



FULLY EXECUTED

Contract Number: 4400021169

Original Contract Effective Date: 06/20/2019

Valid From: 06/01/2019 To: 03/23/2027

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Purchasing Agent

Name: Cropper Scott

Phone: 717-346-3819

Fax:

Your SAP Vendor Number with us: 477291

Supplier Name/Address:

TRAPEZE SOFTWARE GROUP INC
DBA ASSETWORKS LLC
998 OLD EAGLE SCHOOL RD STE 1215
WAYNE PA 19087-1805 US

Please Deliver To:

To be determined at the time of the Purchase Order unless specified below.

Supplier Phone Number: 210-301-1710

Supplier Fax Number: 210-301-0298

Contract Name:

Participating Addendum - Assetworks

Payment Terms

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
1	Software Subscription	0.000	Each	0.00	1	0.00

2	Maintenance/Service/Upgrades	0.000	Each	0.00	1	0.00

General Requirements for all Items:

Header Text

5.6.24 - Commodity Specialist updated to Scott Cropper

No further information for this Contract

Information:

Supplier's Signature _____

Title _____

Printed Name _____

Date _____



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All using Agencies of the Commonwealth, Participating Political
Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 477291

Purchasing Agent

Name: Hosler Raeden
Phone: 717-787-4103
Fax:

Supplier Name/Address:
TRAPEZE SOFTWARE GROUP INC
DBA ASSETWORKS LLC
998 OLD EAGLE SCHOOL RD STE 1215
WAYNE PA 19087-1805 US

Please Deliver To:

To be determined at
the time of the Purchase Order
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General Requirements for all Items:

No further information for this Contract

Information:

Supplier's Signature _____

Title _____

Printed Name _____

Date _____

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1.CONTRACT ID CODE	PAGE OF PAGES 1 2
AMENDMENT/MODIFICATION NUMBER PO-0022		3. EFFECTIVE DATE Mar 24, 2022	4. REQUISITION/PURCHASE REQUISITION NUMBER	5. PROJECT NUMBER (If applicable) MAS
6. ISSUED BY General Services Administration OFFICE OF IT SCHEDULE PROGRAMS 1800 F ST. NW WASHINGTON DC 20405			7. ADMINISTERED BY (If other than Item 6) GSA/FAS/QV0CC 10 CAUSEWAY ST BOSTON MA 02222	
8. NAME AND ADDRESS OF CONTRACTOR (Number, street, county, State and ZIP Code) ASSETWORKS LLC 998 OLD EAGLE SCHOOL RD STE 1215 WAYNE, PA 190871805			<input checked="" type="checkbox"/> 9A AMENDMENT OF SOLICITATION NUMBER	9B. DATED (SEE ITEM 11)
			<input type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ORDER NUMBER GS-35F-317GA
			<input checked="" type="checkbox"/>	10B. DATED (SEE ITEM 13) Mar 24, 2017
CODE		FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS				
The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended <input type="checkbox"/> is not extended.				
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.				
12. ACCOUNTING AND APPROPRIATION DATA (If required)				
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NUMBER AS DESCRIBED IN ITEM 14.				
CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A.			
<input checked="" type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14. PURSUANT TO THE AUTHORITY OF FAR 43.103(b). Type of contract modifications Unilateral			
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:			
<input checked="" type="checkbox"/>	D. OTHER (Specify type of modification and authority) See Block 13 Notes...			
E. IMPORTANT: Contractor: <input checked="" type="checkbox"/> is not <input type="checkbox"/> is required to sign this document and return ___ copies to the issuing office.				
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)				
The above referenced contract, awarded under Multiple Award Schedule - Large Category - Information Technology is hereby modified as follows: A. In accordance with I-FSS-163 the five (5) year option period is hereby exercised for Option period #1 from 03/24/2022 to 03/23/2027. The option period has been valued at \$24,258,727 for a total 20 year contract value of \$94,609,034. The total contract period of performance is 03/24/2017 to 03/23/2027.				
Except as provided herein, all terms and conditions of the document referenced in Item 9A of this issue remain unchanged and in full force and effect.				
15A. NAME AND TITLE OF SIGNER (Type or print) GSA Initiated Mod			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Michael P. Wong	
15B. CONTRACTOR/OFFEROR Signature Not Required <small>(Signature of person authorized to sign)</small>		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA By Signed electronically See above <small>(Signature of Contracting Officer)</small>	
			16C. DATE SIGNED Mar 17, 2022	

Continuation of Description...

B. The pricing during this option period will be based on the following approved price list(s):

AssetWorks_Labor Commercial Price List_June2018, effective date 06/01/2018
AssetWorks_Verbatim Extract Commercial Price List_Jan 2020, effective date 01/01/2020

C. The Economic Price Adjustment (EPA) Clause 552.216-70 (Based on Commercial Catalog Pricing) applies to SIN's 33411, 511210, 54151, 611420 and 811212.

EPA Clause I-FSS-969 (b2) (Not based on Commercial Catalog Pricing), applies for SIN 51451S. Market indicator is Bureau of Labor Statistics Employment Cost Index (ECI), Table 5: Compensation - Not Seasonally Adjusted - Employment Cost Index for Total Compensation, for Private Industry Workers, by Occupational Group and Industry (dated December 2021).

D. Transactional Data Reporting (TDR) remains in effect for this contract. Therefore, there is no MFC/BOA discount relationship recognized for the contract and the entire contract is subject to TDR terms and conditions.

E. The current terms and conditions in effect for this option period are as follows:

GSA Basic Discount:

SIN 33411: 2% - 26.51%
SIN 811212: 2% - 26.51%
SIN 511210: 1% - 41%
SIN 54151: 20% - 25%
SIN 611420: 25%
SIN 54151S: 2.5% - 3%

Prompt Payment Terms: None, Net 30 Days

FOB: Destination

Quantity Volume Discount: None

Normal Delivery: Negotiated at Task Order Level

Expedited Delivery: Negotiated at Task Order Level

Special Terms or Considerations: None

F. The Contractor is required to update all electronic catalog submissions (GSA Advantage) and issue a new FSS price list or price list addendum incorporating the changes described in this modification per GSAR Clause I-FSS-600.

G. The Industrial Funding Fee (IFF) is a separate collection mechanism and any increase or decrease in the fee does not change the price discount relationship stated above. The current IFF is .75% and should be calculated as follows:

Negotiated price divided by (1 minus .0075) which equates to Negotiated price divided by 0.9925. Example: $(\$100,000 / 0.9925) = \$100,755.67$

GSA Point of Contact: Brian Dingess, (817) 850-5510, brian.dingess@gsa.gov

Block 13 Notes

Block 13.D:

I-FSS-163 Option (Evergreen)

**PARTICIPATING ADDENDUM
FEDERAL SUPPLY SERVICE INFORMATION
TECHNOLOGY SCHEDULE 70 CONTRACT
Schedule 70, IT Solutions and Electronics, General Purpose Commercial Informational
Technology Equipment, Software and Services**

This Participating Addendum (“Addendum”) is entered into pursuant to the Federal Supply Service Information Technology Schedule 70 Contract for General Purpose Commercial Information Technology Equipment, Software, and Services (“Federal Supply Contract”), between **AssetWorks LLC** (“the Contractor”) and the United States General Services Administration (“GSA”) (Contract #**GS-35F-317GA**). The parties to this Addendum hereby create a separate contract between the Contractor and the **Commonwealth of Pennsylvania** (“Commonwealth”) acting through its **Department of General Services** (“DGS”).

WHEREAS, GSA, pursuant to law governing federal acquisitions, entered into the Federal Supply Contract with the Contractor, pursuant to which the Contractor provides Information Technology Professional Products and Services as described in the Federal Supply Contract to federal agencies; and

WHEREAS, the Commonwealth of Pennsylvania desires to participate in the Federal Supply Contract as an additional contracting party to procure Information Technology Equipment, Software and Services from the Contractor under the Federal Supply Contract.

WHEREAS, DGS is authorized under Sections 1902 and 1908 of the *Commonwealth Procurement Code*, 62 Pa. C.S. §§ 1902 and 1908, to undertake and make this type of contractual arrangement. on behalf of the Commonwealth.

NOW THEREFORE, intending to be legally bound hereby, DGS and the Contractor agree as follows:

- 1) **Effective Date.** This Addendum shall become effective on the date the Commonwealth sends the fully executed and approved Addendum to the Contractor. This Addendum shall terminate or expire upon the earlier of (a) expiration or termination of the Federal Supply Contract, or (b) termination of this Addendum in accordance with its terms or the terms of the Federal Supply Contract. If the Federal Supply Contract is renewed or extended, this Addendum shall automatically renew or extend for a term consistent with the term of the Federal Supply Contract.
- 2) **Special Terms and Conditions.** DGS and the Contractor agree to be bound to the IT Contract Terms and Conditions attached hereto as **Exhibit A** and made part of this Addendum.

- 3) **Supplies and Services Available to Procure.** The Commonwealth may procure only those items and/or services from the Federal Supply Contract as set forth on **Exhibit B**, which is attached hereto and made part of this Addendum, except for items and/or services related to AssetWorks S&V, BarCode Hardware, GPS-Telematics, Fuel Focus and Key Box. Any item and/or service provided by the Contractor through the Federal Supply Contract but not listed on **Exhibit B**, may be added or substituted to this Addendum at the sole discretion of DGS. **Exhibit B** consists of:
- (a) **Exhibit B-1:** Contract GS-35F-317GA, *Authorized Information Technology Schedule*, effective March 17, 2017, consisting of the original Federal Supply Contract.
 - (b) **Exhibit B-2:** Contract GS-35F-317GA, *Contract Clause Document*, consisting of the additional terms agreed to between the General Services Administration and the Contractor.
 - (c) **Exhibit B-3:** Contract GS-35F-317GA, *Pricelist General Purpose Commercial Information Technology Equipment, Software and Services*, provided to the Commonwealth by the General Services Administration on November 20, 2018.

Whenever the Federal Supply Contract is revised, renewed or extended, the Commonwealth may replace any part of **Exhibit B** with a revised version of **Exhibit B**, via a Change Notice.

- 4) **Maintenance.** Unless prohibited by the Federal Supply Contract, the Contractor may provide software and/or hardware maintenance (“Maintenance”) to the Commonwealth through this Addendum, specifically Maintenance as allowed under Special Item Number (“SIN”) 132-12, SIN 132-32, SIN 132-33 and SIN 132-34 of this Federal Supply Contract.
- 5) **Addendum Terms.** DGS and the Contractor agree to be bound to the Terms and Conditions set forth in this Addendum.
- 6) **Federal Supply Contract Terms.** DGS and the Contractor agree to be bound by the prices, terms and conditions as stated in the Federal Supply Contract, which is made a part of this Addendum and incorporated by reference.
- 7) **Statement of Work.** Purchase Orders issued pursuant to this Addendum must include a price quote and a Statement of Work (“SOW”), as defined in Section 1 of **Exhibit A**. In the event of inconsistencies between this Agreement and the Software/Services License Requirements Agreement Number **4400021220**, the parties agree that Software/Services License Requirements Agreement Number **4400021220** prevails, only with respect to the specific subject matter addressed therein. A sample SOW is attached as **Exhibit C** to this Agreement. Each SOW, at a minimum, must contain the information set forth in **Exhibit C**.

