet the product description, to include, the drug name, strength(s), and package size(s), as stated in the Schedule of Supplies.
2. The National Drug Code (NDC) number of each offered product must be unique to the offeror.
3. All offered pharmaceuticals must be Food and Drug Administration (FDA) approved. The FDA approval(s) must be verifiable by the Contracting Officer.
4. The Manufacturing Facility/Place of Performance must:
   1. Be FDA cGMP acceptable, and
   2. Have clearance by the FDA to manufacture under the specific NDA/ANDA/BLA.

One award will be made in the aggregate for line items 1,2,3,4,5 and 6 including the base year and all four option years. In order to be considered for award, the offeror shall submit a price for line items 1, 2, 3, 4, 5 and 6 for the base year and all four option years. Proposals that fail to include a price for the base year and each of the four option years for line items 1, 2, 3, 4, 5 and 6 may be rejected and receive no further consideration. Offered prices shall include the 0.5% Cost Recovery Fee (see Scope of Contract, Section 11).

The price evaluation will be computed by multiplying the estimated quantity of the line item by the unit prices offered for the base year and option years and adding the results of all line items. Unit prices offered shall not exceed two decimal places. The Government intends to evaluate offers and award a contract without discussions with offerors. However, the Government reserves the right to conduct discussions if determined by the Contracting Officer to be necessary.

The Government will evaluate offers in accordance with the policies and procedures of the FAR Part 12, Part 15, and Part 25. An award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors. Past Performance will be evaluated to determine contractor responsibility in accordance with FAR Part 9.

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

A written notice of award or acceptance of an offer emailed 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, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

## E.11 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEC 2022)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through [https://www.sam.gov](https://www.sam.gov/). If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

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

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

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

*Forced or indentured child labor* means all work or service—

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

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

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

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

*Inverted domestic corporation*, means a foreign incorporated entity that meets the definition of an inverted domestic corporation under [6 U.S.C. 395](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title6-section395&num=0&edition=prelim)(b), applied in accordance with the rules and definitions of [6 U.S.C. 395](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title6-section395&num=0&edition=prelim)(c).

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

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

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

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

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

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

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

(8) PSC 9610, Ores;

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

(10) PSC 9630, Additive Metal Materials.

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

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

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

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

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

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

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

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

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

(6) Have been voluntarily suspended."Sensitive technology"—

*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 veteransor, 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](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section101&num=0&edition=prelim)(2), with a disability that is service connected, as defined in [38 U.S.C. 101](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section101&num=0&edition=prelim)(16).

*Small business concern*—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in [13 CFR part 121](https://www.ecfr.gov/current/title-13/part-121) and size standards in this solicitation.

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

*Small disadvantaged business concern*, consistent with13 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 at13 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 CFR124.104(c)(2); and

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation

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

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

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

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

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

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

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least51 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](https://www.ecfr.gov/current/title-13/part-127)), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with [13 CFR 127.300](https://www.ecfr.gov/current/title-13/section-127.300).

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

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications-Commercial Products and Commercial Services, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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

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

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

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

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

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

(ii)It □ is, □ is not a small business joint venture that complies with the requirements of [13 CFR 121.103(h)](https://www.ecfr.gov/current/title-13/section-121.103#p-121.103(h)) and [13 CFR 125.8(a)](https://www.ecfr.gov/current/title-13/section-125.8#p-125.8(a)) and [(b)](https://www.ecfr.gov/current/title-13/section-125.8#p-125.8(b)). [ *The offeror shall enter the name and unique entity identifier of each party to the joint venture:* \_\_.]

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

(3) *Service-disabled veteran-owned small business concern.* [ *Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.*] The offeror represents as part of its offer that—

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

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

(6) *WOSB joint venture eligible under the WOSB Program.* The offeror represents that it □ is, □ is not a joint venture that complies with the requirements of [13 CFR 127.506(a)](https://www.ecfr.gov/current/title-13/section-127.506#p-127.506(a)) through [(c)](https://www.ecfr.gov/current/title-13/section-127.506#p-127.506(c)). [ *The offeror shall enter the name and unique entity identifier of each party to the joint venture:* \_\_.]