- 8) **Service Levels.** Purchase Orders issued pursuant to this Addendum may include Service Level Agreements (“SLAs”), as contemplated in Section 65 of **Exhibit A**. In the event of inconsistencies between this Agreement and the Software/Services License Requirements Agreement Number **4400021220**, the parties agree that Software/Services License Requirements Agreement Number **4400021220** prevails, only with respect to the specific subject matter addressed therein. .
- 9) **Order of Precedence.** To the extent that there is a conflict between this Addendum, the Federal Supply Contract and the Special Terms and Conditions, the order of precedence shall be as follows (except as otherwise specified in the [General Services Administration Acquisition Manual](#), Section 552.238-79, *Use of Federal Supply Schedule Contracts by Non-Federal Entities*):
- 1) this Addendum;
 - 2) the Software/Services License Requirements Agreement Number **4400021220**
 - 3) the Special Terms and Conditions attached as **Exhibit A**; and then,
 - 4) the Federal Supply Contract.
- 10) **Lobbying Certifications and Disclosure.** With respect to an award of a federal contract, grant, or cooperative agreement exceeding \$100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of non-federal funds for lobbying by filing required documentation. The Contactor must complete and return the Lobbying Certification Form and the Disclosure of Lobbying Activities Form, which are attached to and made a part of this Addendum as **Exhibit C**. Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds.
- 11) **Iran Free Procurement Certifications and Disclosure.** Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, a Contractor must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services (“DGS”) pursuant to [Section 3503](#) of the *Commonwealth Procurement Code* and is eligible to contract with the Commonwealth under [Sections 3501—3506](#) of the *Commonwealth Procurement Code*; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to [Section 3503\(e\)](#). The Contractor must complete and return the Iran Free Procurement Certification form, (**Exhibit D, Iran Free Procurement Certification Form**), which is attached hereto and made part of this Addendum.

See the following web page for current Iran Free Procurement list:

<http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#>

- 12) **Primary Contact; Notice.** The primary contacts for this Addendum, as well as the recipients of any written notices pursuant to Section 57 of **Exhibit A**, shall be the individuals identified below or such other individuals as may be identified from time to time in a Notice sent by a designating party to the other parties set forth below, except that a Purchase Order issued pursuant to this Addendum will identify the Commonwealth Contact Person for the software and/or services identified in the Purchase Order.

The Commonwealth's primary contact, Issuing Officer and Contracting Officer for this Addendum is as follows:

Joseph Millovich
DGS Bureau of Procurement
555 Walnut St. 6th FL
Forum Place
Harrisburg, PA 17101-1914
(717) 214-3434
jmillovich@pa.gov

The Contractor's primary contact for this Addendum, including and notice is as follows:

Sandra McFarland
AssetWorks LLC
998 Old Eagle School Rd Ste 1215
Wayne, PA 19087-1805
(610) 687-1805
sandra.mcfarland@assetworks.com

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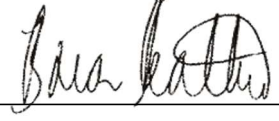
IN WITNESS WHEREOF, the parties hereto have signed this Contract effective as of the date of the final required Commonwealth approval. Execution by the Commonwealth will be as described in the Section 3, Signatures, of **Exhibit A**, *Standard Contract Terms and Conditions for IT Supplies and Related Services*.

ASSETWORKS LLC

Witness:

SAP Vendor Number: **477291**





Print Name Emily Tran

Print Name Brian Beattie

Title Legal Coordinator

Title CFO

If a corporation, the Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer or Chief Operating Officer must sign; if a sole proprietor, then the owner must sign; if a general or limited partnership, a general partner must sign; if a limited liability company, then a member must sign, unless it is a managed by a manager, then the manager must sign; otherwise a resolution indicating authority to bind the corporation must be attached to this Contract.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

*To be affixed in accordance with
Section 3 of Exhibit A*

Secretary or Designee

Approved as to Form and Legality:

*To be affixed in accordance with
Section 3 of Exhibit A*

Office of Chief Counsel, Department of General Services

*To be affixed in accordance with
Section 3 of Exhibit A*

Governor's Office of General Counsel

*To be affixed in accordance with
Section 3 of Exhibit A*

Office of Attorney General

Approved by Comptroller Operations:

*To be affixed in accordance with
Section 3 of Exhibit A*

Comptroller



**GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE LIST**

For more information on ordering from Federal Supply Schedule click on the FSS Schedules button at fss.gsa.gov. On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order is available through GSA Advantage!TM, a menu-driven database system. The INTERNET address for GSA Advantage!TM is:

<http://www.GSAAdvantage.gov>.

**MULTIPLE AWARD SCHEDULE
FSC GROUP: MAS**

GS-35F-317GA

*Contract Period: March 24, 2022 through March 23, 2027
Price List is current through Mod PA-0027, Effective March 23, 2022*

AssetWorks LLC
998 Old Eagle School Road, STE 1215
Wayne, PA 19087-1805
Contract Administrator: Dante Bradley
Phone: (610) 225-8321
Fax: (610) 971-9447
www.assetworks.com
AssetWorks LLC is registered as a Large Business

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CUSTOMER INFORMATION

1a. Table of awarded special item numbers with appropriate cross-reference to item descriptions and awarded prices.

SIN	Description	Awarded Prices
33411	Purchase of New Electronic Equipment	See GSA Pricelist
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	See GSA Pricelist
511210	Software Licenses	See GSA Pricelist
54151	Software Maintenance Services	See GSA Pricelist
611420	Information Technology Training	See GSA Pricelist
54151S	Information Technology Professional Services	See GSA Pricelist

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract.

SIN	Lowest Price Part Number	GSA Price
33411	See GSA Pricelist	See GSA Pricelist
811212	See GSA Pricelist	See GSA Pricelist
511210	See GSA Pricelist	See GSA Pricelist
54151	See GSA Pricelist	See GSA Pricelist
611420	See GSA Pricelist	See GSA Pricelist
54151S	See GSA Pricelist	See GSA Pricelist

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided.

Please see GSA pricelist.

2. Maximum order.

The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:

Special Item Number 33411	Purchase of New Electrical Equipment
Special Item Number 811212	Maintenance of Equipment, Repair Service, and Repair Parts/Spare Parts
Special Item Number 511210	Software Licenses
Special Item Number 54151	Software Maintenance Services
Special Item Number 54151S	Information Technology Professional Services

The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:

Special Item Number 611420	Information Technology Training
----------------------------	---------------------------------

3. Minimum order.

The minimum dollar value of orders to be issued is \$100.00

4. Geographic coverage (delivery area).

The Geographic Scope of Contract will be domestic delivery only.

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

5. Points of production.

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

6. Discount from list prices or statement of net price.

Prices shown are NET Prices; Basic Discounts have been deducted.

7. Quantity discounts.

None.

8. Prompt payment terms. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions.

None, Net 30.

9. Foreign items.

See GSA Pricelist

10a. Time of delivery.

Negotiated at Task Order

10b. Expedited Delivery.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

10c. Overnight and 2-day delivery.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

10d. Urgent Requirements.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

11. F.O.B. points.

Destination

12a. Ordering address.

AssetWorks LLC
998 Old Eagle School Road, Suite 1215
Wayne, PA 19087

12b. Ordering procedures:

For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

13. Payment address.

AssetWorks LLC
998 Old Eagle School Road, Suite 1215
Wayne, PA 19087

14. Warranty provision.

Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract. Limited Warranty - AssetWorks warrants the media on which Software is furnished to be free from defects in material and workmanship, under normal use, for a period of 90 days following the date of delivery to you. Customer Remedies - In the event of defects, the sole liability of the AssetWorks shall be to replace the defective media, which has been returned with your dated invoice and explanation of the defect. Any replacement Software will be warranted for the remainder of the original Limited Warranty period. No other warranties – Neither AssetWorks nor its suppliers warrant that the software will operate without error or interruption. Except for the express limited warranty, and disclaims all other warranties with respect to the software either express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement of third party rights. Limitation of Liability - Neither AssetWorks nor its suppliers shall be liable for any direct, indirect, punitive, special, incidental, consequential or any other damages of any kind, or relating to, including without limitation, damages for loss of profits, whether in an action under contract, tort (including negligence) or otherwise arising out of the delivery, performance or use of the software, even if AssetWorks is expressly advised of the possibility of such damages. In no event will AssetWorks' or its suppliers' liability for any claim, whether in contract, tort, or any other theory of liability, exceed the license fee paid. Some jurisdictions do not allow the exclusion of or limitation of liability for incidental or consequential damages, so the above limitations may not apply. U.S. Government End User - Where the U.S. Government is the end user, the terms of this Agreement shall be binding on the U.S. Government consistent with Federal Acquisition Regulation 12.212.

15. Export packing charges, if applicable.

Not Applicable

16. Terms and conditions of rental, maintenance, and repair.

See GSA Pricelist

17. Terms and conditions of installation.

See GSA Pricelist

18a. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices.

See GSA Pricelist

18b. Terms and conditions for any other services.

See GSA Pricelist

19. List of service and distribution points.

See GSA Pricelist

20. List of participating dealers.

See GSA Pricelist

21. Preventive maintenance.

See GSA Pricelist

22a. Special attributes such as environmental attributes.

None

22b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at:

www.Section508.gov/.

23. Unique Entity Identifier (UEI) number: E9CGB56KEKM8, DUNS number: 828548961

24. Notification regarding registration in System for Award Management (SAM) database.

Contractor is registered and active in SAM.gov. CAGE Code: 58R41.

**TERMS AND CONDITIONS APPLICABLE TO
PURCHASE OF NEW ELECTRICAL EQUIPMENT (SPECIAL ITEM NUMBER 33411)**

1. Materials And Workmanship

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. Order

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order. For credit card orders and BPAs, telephone orders are permissible.

3. Transportation Of Equipment

FOB Origin. Prices do not cover equipment delivery to destination, for any location within the geographic scope of this contract. Shipping charges will be quoted at cost when orders are placed.

4. Installation And Technical Services

All items are self-installable.

a. Installation

When the equipment provided under this contract is not normally self-installable, the Contractor's technical personnel shall be available to the Government, at the Government's location, to install the equipment and to train Government personnel in the use and maintenance of the equipment. The charges, if any, for such services are listed below, or in the price schedule:

Not Applicable

Installation, Deinstallation, Reinstallation

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies. The requisitioning activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 33411.

b. Operating And Maintenance Manuals

The Contractor shall furnish the Government with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

5. 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 equipment that has been tendered for acceptance. The Government may require repair or replacement of nonconforming equipment at no increase in contract price. The Government must exercise its postacceptance 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.

6. Warranty

- a. Unless specified otherwise in this contract, the Contractor’s standard commercial warranty as stated in the contract’s commercial pricelist will apply to this contract.
 Limited Warranty - AssetWorks warrants the media on which Software is furnished to be free from defects in material and workmanship, under normal use, for a period of 90 days following the date of delivery to you.
 Customer Remedies - In the event of defects, the sole liability of the AssetWorks shall be to replace the defective media, which has been returned with your dated invoice and explanation of the defect. Any replacement Software will be warranted for the remainder of the original Limited Warranty period.
 No other warranties – Neither AssetWorks nor its suppliers warrant that the software will operate without error or interruption. Except for the express limited warranty, and disclaims all other warranties with respect to the software either express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement of third party rights.
 Limitation of Liability - Neither AssetWorks nor its suppliers shall be liable for any direct, indirect, punitive, special, incidental, consequential or any other damages of any kind, or relating to, including without limitation, damages for loss of profits, whether in an action under contract, tort (including negligence) or otherwise arising out of the delivery, performance or use of the software, even if AssetWorks is expressly advised of the possibility of such damages. In no event will AssetWorks’ or its suppliers' liability for any claim, whether in contract, tort, or any other theory of liability, exceed the license fee paid. Some jurisdictions do not allow the exclusion of or limitation of liability for incidental or consequential damages, so the above limitations may not apply.
 U.S. Government End User - Where the U.S. Government is the end user, the terms of this Agreement shall be binding on the U.S. Government consistent with Federal Acquisition Regulation 12.212.
- b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows: 998 Old Eagle School Road, Suite 1215, Wayne, PA 19087-1805

7. Purchase Price For Ordered Equipment

The purchase price that the Government will be charged will be the Government purchase price in effect at the time of order placement, or the Government purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

8. Responsibilities Of The Contractor

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

9. Trade-In Of Information Technology Equipment

When an agency determines that Information Technology equipment will be replaced, the agency shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46)

TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE OF EQUIPMENT, REPAIR SERVICES AND REPAIR PARTS/SPARE PARTS (SPECIAL ITEM NUMBER 811212)

1. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

- a. Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period.

2. LOSS OR DAMAGE

When the Contractor removes equipment to his establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the equipment is removed from the ordering activity installation, until the equipment is returned to such installation.

3. SCOPE

- a. The Contractor shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under maintenance service shall be in good operating condition.
- (1) In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by the Contractor, without charge to the ordering activity.
- (2) Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by the Contractor, if the equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
- (3) If the equipment was not under the Contractor's responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 811212 (or outside the scope of this contract).

4. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by the Contractor.
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.

5. RESPONSIBILITIES OF THE CONTRACTOR

For equipment not covered by a maintenance contract or warranty, the Contractor's repair service personnel shall complete repairs as soon as possible after notification by the ordering activity that service is required. Within the service areas, this repair service should normally be done within 4 hours after notification.

6. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

All parts, furnished as spares or as repair parts in connection with the repair of equipment, unless otherwise indicated in this pricelist, shall be new, standard parts manufactured by the equipment manufacturer. All parts shall be furnished at prices indicated in the Contractor's commercial pricelist dated TBD, at a discount of (see GSA pricelist for discount information)% from such listed prices.

7. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

All parts, furnished either as spares or repairs parts will be guaranteed/warranted for a period of 1 year.

8. INVOICES AND PAYMENTS

Repair Service and Repair Parts/Spare Parts

Invoices for repair service and parts shall be submitted by the Contractor as soon as possible after completion of work. Payment under blanket purchase agreements will be made quarterly or monthly, except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice, and shall be priced in accordance with paragraph #10, above. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

***TERMS AND CONDITIONS APPLICABLE TO
SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE
MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151)***

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The Ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The Ordering activity 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 software, unless the change is due to the defect in the software.

2. COMMERCIAL SUPPLIER AGREEMENTS

Commercial Supplier Agreements to include Enterprise User License Agreements or Terms of Service (TOS) agreements. The Contractor shall provide all Commercial Supplier Agreements to include Enterprise User License Agreements or Terms of Service (TOS) agreements in an editable Microsoft Office (Word) format for review prior to award. The GSA approved EULA begins on page 14 of this document.

3. GUARANTEE/WARRANTY

- a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.
Warranty:
Ninety (90) day warranty, begins on the date of product installation at the customer site.
- b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

4. TECHNICAL SERVICES

The Contractor, without additional charge to the Ordering activity, shall provide a hot line technical support number for software (610) 687-9202 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 8:00am to 5:00pm EST. The hotline technical support number for Facility Software is (800) 268-0324 and is available from 7:00am to 7:00pm Central Time.

5. SOFTWARE MAINTENANCE

- a. Software maintenance service shall include the following:
Program updates and enhancements as well as an extended warranty for the software.
Software maintenance is 20% of the license fee per year. Software maintenance is for year one only. All additional maintenance years are available outside the scope of the GSA Schedule Contract.

- 1. Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace.

No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics. Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

2. Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

6. PERIODS OF TERM LICENSES (511210) AND MAINTENANCE (54151)

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Maintenance may be discontinued by the Ordering activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for maintenance, the period of the maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of maintenance orders citing the new appropriation shall be required, if the maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an ordering office's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering office may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering offices should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if maintenance is to be terminated at that time. Orders for the continuation of maintenance will be required if the maintenance is to be continued during the subsequent period.

7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Contractor does not offer conversion from term license to perpetual license.

8. TERM LICENSE CESSATION

Contractor does not offer term license cessation.

9. UTILIZATION LIMITATIONS - (511210 AND 54151)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.
 - (2) Software licenses are by site and by agency. An agency is defined as a cabinet level or independent agency. The software may be used by any subdivision of the agency (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one agency's site. This would allow other agencies access to one agency's database. For Ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user agency will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user agency's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user agency.
 - (3) Except as is provided in paragraph 8.b(2) above, the Ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the Ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use software, documentation, or information therein, which the Ordering activity may already have or obtains without restrictions.
 - (4) The Ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the Ordering activity has the right to transfer the software to another site if the Ordering activity site for which it is acquired is deemed to be unsafe for Ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
 - (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

10. SOFTWARE CONVERSIONS - (511210)

Full monetary credit will be allowed to the Ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license, the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version.

11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

12. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses.

Software is CPU specific, however, if a designated CPU becomes temporarily inoperative the software may be used on another computer. Use of the Software on other computers of Customer required additional fees. The fee for multiple copies will be 50% of the original cost. Software provided by AssetWorks, LLC, in machine readable form may be copied by Customer for use with the designated computer to the extent necessary for archive or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software.

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY
TRAINING (SPECIAL ITEM NUMBER 611420)**

1. SCOPE

- a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location, as agreed to by the Contractor and the ordering activity.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

3. TIME OF DELIVERY

The Contractor shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the ordering activity.

4. CANCELLATION AND RESCHEDULING

- a. The ordering activity will notify the Contractor at least seventy-two (72) hours before the scheduled training date, if a student will be unable to attend unless otherwise stated in each individual Products Lines' product specific Terms and Conditions. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge unless otherwise stated in each individual Product Lines' product specific Terms and Conditions. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class.
- b. In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a training class within ninety (90) days from the original course date, at no additional charge.
- c. The ordering activity reserves the right to substitute one student for another up to the first day of class.
- d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date.

5. FOLLOW-UP SUPPORT

The Contractor agrees to provide each student with unlimited telephone support for a period of one (1) year from the completion of the training course. During this period, the student may contact the Contractor's instructors for refresher assistance and answers to related course curriculum questions, unless otherwise stated in each individual Product Lines' product specific Terms and Conditions.

6. PRICE FOR TRAINING

The price that the ordering activity will be charged will be the ordering activity training price in effect at the time of order placement, or the ordering activity price in effect at the time the training course is conducted, whichever is less.

7. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

8. FORMAT AND CONTENT OF TRAINING

- a. The Contractor shall provide written materials (i.e., manuals, handbooks, texts, etc.) normally provided with course offerings. Such documentation will become the property of the student upon completion of the training class.
- b. ****If applicable**** For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Contractor shall provide the following information for each training course offered:
 - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
 - (2) The length of the course;
 - (3) Mandatory and desirable prerequisites for student enrollment;
 - (4) The minimum and maximum number of students per class;
 - (5) The locations where the course is offered;
 - (6) Class schedules; and
 - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the ordering activity’s location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.

9. “NO CHARGE” TRAINING

The Contractor shall describe any training provided with equipment and/or software provided under this contract, free of charge, in the space provided below.

Not applicable

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)
PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 54151S)**

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151S Information Technology Professional Services apply exclusively to IT Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the Ordering activity location, as agreed to by the Contractor and the ordering office.

2. PERFORMANCE INCENTIVES

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

4. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering office.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering office.
- c. The Agency should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Ordering activity per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days

after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

1. Cancel the stop-work order; or
 2. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
1. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 2. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- c. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- d. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials and Labor-Hour (JAN 1986) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

7. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 Rights in Data – General, may apply.

8. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering office shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

9. INDEPENDENT CONTRACTOR

All IT Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering activity.

10. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.
“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering activity contract, without some restriction on activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering activity, ordering offices may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

11. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT Services. Progress payments may be authorized by the ordering office on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

12. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate I (APR 1984) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate II (DEC 2002) applies to labor-hour orders placed under this contract.

13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user agency upon request.

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering agency in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

16. DESCRIPTION OF IT SERVICES AND PRICING

Please refer to the attached Professional Information Technology Labor Category Descriptions and GSA pricing.

17. EQUIVALENCY

AssetWorks, LLC, reserves the right to make the following substitutions in the education and/or experience requirements of any of the service skill categories set forth herein.

1. One (1) year experience is the equivalent of (1) year of education.
2. One (1) year of education is the equivalent of one (1) year of experience.
3. Certification related to the technology is equivalent to two (2) years of the experience/education requirement.

GSA APPROVED**SOFTWARE LICENSE
AND RELATED HARDWARE PURCHASE AGREEMENT**

To the extent the terms of this License Agreement conflict with the terms of the GSA Schedule contract, the terms of the GSA Schedule contract will prevail.

FOR AND IN CONSIDERATION of the mutual benefits accruing and expected to accrue hereunder, this Software License Agreement ("Agreement") is made as of the date on the Order Form ("Effective Date") by and between AssetWorks LLC, a Delaware limited liability company with offices at 998 Old Eagle School Road, Suite 1215, Wayne, PA 19087 ("AssetWorks"), and an Ordering Activity (an entity entitled to order under GSA Schedule contracts as defined in GSA Order ADM 4800.2I, as may be revised from time to time) ("Customer"). Intending to be legally bound, the parties hereby mutually agree to the following terms and conditions:

HARDWARE PURCHASE AND SOFTWARE LICENSE

- A. Customer shall purchase the hardware listed on Schedule 1, if any. Title to the hardware shall pass upon shipment.
- B. AssetWorks grants to Customer a non-exclusive, perpetual (subject to Article V) non-transferable license for the number of units specified in Schedule 1 to make use of the software specified on the Order Form (herein "Software") on the Customer's database servers and application servers ("Environment"). Except as provided above, use of Software in excess of limits defined in on the Order Form or other than on the Environment requires additional fees. Customer's license is to use the Software in its own business; Customer has no right to use the Software in processing work for third parties.
- C. Customer shall have the right to use only one copy or image of the Software for production purposes to manage up to the number of Active Equipment Units identified in the Order Form and shall not copy or use the Software for any other purpose except (i) for archival purposes, (ii) in connection with a disaster recovery program, and (iii) for the purpose of testing the operation of the Software, provided such testing copy shall not be used in a live production environment. Customer may increase the number of authorized Active Equipment Units by executing a subsequent Order Form and agreeing to pay in full the applicable fees. Upon signing the subsequent Order Form and agreeing to pay in full the applicable fees, Customer shall have the right to monitor the revised number of Active Equipment Units as set forth in the subsequent Order Form. "Active Equipment Unit" shall mean any in service unit to which work orders, fuel tickets, or usage tickets are posted.
- D. If any third party software is provided to Customer pursuant to this Agreement, such license shall be in accordance with terms set forth in the Order Form.
- E. Source Code shall mean software in human-readable form, including all appropriate programmer's comments, data files and structures, header and include files, macros, make files, object libraries, programming tools not commercially available, technical specifications, flowcharts and logic diagrams, schematics, annotations and documentation reasonably required or necessary to enable a competent independent third party programmer to create, operate, maintain, modify and improve such software without the help of any other person, and with data files containing Source Code in standard ASCII format readable by a text editor.
- F. Except as expressly authorized under this Agreement, Customer shall not (i) sell, rent, lease, timeshare, encumber, license, sublicense, transfer or assign the Software or Documentation; (ii) attempt to decompile, disassemble or reverse engineer the Software in whole or in part, or otherwise attempt to derive the Source Code of the software.