(7) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents that it □ is, □ is not a joint venture that complies with the requirements of [13 CFR 127.506(a)](https://www.ecfr.gov/current/title-13/section-127.506#p-127.506(a)) through [(c)](https://www.ecfr.gov/current/title-13/section-127.506#p-127.506(c)). [ *The offeror shall enter the name and unique entity identifier of each party to the joint venture:* \_\_.]

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

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

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

(i) It □ is, □ is not a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residents of 35 percent of its employees during performance of a HUBZone contract (see [13 CFR 126.200(e)(1)](https://www.ecfr.gov/current/title-13/section-126.200)); and

(ii) It □ is, □ is not a HUBZone joint venture that complies with the requirements of [13 CFR 126.616(a)](https://www.ecfr.gov/current/title-13/section-126.616#p-126.616(a)) through [(c)](https://www.ecfr.gov/current/title-13/section-126.616#p-126.616(c)). [ *The offeror shall enter the name and unique entity identifier of each party to the joint venture:* \_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(d) Representations required to implement provisions of Executive Order11246-

(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* [*http://uscode.house.gov/*](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) *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) **Error! Reference source not found.**, Buy American-Supplies, is included in this solicitation.)

(1) (i) The Offeror certifies that each end product and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component, except those listed in paragraph (f)(2) of this provision, is a domestic end product.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

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

(iv) The terms “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(2) Foreign End Products:

| **Line Item No.** | **Country of Origin** | **Exceeds 55% domestic content (yes/no)** |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

[*List as necessary*]

(3) Domestic end products containing a critical component:

**Line Item No. \_\_\_**

[*List as necessary*]

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

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

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

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

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

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

| **Line Item No.** | **Country of Origin** |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

[*List as necessary*]

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

**Other Foreign End Products:**

|  |  |  |
| --- | --- | --- |
| **Line Item No.** | **Country of Origin** | **Exceeds 55% domestic content (yes/no)** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

[List as necessary]

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

**Line Item No. \_\_\_**

[List as necessary]

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

(2) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate,* Alternate II. If Alternate II to the clause at FAR [52.225-3](https://www.acquisition.gov/far/part-52#FAR_52_225_3) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

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

**Israeli End Products:**

| **Line Item No.** |
| --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

[*List as necessary*]

(3) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate III*. If Alternate III to the clause at 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*]

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

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

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

**Other End Products:**

|  |  |
| --- | --- |
| **Line Item No.** | **Country of Origin** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

[*List as necessary*]

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

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

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

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

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

(4) □ Have, □ have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at **Error! Reference source not found.**(a)(2) for which the liability remains unsatisfied.

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

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

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

(ii) *Examples*.

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

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

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

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

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

(1) *Listed end products.*

| **Listed End Product** | **Listed Countries of Origin** |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

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

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

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

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

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

(2) □ Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) *Taxpayer Identification Number (TIN) (* [26 U.S.C. 6109](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), [31 U.S.C. 7701](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). (Not applicable if the offeror is required to provide this information to the SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of [31 U.S.C. 7701(c) and 3325(d)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), reporting requirements of [26 U.S.C. 6041, 6041A, and 6050M](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), 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)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). 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 CFR1.6049-4;

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 e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

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

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

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

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2 (a)(2) with Iran’s Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (et seq.) (see OFAC’s Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

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

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

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

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

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

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

Immediate owner CAGE code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Immediate owner legal name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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

Is the immediate owner owned or controlled by another entity: □ Yes or □ No.

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

Highest-level owner CAGE code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Highest-level owner legal name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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

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

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

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

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

(2) The Offeror represents that–

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

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

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

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

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

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

Predecessor legal name: \_\_\_\_.

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

(s) [Reserved].

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

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

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

(i) The Offeror (itself or through its immediate owner or highest-level owner) □ does, □ does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible website 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 website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website 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 website(s) where greenhouse gas emissions and/or reduction goals are reported:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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

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

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

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

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

(2) The Offeror represents that–

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

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

## E.12 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

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

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

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| **FAR/VAAR Provision** | **Title** | **Date** |
| 52.214-34 | SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE | APR 1991 |
| 52.214-35 | SUBMISSION OF OFFERS IN U.S. CURRENCY | APR 1991 |
| 852.215-72 | NOTICE OF INTENT TO RE-SOLICIT | OCT 2019 |
| 852.233-70 | PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION | OCT 2018 |
| 852.233-71 | ALTERNATE PROTEST PROCEDURE | OCT 2018 |

(End of Provision)