FEES AND PAYMENTS

Customer shall pay AssetWorks the fees specified in the ordering document. All other terms and conditions of fees and payment are located in the GSA Schedule contract.

NON-DISCLOSURE

- A. Except as required by law, and subject to the other paragraphs in this Article III, Customer agrees that the Software shall be held in confidence by Customer and shall not be disclosed to others without the prior written consent of AssetWorks, which may be withheld by AssetWorks in its sole discretion. This obligation to hold confidential does not apply to any portion of the Software (1) developed by Customer and in Customer's possession prior to the receipt of same from AssetWorks; (2) which at the time of disclosure is part of the public domain through no act or failure to act by Customer; or (3) which is lawfully disclosed to Customer without restriction on further disclosure by another party who did not acquire same from AssetWorks.
- B. AssetWorks provides documentation for the Software electronically. The Customer may copy, in whole or in part, any such documentation relative to the Software for Customer's internal use consistent with this Agreement.
- C. Customer's records with regard to use of the Software shall be made available to AssetWorks at all reasonable times at AssetWorks' request to audit Customer's compliance with this Agreement, and Customer shall certify to the truth and accuracy of such records.

WARRANTIES AND LIMITATION OF LIABILITY

- A. Hardware purchased under this Agreement has a limited one year warranty. This limited hardware warranty covers defects in materials and workmanship in hardware products. The warranty does not cover external causes such as accident, abuse, misuse, or problems with electrical power, servicing not authorized by AssetWorks, usage that is not in accordance with product instructions, failure to follow the product instructions or failure to perform preventive maintenance and normal wear and tear. ASSETWORKS'S RESPONSIBILITY FOR DEFECTS IN HARDWARE IS LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT AS SET FORTH IN THIS WARRANTY STATEMENT. EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY STATED HEREIN FOR HARDWARE, ASSETWORKS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT. ASSETWORKS EXPRESSLY DISCLAIMS ALL WARRANTIES NOT STATED IN THIS LIMITED WARRANTY. This agreement does not limit or disclaim any of the warranties specified in the GSA Schedule 70 contract under FAR 52.212-4(o). In the event of a breach of warranty, the U.S. Government reserves all rights and remedies under the contract, the Federal Acquisition Regulations, and the Contract Disputes Act, 41 U.S.C. 7101-7109.
- B. AssetWorks represents that it has the right to license the Software to Customer as provided in Article I. AssetWorks further represents that the Software will conform to the description contained in the documentation provided or published by AssetWorks ("Documentation") but, except as provided in this Article IV, AssetWorks makes no other representations, warranty, or guarantees, express or implied, with respect to the accuracy, completeness, or usefulness of the Software, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. In the event the Software fails to conform to the description contained in the Documentation, AssetWorks' sole obligation shall be to correct the errors. This limited warranty is in lieu of all liabilities or obligations of AssetWorks for damages arising out of or in connection with the delivery, use or performance of the Software.
- C. AssetWorks does not guarantee the privacy, security, authenticity or non-corruption of any information transmitted through the internet or any mobile or wireless network, or any information stored in any system connected to the internet or to any mobile or wireless network. AssetWorks shall not be responsible for any claims, damages, costs or losses whatsoever arising out of or in any way related to Customer's connection to or use of the internet or of any mobile or wireless network.
- D. AssetWorks will not be liable to Customer or any third party for any claims, expenses, damages, costs or losses whatsoever arising out of or in any way related to Customer's use of the Software insofar as such Software may be used to store, transmit, display, disclose or otherwise use data or information which is considered private, confidential, proprietary or otherwise exempt from public disclosure under applicable law.
- E. AssetWorks will defend, at its own expense, any action brought against Customer to the extent that it is based on a claim that the Software supplied by AssetWorks infringes a United States patent or copyright, and AssetWorks will pay those costs and damages finally awarded against Customer in any such action that are attributable to any such claim; provided, such defense and payments are conditioned on the following: (1) that AssetWorks shall be promptly notified in writing by Customer following its receipt of any such claim; (2) that AssetWorks shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; (3) should

the Software become, or in AssetWorks' opinion is likely to become, the subject of a claim of infringement of a United States patent or copyright, then Customer shall permit AssetWorks, at its option and expense, either to (A) procure for Customer a non-infringing license to use the Software; (B) modify the Software so that it becomes non-infringing; (C) procure for Customer a depreciated credit for the Software and accept its return. Depreciation shall be an equal amount per year over the lifetime of the Software, which the parties agree shall be five (5) years. AssetWorks shall have no liability to Customer under any provision of this clause with respect to any claim of patent or copyright infringement that is based on Customer's unauthorized use or combination of the Software with software or data not supplied by AssetWorks as part of the Software. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

- F. Customer agrees that AssetWorks' total liability to Customer for any and all damages whatsoever arising out of or in any way related to this Contract from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed the amount of fees paid to AssetWorks for either the Software License or Hardware from which the claim arose. Nothing contained herein shall impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. 3729-3733. Furthermore, this agreement shall not impair nor prejudice the U.S. Government's right to express remedies provided in the GSA Schedule contract (e.g., clause 552.238-75 – Price Reductions, clause 52.212-4(h) – Patent Indemnification, and GSAR 552.215-72 – Price Adjustment – Failure to Provide Accurate Information).
- G. In no event shall AssetWorks be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if AssetWorks has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy. Some jurisdictions may not allow the waiver of consequential damages, so this section will not apply if prohibited or inconsistent with law. The warranty period for the Software shall extend for a period of 90 days from the date of delivery of the Software but in no event later than one year from the date of execution of this Agreement. During the warranty period, in the event that the Customer encounters an error and/or malfunction whereby the Software does not conform to the description in the Documentation, AssetWorks will respond as follows:
1. In the event that, in the mutual and reasonable opinion of AssetWorks and the Customer, there exists an error or nonconformance to the Documentation, AssetWorks will take such steps as are reasonably required to correct the error with due dispatch.
 2. In the event that, in the mutual and reasonable opinion of AssetWorks and the Customer, the error or nonconformance to the Documentation does not constitute a serious impediment to the normal intended use of the Software, AssetWorks will correct the error and distribute the correction to the Customer in accordance with AssetWorks' normal Software revision schedule.

TERMINATION

- A. This agreement may be terminated in accordance with Federal Acquisition Regulation 52.212-4(l) and (m) and 52.233-1.
- B. All Software and Documentation shall be and will remain the property of AssetWorks. Upon termination of this Agreement, whatever the reason, such Software and Documentation and any copies thereof made by Customer pursuant to Article III B and C shall be promptly returned to AssetWorks.

ASSIGNMENT

Neither party may assign this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld. In the event of an internal corporate reorganization, AssetWorks shall request a novation or assignment of this agreement in accordance with the procedures set forth in Federal Acquisition Regulation 42.1204.

ENTIRE AGREEMENT

These License Terms constitute an addendum to a solicitation or contract, as defined in Federal Acquisition Regulation 52.212-4(s).

SCHEDULES

The Order Form and any additional schedules specified below are hereby incorporated into this Agreement.

GENERAL TERMS

- A. All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive for the applicable statute of limitations period.
- B. No delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will be considered a waiver thereof. No single waiver will constitute a continuing or subsequent waiver. To be valid, a waiver must be in writing, but need not be supported by consideration.
- C. If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, such provision will be modified to the minimum extent necessary to make it legal, valid and enforceable, and the remaining provisions of this Agreement will not be affected.
- D. This Agreement, including its interpretation and enforcement, will be governed by the federal laws of the United States.
- E. Any communication or notice hereunder must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail; (iii) when delivered by overnight express; or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices. Each party's address for notices is stated on the Order Form. Such address may be changed by a notice delivered to the other party in accordance with the provisions of this Section.
- F. In the event of any dispute arising in the performance of this Agreement, AssetWorks and the Customer will seek to resolve such dispute through good faith, amicable discussions and negotiations. All disputes relating to these License Terms are subject to Federal Acquisition Regulation 52.233-1.
- G. Neither party will be liable for any failure to perform or any delay in performing any of its obligations hereunder when such failure or delay is due to circumstances beyond its reasonable control and without its fault (Force Majeure), including without limitation, any natural catastrophe, fire, war, riot, strike, or any general shortage or unavailability of materials, components or transportation facilities, or any governmental action or inaction. Upon the occurrence of such event of Force Majeure, the affected party will immediately give notice to the other party with relevant details, and will keep the other party informed of related developments.

SOFTWARE MAINTENANCE AGREEMENT

To the extent the terms of this License Agreement conflict with the terms of the GSA Schedule contract, the terms of the GSA Schedule contract will prevail.

FOR AND IN CONSIDERATION of the mutual benefits accruing and expected to accrue hereunder, this Software Maintenance Agreement ("Agreement"), as of the date on the Order Form 2019 (the "Effective Date"), is by and between AssetWorks LLC., a Delaware limited liability company with offices at 998 Old Eagle School Road, Suite 1215, Wayne, PA 19087 ("AssetWorks") and an Ordering Activity (an entity entitled to order under GSA Schedule contracts as defined in GSA Order ADM 4800.2I, as may be revised from time to time) (hereinafter called "Customer"). Intending to be legally bound, the parties hereby mutually agree to the following terms and conditions:

BACKGROUND

AssetWorks and Customer are parties to a Software License Agreement, pursuant to which Customer has licensed certain software products ("Software" or "Product") from AssetWorks.

The Software paid-up license fee includes a warranty without charge as set forth in the Software License Agreement.

The purpose of this Agreement is to set forth the terms and conditions upon which Customer has agreed to subscribe to support and maintenance for the Software ("Maintenance") from AssetWorks.

TERMS AND CONDITIONS

Term

Maintenance shall commence immediately upon the Effective Date and shall have a term of twelve (12) months.

Correction of Deviations

In the event that the Customer encounters an error and/or malfunction ("Deviation") in the Software, it shall communicate the circumstances and any supporting information to AssetWorks. Upon receipt, AssetWorks will respond as follows:

- a. In the event that, in the mutual and reasonable opinion of AssetWorks and the Customer, there exists a Deviation that does not constitute a serious impediment to the normal intended use of the Software, AssetWorks will correct the Deviation and distribute the correction to the Customer in accordance with AssetWorks' normal Software revision schedule.
- b. In the event that, in the mutual and reasonable opinion of AssetWorks and the Customer there exists a Deviation that does constitute a serious impediment to the normal, intended use of the Software, AssetWorks will take such steps as are reasonably required to correct the Deviation.

Software Revisions and New Versions

- a. The Software may be revised by AssetWorks as a result of the correction of Deviations and/or the release of upgrades or improvements or modifications designed to improve the performance of the Software and/or to increase the capabilities of the Software (hereafter "Revisions"). Revisions shall be of two kinds:
 - i. Revisions that the Customer is obliged to implement ("Mandatory Revisions");
 - ii. Revisions that may be implemented by the Customer at its option ("Optional Revisions").
 - iii. No charge shall be made to the Customer for either Mandatory Revisions or Optional Revisions while under a current Maintenance Agreement.

- b. New products ("New Products") may be added to the Software by AssetWorks from time to time. Compared to a Revision, New Products substantially improve the performance of the Software and/or substantially increase its functionality and capability. AssetWorks, in its sole discretion, shall decide which upgrades and improvements will be issued as Revisions without charge and which shall be issued as New Products for which there may be a charge.

Telephone Hotline Assistance

AssetWorks, at its expense, shall make available technically qualified personnel to respond to all reasonable telephone requests, Monday through Friday, excluding State holidays, during normal business hours, that may be made by the Customer relating to the application and operation of the Software. At other times such personnel are available by pager for emergencies.

Technical Literature

AssetWorks shall make available to the Customer all technical literature in electronic format that is considered by AssetWorks to be relevant to the Software and its use within the scope of Customer's operations.

Transmission

All Revisions and New Products will be made available for download by the Customer via access to the AssetWorks website or other suitable media, at the option of AssetWorks. The Customer shall be solely responsible for executing the appropriate instructions in order to transfer the Revisions or New Products onto its system.

Remote Diagnostic Access

The Customer shall provide appropriate remote access capabilities with which AssetWorks may, with the permission of the Customer, remotely access the Software for the purpose of remote diagnostics and support.

Proper Use

- a. Customer shall not modify the Software or Source Code as defined in the Software License Agreement unless specifically authorized by AssetWorks in writing.
- b. The Customer agrees that all reasonable effort shall be taken to ensure that neither the Software nor data files are misused or modified without the express written permission of AssetWorks.
- c. In the event that the Customer or its agents misuses or modifies the Software or data files, including, but not limited to, inserting, updating, deleting or otherwise modifying data through a means other than the Software, although AssetWorks is not obligated to correct such misuse.

In the event that diagnostic assistance is provided by AssetWorks, which, in the reasonable opinion of AssetWorks and the Customer, relates to problems not caused by a Deviation in the Software, such assistance shall be at the discretion of Assetworks. Software Maintenance Fee – Paid Up License

In consideration of the Maintenance services to be provided by AssetWorks for the initial twelve month period hereunder, Customer shall pay to AssetWorks an agreed-to amount set forth on Exhibit A.

Additional Software Maintenance Fee – Paid Up License

In the event the Customer acquires AssetWorks Software licenses in addition to the Software that indicated in the Order Form of the Software License Agreement (the "Additional Software"), Customer shall agree to extend the Maintenance to cover the Additional Software, and the Customer shall agree to pay an additional annual Maintenance fee in an amount equal to twenty percent (20%) of the then current license fee for the Additional Software at the time of acquisition.

Other Fees and Expenses

If onsite maintenance is required, Customer may agree to pay reasonable travel and living expenses of AssetWorks' employees or agents, which shall be billed and paid after the expenses are incurred.

Payment Terms

Terms and conditions of fees and payment are located in the GSA Schedule contract.

Default and Termination

This Agreement may be terminated in accordance with Federal Acquisition Regulation 52.212-4(l) and (m) and 52.233-1.

Limitation of Liability

Customer agrees that AssetWorks' total liability to Customer for any and all damages whatsoever arising out of or in any way related to this Contract from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed fees paid to AssetWorks for software maintenance directly related to this Agreement in the 12 months preceding the date on which the claim arose.

In no event shall AssetWorks be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if AssetWorks has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose or the existence of any other limited remedy.

c. This Agreement shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. 3729-3733. Furthermore, this clause shall not impair nor prejudice the U.S. Government's right to express remedies provided in the GSA Schedule contract (e.g., clause 552.238-75 – Price Reductions, clause 52.212-4(h) – Patent Indemnification, and GSAR 552.215-72 – Price Adjustment – Failure to Provide Accurate Information).

General Terms

- a. Neither AssetWorks nor Customer will assign or transfer its interest in this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld. In the event of an internal corporate reorganization, Assetworks shall request a novation or assignment of this agreement in accordance with the procedures set forth in Federal Acquisition Regulation 42.1204.
- b. All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.
- c. No delay or failure by either party to exercise any right hereunder, or to enforce any provision of this Agreement will be considered a waiver thereof. No single waiver will constitute a continuing or subsequent waiver. To be valid, a waiver must be in writing, but need not be supported by consideration.
- d. If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, such provision will be modified to the minimum extent necessary to make it legal, valid and enforceable, and the remaining provisions of this Agreement will not be affected.
- e. This Agreement, including its interpretation and enforcement, will be governed by the federal laws of the United States.
- f. Any communication or notice hereunder must be in writing, and will be deemed given and effective: (i) when delivered personally with proof of receipt; (ii) when sent by e-mail; (iii) when delivered by overnight express; or (iv) three (3) days after the postmark date when mailed by certified or registered mail, postage prepaid, return receipt requested and addressed to a party at its address for notices.

Each party's address for notices is stated on the Order Form. Such address may be changed by a notice delivered to the other party in accordance with the provisions of this Section.

- g. In the event of any dispute arising in the performance of this Agreement, AssetWorks and the Customer will seek to resolve such dispute through good faith, amicable discussions and negotiations. All disputes relating to these License Terms are subject to Federal Acquisition Regulation 52.233-1.
- h. Neither party will be liable for any failure to perform or any delay in performing any of its obligations hereunder when such failure or delay is due to circumstances beyond its reasonable control and without its fault (Force Majeure), including, without limitation, any natural catastrophe, fire, war, riot, strike, or any general shortage or unavailability of materials, components or transportation facilities, or any governmental action or inaction. Upon the occurrence of such event of Force Majeure, the affected party will immediately give notice to the other party with relevant details, and will keep the other party informed of related developments.
- i. This Agreement constitutes an addendum to a solicitation or contract, as defined in Federal Acquisition Regulation 52.212-4(s).

PROFESSIONAL SERVICES AGREEMENT

To the extent the terms of this License Agreement conflict with the terms of the GSA Schedule contract, the terms of the GSA Schedule contract will prevail.

This Professional Services Agreement (“Agreement”), is effective as of the date on the Order Form (“Effective Date”), by and between AssetWorks LLC (“AssetWorks”), a Delaware limited liability corporation with offices located at 998 Old Eagle School Road, Wayne, Pennsylvania, 19087 and an Ordering Activity (an entity entitled to order under GSA Schedule contracts as defined in GSA Order ADM 4800.2I, as may be revised from time to time) (“Customer”).

WHEREAS, Customer requires professional services; and

WHEREAS, AssetWorks is willing to provide such services.

NOW, THEREFORE, in consideration of the mutual terms, conditions and covenants set forth herein, the parties agree as follows:

1. Services / Statement of Work

AssetWorks will perform the professional services (“Services”) described in the Scope of Work hereto as Exhibit A (“Scope of Work”). The terms of this Agreement shall control any Additional Scopes of Work that may be executed by the parties during the Term of this Agreement. No Statement of Work shall be of any force and effect unless and until executed by both AssetWorks and Customer.

2. Effective Date; Term

This Agreement shall be effective until the Agreement has been terminated in accordance with the GSA schedule contract.

3. Price and Payment Terms

- a. Each Statement of Work will either be on a time and material basis or a fixed price basis, specified in the Statement of Work. The Statement of Work may or may not include a definitive list of “Deliverables” that must be completed by AssetWorks. In some instances, the Statement of Work will include a date by which “Deliverables” must be completed.
- b. In the event that Services result in greater AssetWorks duties than contemplated by the Statement of Work, Customer will work closely and in good faith with AssetWorks to modify the Statement of Work to ensure that the Customer’s requirements are addressed and AssetWorks’ fees shall be reasonably adjusted to reflect increased Customer requirements.
- c. Customer may agree to pay reasonable travel and living expenses of AssetWorks’ employees or agents, which shall be billed and paid after the expenses are incurred.
- d. Terms and conditions of fees and payment are located in the GSA Schedule contract.
- e. Custom modules, interfaces and other software can be placed under the AssetWorks Software Maintenance program. The cost for software maintenance is typically 20% of the cost of the custom build annually.
- f. Bill to Address. The invoice will be mailed to the Customer address at the top of this Agreement unless otherwise indicated in the Statement of Work.

4. Resources to be Provided by Customer

- a. Customer shall provide, maintain and make available to AssetWorks, at Customer’s expense and in a timely manner, the resources described in this section 4, the Statement of Work, and such other additional resources as AssetWorks may from time to time reasonably request in connection with AssetWorks performance of the Services. Delays in the provision of these resources may result in delays in the performance of the Services, or an increase in the Price.

- b. Customer will designate qualified Customer personnel or representatives to consult with AssetWorks on a regular basis in connection with the Services. Customer will furnish such documentation and other information as is reasonably necessary to perform the Services.
- c. Customer shall furnish access to Customer's premises, and appropriate workspace for any AssetWorks personnel working at Customer's premises, as necessary for performance of those portions of the Services to be performed at Customer's premises.
- d. Customer shall meet all assumptions noted on the Statement of Work.

5. Relationship of the Parties

The parties are independent contractors and under no circumstances will either be deemed to be an agent, partner, legal representative, employee or joint venture partner of the other party.

6. Subcontractors

AssetWorks may engage subcontractors to assist in performing Services without the prior written consent of Customer; provided, AssetWorks shall supervise such sub-contractors and the Services performed by them to the same extent as if AssetWorks performed the work.

7. Confidentiality

- a. Because either party may have access to information of the other party that the other party considers to be confidential or proprietary ("Confidential Information"), each party will maintain all Confidential Information in confidence and will use it solely in the discharge of its obligations under this Agreement and any applicable Statement of Work. Nothing herein will be deemed to restrict a party from disclosing Confidential Information to its employees and subcontractors in the discharge of such obligations.
- b. Confidential Information will not include information that (i) is, or becomes, generally known or available through no fault of the, recipient; (ii) is known to the recipient at the time of its receipt from the disclosing party; (iii) the disclosing party provides to a third party without restrictions on disclosure; (iv) is subsequently and rightfully provided to the recipient by a third party without restriction on disclosure; (v) is independently developed by the recipient, without reference to the disclosing party's Confidential Information; or (vi) is required to be disclosed pursuant to a governmental agency or court subpoena, provided the recipient promptly notifies the disclosing party of such subpoena to allow it reasonable time to seek a protective order or other appropriate relief.

8. Intellectual Property

- a. Customer and AssetWorks shall each retain ownership of, and all right, title and interest in and to, their respective pre-existing Intellectual Property, and no license therein, whether express or implied, is granted by this Agreement or as a result of the Services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed.
- b. The Services performed, code developed and any Intellectual Property produced pursuant to this Agreement are not "works for hire."
- c. As used herein, "Intellectual Property" shall mean inventions (whether or not patentable), works of authorship, trade secrets, copyright, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated into any Statement of Work or Deliverable whether or not first created or developed by AssetWorks in providing the Services.

9. Non-Solicitation

During the term of this Agreement, and for one year thereafter, neither party will solicit the employment of, or contract for the services of, any person who is/was an employee, agent, or subcontractor of the other party during the term of this Agreement. Nothing in this section shall prohibit either party from placing a bona fide public advertisement for employment which is not specifically targeted at a Party's employees and neither Party shall be restricted from hiring

any such person who responds to any such general solicitation or public advertisement so long as no solicitation of such person has occurred.

10. Termination

This agreement may be terminated in accordance with Federal Acquisition Regulation 52.212-4(l) and (m) and 52.233-1.

11. Effect of Termination

The Terms of this Agreement shall survive for any Statement of Work which is still pending at the time of termination until the conclusion of the Statement of Work.

12. Indemnification

AssetWorks agrees to defend and indemnify Customer from and against third party claims, judgments, and awards, as well as the reasonable costs related thereto (hereinafter collectively referred to as "Damages") to the extent such Damages result from the gross negligence or willful acts or omissions of AssetWorks occurring in the performance of its obligations hereunder. AssetWorks shall not be responsible for any damages or liability resulting, in whole or in part, from the negligence or willful misconduct of any third party, Customer its employees, consultants or agents.

Indemnification is conditioned on the following: (1) that the indemnifying party shall be promptly notified in writing by the indemnified party following its receipt of any such claim; (2) that the indemnifying party shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and (3) that the total indemnification obligation, including reasonable attorney's fees and costs, is limited to \$250,000.

Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

13. Limited Warranty

- a. AssetWorks warrants that the Services provided under this Agreement shall be performed with that degree of skill and judgment normally exercised by recognized professional firms performing the same or substantially similar services. In the event of any breach of the foregoing warranty, provided Customer has delivered to AssetWorks timely notice of such breach as hereinafter required, AssetWorks shall, at its own expense, in its discretion either (1) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard; or (2) refund to Customer that portion of the Price received by AssetWorks attributable to the non-conforming Services and/or Deliverables. No warranty claim shall be effective unless Customer has delivered to AssetWorks written notice specifying in detail the non-conformities within 90 days after performance of the non-conforming Services or tender of the non-conforming Deliverables. The remedy set forth in this section 10(a) is the sole and exclusive remedy for breach of the foregoing warranty.
- b. **ASSETWORKS SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES, WARRANTIES OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE, ANY WARRANTY OF ERROR-FREE PERFORMANCE, OR ANY WARRANTY OF THIRD PARTY PRODUCTS, OR FUNCTIONALITY OF THE CUSTOMER'S HARDWARE, SOFTWARE, FIRMWARE, OR COMPUTER SYSTEMS.**
- c. Customer represents and warrants to AssetWorks that Customer has the right to use and furnish to AssetWorks for AssetWorks use in connection with this Agreement any information, specifications, data or Intellectual Property that Customer has provided or will provide to AssetWorks in order for AssetWorks to perform the Services and to create the Deliverables identified in Exhibit A.
- d. This Agreement does not limit or disclaim any of the warranties specified in the GSA Schedule 70 contract under FAR 52.212-4(o).

In the event of a breach of warranty, the U.S. Government reserves all rights and remedies under the contract, the Federal Acquisition Regulations, and the Contract Disputes Act, 41 U.S.C. 7101-7109.

14. Limitation of Liability

- a. Customer hereby agrees that AssetWorks total liability to Customer for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed the fees paid to AssetWorks during the previous 12-month period under the specific Statement of Work under which the claim arose, or, only if the claim did not arise under a Specific Statement of Work, the fees paid to AssetWorks during the previous 12-month period. The parties acknowledge and agree to the foregoing liability risk allocation. Any claim by Customer against AssetWorks relating to this Agreement must be made in writing and presented to AssetWorks within six (6) months after the date on which this Agreement expires or is otherwise terminated.
- b. In no event shall either AssetWorks nor Customer be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss and notwithstanding any failure of essential purpose of any limited remedy.
- c. This Agreement shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. 3729-3733. Furthermore, this clause shall not impair nor prejudice the U.S. Government's right to express remedies provided in the GSA Schedule contract (e.g., clause 552.238-75 – Price Reductions, clause 52.212-4(h) – Patent Indemnification, and GSAR 552.215-72 – Price Adjustment – Failure to Provide Accurate Information).

15. Notices

All notices under this Agreement will be in writing and will be delivered by personal service, facsimile or certified mail, postage prepaid, or overnight courier to such person and address as may be designated from time to time by the relevant party, which initially shall be the address set forth on the Order Form:

16. Insurance

AssetWorks shall maintain the following insurance during the term of this Agreement:

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b. Commercial General Liability Insurance on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage.
- c. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- d. Professional Errors and Omissions Insurance which shall include Consultant's Computer Errors and Omissions Coverage, with limits not less than \$1,000,000 per claim and in the aggregate.

17. Non-Waiver of Rights

The failure of either party to insist upon performance of any provision of this Agreement, or to exercise any right, remedy or option provided herein, shall not be construed as a waiver of the right to assert any of the same at any time thereafter.

18. Rights and Remedies Not Exclusive

Unless otherwise expressly provided herein, no right or remedy of a party expressed herein shall be deemed exclusive, but shall be cumulative with, and not in substitution for, any other right or remedy of that party.

19. Severability

If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any manner.

20. Assignment

Neither party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, AssetWorks may without violation of this paragraph engage the services of independent contractors to assist in the performance of its duties hereunder.

21. Governing Law

This Agreement, including its interpretation and enforcement, will be governed by the federal laws of the United States.

22. Interpretation

The captions and headings used in this Agreement are solely for the convenience of the parties, and shall not be used in the interpretation of the text of this Agreement. Each party has read and agreed to the specific language of this Agreement; therefore no conflict, ambiguity, or doubtful interpretation shall be construed against the drafter.

23. Disputes

All disputes relating to these License Terms are subject to Federal Acquisition Regulation 52.233-1.

24. Multiple Copies or Counterparts of Agreement

This Agreement and any Statement of Work may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be effective until the execution and delivery between each of the parties of at least one set of the counterparts.

25. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, wars, civil disturbances, epidemics, pandemics, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "Force Majeure Occurrences"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays. Neither party shall be liable to the other for any liability claims, damages or other loss caused by or resulting from a Force Majeure Occurrence.

26. Relationship of Parties

AssetWorks is an independent contractor in all respects with regard to this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, agency, or other relationship other than that of contractor and Customer.

27. Third Party Beneficiaries

This Agreement does not create, and shall not be construed as creating, any rights or interests enforceable by any person not a party to this Agreement.

28. Waiver or Modification

No provision of the Agreement may be waived or modified unless in writing specifically referencing this Agreement and signed by representatives of both parties against whom enforcement of the purported modification or waiver is sought. Waiver of default of any provision of the Agreement shall not operate or be construed as a waiver of any subsequent default of such provision, nor shall a waiver of any one provision of the Agreement be deemed to be a waiver of any other provision.

29. Entire Agreement; Conflicting Provisions

30. These Professional Services Terms constitute an addendum to a solicitation or contract, as defined in Federal Acquisition Regulation 52.212-4(s). Authorization

Each of the parties represents and warrants that the Agreement is a valid and binding obligation enforceable against it and that the representative executing the Agreement is duly authorized and empowered to sign the Agreement.

31. Survival

All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.

LABOR CATEGORY DESCRIPTIONS

Labor Category Title: Fleet/Facilities Software Program Manager

Functional Responsibilities: Manages the implementation effort for many customers. This includes planning and coordinating both AssetWorks and customer activities to ensure that the goals and objectives of the implementation are accomplished within the defined time and funding parameters. Is fiscally responsible for achieving budgetary goals of the project. Consults with customers on the integration of Facility/FleetFocus products and the customer's standard operating procedures. Defines system interfaces, data conversion requirements, and software modifications required to support the customer's implementation requirements. Performs and/or supervises personnel in complex variance verifications, release testing and customer specific beta software support.

Minimum Education/Experience: Bachelor's and 10 years of experience

Labor Category Title: Fleet/Facilities Software Sr Project Manager

Functional Responsibilities: Serves as the primary contact with customer and works closely with other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures; program modifications, data interface programs; data conversion coding requirements; and variance verification. Coordinates with Customer to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Project Manager

Functional Responsibilities: Serves as the primary contact with customer and works closely with other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures; program modifications, data interface programs; data conversion coding requirements; and variance verification. Coordinates with Customer to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fleet/Facilities Software System Architect

Functional Responsibilities: Lead the overall design and development effort from a technical and functional perspective. Responsible for architectural underpinnings of the application and maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 10 years of experience

Labor Category Title: Fleet/Facilities Software Sr Developer

Functional Responsibilities: Maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Developer

Functional Responsibilities: Maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fleet/Facilities Software Sr Implementation Specialist

Functional Responsibilities: Working with customers on-site and remotely to provide software training to personnel involved with the software - directors, supervisors, administrative personnel, craftsmen, and shop workers. Prepares and customizes documentation for classroom presentation. Develops class curriculum, workshops and new class offerings. Leads customers in implementing best practices and new workflows. Provides technical assistance to customers as needed.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Implementation Specialist

Functional Responsibilities: Working with customers on-site and remotely to provide software training to personnel involved with the software - directors, supervisors, administrative personnel, craftsmen, and shop workers. Prepares and customizes documentation for classroom presentation. Develops class curriculum, workshops and new class offerings. Leads customers in implementing best practices and new workflows. Provides technical assistance to customers as needed.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fleet/Facilities Software Installation Engineer

Functional Responsibilities: Supports the Project Manager in working with the customer during the installation of the AssetWorks software. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fleet/Facilities Software Documentation Specialist

Functional Responsibilities: Prepare technical and complex documentation in support of the product or engagement under the direction of the Project Manager.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fuel Program Manager

Functional Responsibilities: Serves as primary contact with customer and manages other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures. Coordinates with Customer Project Manager to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fuel Software Installer/Trainer

Functional Responsibilities: Supports the Project Manager in working with the customer during the installation of the AssetWorks software. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues. Provides classroom or field based training to customers.

Minimum Education/Experience: Bachelor's and 1 year of experience

Labor Category Title: Fuel Master Technician

Functional Responsibilities: Supports the Project Manager in performing the physical installation of the FuelFocus System hardware. Acts as liaison between Project Manager and outside contractors for site readiness. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Approved Service Representative and 5 years of experience

Labor Category Title: Fuel Technician Helper

Functional Responsibilities: Performs various tasks using appropriate equipment to assist Master Technician in technical and non-technical functions related to system installation. Supports the Project Manager and Master Technician in performing the physical installation of the FuelFocus System hardware in vehicles. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Vocational Diploma and 1 year of experience

LABOR PRICING

SIN	Labor Category	GSA Price
54151S	Fleet/Facilities Software Program Manager	\$221.03
54151S	Fleet/Facilities Software Sr Project Manager	\$201.39
54151S	Fleet/Facilities Software Project Manager	\$186.65
54151S	Fleet/Facilities Software System Architect	\$221.03
54151S	Fleet/Facilities Software Sr Developer	\$186.65
54151S	Fleet/Facilities Software Developer	\$171.91
54151S	Fleet/Facilities Software Sr Implementation Specialist	\$221.03
54151S	Fleet/Facilities Software Implementation Specialist	\$191.56
54151S	Fleet/Facilities Software Installation Engineer	\$191.56
54151S	Fleet/Facilities Software Documentation Specialist	\$132.62
54151S	Fuel Program Manager	\$196.47
54151S	Fuel Software Installer/Trainer	\$196.47
54151S	Fuel Master Technician	\$181.74
54151S	Fuel Technician Helper	\$147.36

EXHIBIT A
IT CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS.

- (a) Agency. The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this Contract, that entity shall also be identified as “Agency.”
- (b) Commonwealth. The Commonwealth of Pennsylvania.
- (c) Contract. The integrated documents as defined in **Section 11, Order of Precedence**.
- (d) Contracting Officer. The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- (e) Data. Any recorded information, regardless of the form, the media on which it is recorded or the method of recording.
- (f) Days. Calendar days, unless specifically indicated otherwise.
- (g) Developed Works. All of the fully or partially complete property, whether tangible or intangible prepared by the Contractor for ownership by the Commonwealth in fulfillment of the requirements of this Contract, including but not limited to: documents; sketches; drawings; designs; works; papers; files; reports; computer programs; documentation; data; records; software; samples; literary works and other works of authorship. Developed Works include all material necessary to exercise all attributes of ownership or of the license granted in either **Section 46, Ownership of Developed Works**, or in the separate Software/Services License Requirements Agreement entered into between the parties. The Software or Service that is the subject of the license grant is not Developed Works.
- (h) Documentation. All materials required to support and convey information about the Services or Supplies required by this Contract, including, but not limited to: written reports and analyses; diagrams maps, logical and physical designs; system designs; computer programs; flow charts; and disks and/or other machine-readable storage media.
- (i) Expiration Date. The last valid date of the Contract, as indicated in the Contract documents to which these IT Contract Terms and Conditions are attached.
- (j) Purchase Order. Written authorization for Contractor to proceed to furnish Supplies or Services.

- (k) Proposal. Contractor's response to a Solicitation issued by the Issuing Agency, as accepted by the Commonwealth.
- (l) Services. All Contractor activity necessary to satisfy the Contract.
- (m) Software. A collection of one or more programs, databases or microprograms fixed in any tangible medium of expression that comprises a sequence of instructions (source code) to carry out a process in, or convertible into, a form executable by an electronic computer (object code).
- (n) Solicitation. A document issued by the Commonwealth to procure Services or Supplies, e.g., Request for Proposal; Request for Quotation; Supplier Pricing Request; or Invitation for Bid, including all attachments and addenda thereto.
- (o) Statement of Work. A document attached to a Purchase Order which details the Software/Services which will be provided by the Contractor pursuant to the applicable Software/Services License Requirements Agreement between the Commonwealth and the Contractor and the Contract.
- (p) Supplies. All tangible and intangible property including, but not limited to, materials and equipment provided by the Contractor to satisfy the Contract.

2. TERM OF CONTRACT.

- (a) Term. The term of the Contract shall commence on the Effective Date and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.
- (b) Effective Date: The Effective Date shall be one of the following:
 - (i) the date the Contract has been fully executed by the Contractor and all approvals required by Commonwealth contracting procedures have been obtained; or
 - (ii) the date stated in the Contract, whichever is later.

3. COMMENCEMENT OF PERFORMANCE.

- (a) General. The Contractor shall not commence performance and the Commonwealth shall not be liable to pay the Contractor for any supply furnished or work performed or expenses incurred, until both of the following have occurred:
 - (i) the Effective Date has occurred; and
 - (ii) the Contractor has received a Purchase Order or other written notice to proceed signed by the Contracting Officer.

- (b) Prohibition Prior to Effective Date. No Commonwealth employee has the authority to verbally direct the commencement of any Service or delivery of any Supply under this Contract prior to the date performance may commence. The Contractor hereby waives any claim or cause of action for any Service performed or Supply delivered prior to the date performance may commence.

4. **EXTENSION OF CONTRACT TERM.**

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to **three (3) months** upon the same terms and conditions.

5. **ELECTRONIC SIGNATURES.**

- (a) The Contract and/or Purchase Orders may be electronically signed by the Commonwealth.
- (i) Contract. “Fully Executed” at the top of the first page of the Contract output indicates that the signatures of all the individuals required to bind the Commonwealth to the terms of the Contract have been obtained. If the Contract output form does not have “Fully Executed” at the top of the first page, the Contract has not been fully executed.
- (ii) Purchase Orders. The electronically-printed name of the Purchasing Agent on the Purchase Order indicates that all approvals required by Commonwealth contracting procedures have been obtained.
- (b) The Commonwealth and the Contractor specifically agree as follows:
- (i) Written signature not required. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.
- (ii) Validity; admissibility. The parties agree that no writing shall be required in order to make the Contract or Purchase Order legally binding, notwithstanding contrary requirements in any law or regulation. The parties hereby agree not to contest the validity or enforceability of the Contract executed electronically, or acknowledgement issued electronically, under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement executed or issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the

hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

- (iii) Verification. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

6. PURCHASE ORDERS.

- (a) Purchase Orders. The Commonwealth may issue Purchase Orders against the Contract or issue a Purchase Order as the Contract. These Purchase Orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to, and including, the Expiration Date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.
- (b) Electronic transmission. Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor.
- (c) Receipt. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of a Purchase Order.
- (d) Received next business day. Purchase Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.
- (e) Commonwealth Purchasing Card. Purchase Orders under \$10,000 in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number and expiration date of the card. The Contractor agrees to accept payment through the use of a Commonwealth Purchasing card.

7. CONTRACT SCOPE.

The Contractor agrees to furnish the requested Services and Supplies to the Commonwealth as such Services and Supplies are defined in this Contract.

8. ACCESS TO COMMONWEALTH FACILITIES.

If the Contractor must perform work at a Commonwealth facility outside of the daily operational hours set forth by the Commonwealth, it must make arrangements with the

Commonwealth to assure access to the facility and equipment. No additional payment will be made on the basis of lack of access.

9. NON-EXCLUSIVE CONTRACT.

The Commonwealth reserves the right to purchase Services and Supplies within the scope of this Contract through other procurement methods whenever the Commonwealth deems it to be in its best interest.

10. INFORMATION TECHNOLOGY POLICIES.

- (a) General. The Contractor shall comply with the IT standards and policies issued by the Governor's Office of Administration, Office for Information Technology (located at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>), including the accessibility standards set out in IT Policy ACC001, Accessibility Policy. The Contractor shall ensure that Services and Supplies procured under the Contract comply with the applicable standards. In the event such standards change during the Contractor's performance, and the Commonwealth requests that the Contractor comply with the changed standard, then any incremental costs incurred by the Contractor to comply with such changes shall be paid for pursuant to a change order to the Contract.
- (b) Waiver. The Contractor may request a waiver from an ITP by providing detailed written justification as to why the ITP cannot be met. The Commonwealth may waive the ITP in whole, in part or conditionally, or require that the Contractor provide an acceptable alternative. Any Commonwealth waiver of the requirement must be in writing. The Contractor may terminate the Contract without penalty if waiver is denied.

11. ORDER OF PRECEDENCE.

If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence shall be:

- (a) The documents containing the parties' signatures;
- (b) The separately executed Software/Services License Requirements Agreement entered into between the parties;
- (c) The IT Contract Terms and Conditions.

12. CONTRACT INTEGRATION.

- (a) Final contract. This Contract constitutes the final, complete, and exclusive Contract between the parties, containing all the terms and conditions agreed to by the parties.

- (b) Prior representations. All representations, understandings, promises, and agreements pertaining to the subject matter of this Contract made prior to or at the time this Contract is executed are superseded by this Contract.
- (c) Conditions precedent. There are no conditions precedent to the performance of this Contract except as expressly set forth herein.
- (d) Sole applicable terms. No contract terms or conditions are applicable to this Contract except as they are expressly set forth herein.
- (e) Other terms unenforceable. The Contractor may not require the Commonwealth or any user of the Services or Supplies acquired within the scope of this Contract to sign, click through, or in any other way agree to any terms associated with use of or interaction with those Services and/or Supplies, unless the Commonwealth has approved the terms in writing in advance under this Contract, and the terms are consistent with this Contract. Further, changes to terms may be accomplished only by processes set out in this Contract; no quotations, invoices, business forms or other documentation, or terms referred to therein, shall become part of this Contract merely by their submission to the Commonwealth or their ordinary use in meeting the requirements of this Contract. Any terms imposed upon the Commonwealth or a user in contravention of this subsection (e) must be removed at the direction of the Commonwealth, and shall not be enforced or enforceable against the Commonwealth or the user.

13. PERIOD OF PERFORMANCE.

The Contractor, for the term of this Contract, shall complete all Services and provide all Supplies as specified under the terms of this Contract. In no event shall the Commonwealth be responsible or liable to pay for any Services or Supplies provided by the Contractor prior to the Effective Date, and the Contractor hereby waives any claim or cause of action for any such Services or Supplies.

14. INDEPENDENT PRIME CONTRACTOR.

- (a) Independent contractor. In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.
- (b) Sole point of contact. The Contractor will be responsible for all Services and Supplies in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

15. SUBCONTRACTS.

The Contractor may subcontract any portion of the Services or Supplies described in this Contract to third parties selected by Contractor and approved in writing by the Commonwealth, whose approval shall not be unreasonably withheld. Notwithstanding the above, if Contractor has disclosed the identity of subcontractor(s) together with the scope of work to be subcontracted in its Proposal, award of the Contract is deemed approval of all named subcontractors and a separate approval is not required. The existence of any subcontract shall not change the obligations of Contractor to the Commonwealth under this Contract. Upon request of the Commonwealth, the Contractor must provide the Commonwealth with an un-redacted copy of the subcontract agreement between the Contractor and the subcontractor. The Commonwealth reserves the right, for good cause, to require that the Contractor remove a subcontractor from the project. The Commonwealth will not be responsible for any costs incurred by the Contractor in replacing the subcontractor if good cause exists.

16. OTHER CONTRACTORS.

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its Services and/or its provision of Supplies with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This section shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this section as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

17. ENHANCED MINIMUM WAGE.

- (a) Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- (b) Adjustment. Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

- (c) Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:
- (i) exempt from the minimum wage under the Minimum Wage Act of 1968;
 - (ii) covered by a collective bargaining agreement;
 - (iii) required to be paid a higher wage under another state or federal law governing the services, including the *Prevailing Wage Act* and *Davis-Bacon Act*; or
 - (iv) required to be paid a higher wage under any state or local policy or ordinance.
- (d) Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- (e) Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- (f) Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- (g) Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

18. COMPENSATION.

- (a) General. The Contractor shall be required to perform at the price(s) quoted in the Contract. All items shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for items supplied and Services performed to the satisfaction of the Commonwealth.
- (b) Travel. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract. If not otherwise specified in the Contract, travel and related expenses shall be reimbursed in accordance with [Management Directive 230.10 Amended](#), *Commonwealth Travel Policy*, and [Manual 230.1](#), *Commonwealth Travel Procedures Manual*.

19. BILLING REQUIREMENTS.

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- (a) Vendor name and “Remit to” address, including SAP Vendor number;
- (b) Bank routing information, if ACH;
- (c) SAP Purchase Order number;
- (d) Delivery Address, including name of Commonwealth agency;
- (e) Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- (f) Quantity provided;
- (g) Unit price;
- (h) Price extension;
- (i) Total price; and
- (j) Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this section, and comply with the provisions located at <http://www.budget.pa.gov/Programs/Pages/E-Invoicing.aspx>, relating to the Commonwealth E-Invoicing Program, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

20. PAYMENT.

- (a) Payment Date. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is:
 - (i) the date on which payment is due under the terms of the Contract;
 - (ii) **thirty (30) days** after a proper invoice actually is received at the “Bill To” address if a date on which payment is due is not specified in the Contract (a “proper” invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or

- (iii) the payment date specified on the invoice if later than the dates established by paragraphs (a)(i) and (ii), above.
- (b) Delay; Interest. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within **15 days** after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act of December 13, 1982, P.L. 1155, No. 266, 72 P. S. § 1507, (relating to interest penalties on Commonwealth accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40 (relating to interest penalties for late payments to qualified small business concerns).
- (c) Payment should not be construed by the Contractor as acceptance of the Service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications.

21. ELECTRONIC PAYMENTS.

The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within **10 days** of award of the Contract, the Contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).

The Contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.

It is the responsibility of the Contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

22. ASSIGNABILITY.

- (a) Subject to the terms and conditions of this section the Contract is binding upon the parties and their respective successors and assigns.
- (b) The Contractor may not assign, in whole or in part, the Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Commonwealth, which consent may be withheld at the sole and absolute discretion of the Commonwealth.

- (c) For the purposes of the Contract, the term “assign” shall include, but shall not be limited to, the sale, gift, assignment, encumbrance, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- (d) Any assignment consented to by the Commonwealth shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- (e) Notwithstanding the foregoing, the Contractor may, without the consent of the Commonwealth, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Commonwealth together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of the Contract.
- (f) A change of name by the Contractor, following which the Contractor’s federal identification number remains unchanged, is not considered to be an assignment. The Contractor shall give the Commonwealth written notice of any such change of name.

23. INSPECTION AND ACCEPTANCE.

- (a) Developed Works and Services.
 - (i) Acceptance. Acceptance of any Developed Work or Service will occur in accordance with an acceptance plan (Acceptance Plan) submitted by the Contractor and approved by the Commonwealth. Upon approval of the Acceptance Plan by the Commonwealth, the Acceptance Plan becomes part of this Contract.
 - (ii) Software Acceptance Test Plan. For contracts where the development of Software, the configuration of Software or the modification of Software is being inspected and accepted, the Acceptance Plan must include a Software Acceptance Test Plan. The Software Acceptance Test Plan will provide for a final acceptance test, and may provide for interim acceptance tests. Each acceptance test will be designed to demonstrate that the Software conforms to the functional specifications, if any, and the requirements of this Contract. Contractor shall notify the Commonwealth when the Software is completed and ready for acceptance testing. The Commonwealth will not unreasonably delay commencement of acceptance testing.
 - (1) If software integration is required at the end of the project, as set out in the Solicitation, the Commonwealth’s acceptance of the Software shall be final unless at the time of final acceptance, the Software does not meet the acceptance criteria set forth in the Contract.

- (2) If software integration is not required at the end of the project, as set out in the Solicitation, the Commonwealth's acceptance of the Software shall be complete and final.
- (iii) Certification of Completion. Contractor shall certify, in writing, to the Commonwealth when an item in the Acceptance Plan is completed and ready for acceptance. Unless otherwise agreed to by the Commonwealth in the Acceptance Plan, the acceptance period shall be **10 business days** for interim items and **30 business days** for final items. Following receipt of Contractor's certification of completion of an item, the Commonwealth shall, either:
 - (1) Provide the Contractor with Commonwealth's written acceptance of the work product; or
 - (2) Identify to Contractor, in writing, the failure of the work product to comply with the specifications, listing all such errors and omissions with reasonable detail.
- (iv) Deemed Acceptance. If the Commonwealth fails to notify the Contractor in writing of any failures in the work product within the applicable acceptance period, the work product shall be deemed accepted.
- (v) Correction upon Rejection. Upon the Contractor's receipt of the Commonwealth's written notice of rejection, which must identify the reasons for the failure of the work product to comply with the specifications, the Contractor shall have **15 business days**, or such other time as the Commonwealth and Contractor may agree is reasonable, within which to correct all such failures, and resubmit the corrected item, certifying to the Commonwealth, in writing, that the failures have been corrected, and that the items have been brought into compliance with the specifications. Upon receipt of such corrected and resubmitted items and certification, the Commonwealth shall have **30 business days** to test the corrected items to confirm that they are in compliance with the specifications. If the corrected items are in compliance with the specifications, then the Commonwealth shall provide the Contractor with its acceptance of the items in the completed milestone.
- (vi) Options upon Continued Failure. If, in the opinion of the Commonwealth, the corrected items still contain material failures, the Commonwealth may either:
 - (1) Repeat the procedure set forth above; or

- (2) Proceed with its rights under **Section 28, Termination**, except that the cure period set forth in **Subsection 28(c)** may be exercised in the Commonwealth's sole discretion.

(b) Supplies.

- (i) Inspection prior to Acceptance. No Supplies received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the Supplies.
- (ii) Defective Supplies. Any Supplies discovered to be defective or that fail to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the Supplies or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection.
 - (1) The Contractor shall remove rejected item(s) from the premises without expense to the Commonwealth within **15 days** after notification.
 - (2) Rejected Supplies left longer than **30 days** will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the Supplies.
 - (3) Upon notice of rejection, the Contractor shall immediately replace all such rejected Supplies with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth may procure, in such manner as it determines, supplies similar or identical to the those that Contractor failed, neglected or refused to replace, and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

24. DEFAULT.

- (a) The Commonwealth may, subject to the provisions of **Section 25, Notice of Delays**, and **Section 66, Force Majeure**, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in **Section 28, Termination**) the whole or any part of this Contract for any of the following reasons:
 - (i) Failure to begin Services within the time specified in the Contract or as otherwise specified;



- (ii) Failure to perform the Services with sufficient labor, equipment, or material to insure the completion of the specified Services in accordance with the Contract terms;
- (iii) Unsatisfactory performance of the Services;
- (iv) Failure to meet requirements within the time periods(s) specified in the Contract;
- (v) Multiple failures over time of a single service level agreement or a pattern of failure over time of multiple service level agreements;
- (vi) Failure to provide a Supply or Service that conforms with the specifications referenced in the Contract;
- (vii) Failure or refusal to remove material, or remove, replace or correct any Supply rejected as defective or noncompliant;
- (viii) Discontinuance of Services without approval;
- (ix) Failure to resume a Service, which has been discontinued, within a reasonable time after notice to do so;
- (x) Insolvency;
- (xi) Assignment made for the benefit of creditors;
- (xii) Failure or refusal, within **10 days** after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due subcontractors for materials furnished, labor supplied or performed, for equipment rentals or for utility services rendered;
- (xiii) Failure to protect, repair or make good any damage or injury to property;
- (xiv) Breach of any provision of this Contract;
- (xv) Any breach by Contractor of the security standards or procedures of this Contract;
- (xvi) Failure to comply with representations made in the Contractor's Proposal;
or
- (xvii) Failure to comply with applicable industry standards, customs and practice.

25. NOTICE OF DELAYS.

Whenever the Contractor encounters any difficulty that delays or threatens to delay the timely performance of this Contract (including actual or potential labor disputes), the Contractor shall promptly give notice thereof in writing to the Commonwealth stating all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Commonwealth of any rights or remedies to which it is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay. If an extension of the delivery schedule is granted, it will be done consistent with [Section 27, Changes](#).

26. CONDUCT OF SERVICES.

- (a) Following the Effective Date of the Contract, Contractor shall proceed diligently with all Services and shall perform such Services with qualified personnel, in accordance with the completion criteria set forth in the Contract.
- (b) In determining whether the Contractor has performed with due diligence under the Contract, it is agreed and understood that the Commonwealth may measure the amount and quality of the Contractor's effort against the representations made in the Contractor's Proposal. The Contractor's Services hereunder shall be monitored by the Commonwealth and the Commonwealth's designated representatives. If the Commonwealth reasonably determines that the Contractor has not performed with due diligence, the Commonwealth and the Contractor will attempt to reach agreement with respect to such matter. Failure of the Commonwealth or the Contractor to arrive at such mutual determinations shall be a dispute concerning a question of fact within the meaning of [Section 30, Contract Controversies](#).

27. CHANGES.

- (a) At any time during the performance of the Contract, the Commonwealth or the Contractor may request a change to the Contract. Contractor will make reasonable efforts to investigate the impact of the change request on the price, timetable, specifications, and other terms and conditions of the Contract. If the Commonwealth is the requestor of the change, the Contractor will inform the Commonwealth of any charges for investigating the change request prior to incurring such charges. If the Commonwealth and the Contractor agree on the results of the investigation and any necessary changes to the Contract, the parties must complete and execute a change order to modify the Contract and implement the change. The change order will be evidenced by a writing in accordance with the Commonwealth's change order procedures. No work may begin on the change order until the Contractor has received the executed change order. If the parties are not able to agree upon the results of the investigation or the necessary changes to the Contract, a Commonwealth-initiated change request will be implemented at Commonwealth's option and the Contractor shall perform the Services; and either

party may elect to have the matter treated as a dispute between the parties under **Section 30, Contract Controversies**. During the pendency of any such dispute, Commonwealth shall pay to Contractor any undisputed amounts.

- (b) Changes outside the scope of this Contract shall be accomplished through the Commonwealth's procurement procedures, and may result in an amended Contract or a new contract. No payment will be made for services outside of the scope of the Contract for which no amendment has been executed.

28. TERMINATION.

- (a) For Convenience.

- (i) The Commonwealth may terminate the Contract or a Purchase Order issued against the Contract, in whole or in part, without cause by giving Contractor **30 days'** prior written notice (Notice of Termination) whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth (Termination for Convenience). Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance under this Contract is terminated either in whole or in part and the date on which such termination becomes effective.

In the event of termination hereunder, Contractor shall receive payment for the following:

- (1) all Services performed consistent with the terms of the Contract prior to the effective date of termination;
- (2) all actual and reasonable costs incurred by Contractor as a result of the termination of the Contract; and

In no event shall the Contractor be paid for any loss of anticipated profit (by the Contractor or any subcontractor), loss of use of money, or administrative or overhead costs.

Failure to agree on any termination costs shall be a dispute handled in accordance with **Section 30, Contract Controversies**, of this Contract.

- (ii) The Contractor shall cease Services as of the date set forth in the Notice of Termination, and shall be paid only for such Services as have already been satisfactorily rendered up to and including the termination date set forth in said notice, or as may be otherwise provided for in said Notice of Termination, and for such services performed during the **30-day** notice period, if such services are requested by the Commonwealth, for the collection, assembling, and transmitting to the Commonwealth of at least

all materials, manuals, magnetic media, studies, drawings, computations, maps, supplies, and survey notes including field books, which were obtained, prepared, or developed as part of the Services required under this Contract.

- (iii) The above shall not be deemed to limit the Commonwealth's right to terminate this Contract for any reason as permitted by the other provisions of this Contract, or under applicable law.

- (b) Non-Appropriation. Any payment obligation or portion thereof of the Commonwealth created by this Contract is conditioned upon the availability and appropriation of funds. When funds (state or federal) are not appropriated or otherwise made available to support continuation of performance or full performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract in whole or in part. The Contractor shall be reimbursed in the same manner as that described in subsection (a) to the extent that appropriated funds are available.

- (c) Default. The Commonwealth may, in addition to its other rights under this Contract, terminate this Contract in whole or in part by providing written notice of default to the Contractor if the Contractor materially fails to perform its obligations under the Contract and does not cure such failure within **30 days** or, if a cure within such period is not practical, commence a good faith effort to cure such failure to perform within the specified period or such longer period as the Commonwealth may specify in the written notice specifying such failure, and diligently and continuously proceed to complete the cure. The Contracting Officer shall provide any notice of default or written cure notice for Contract terminations.
 - (i) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control of the Contractor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism and unusually severe weather. The Contractor shall notify the Contracting Officer promptly in writing of its inability to perform because of a cause beyond the control of the Contractor.
 - (ii) Nothing in this subsection (c) shall abridge the Commonwealth's right to suspend, debar or take other administrative action against the Contractor.
 - (iii) If it is later determined that the Commonwealth erred in terminating the Contract for default, then the Contract shall be deemed to have been terminated for convenience under **subsection (a)**.
 - (iv) If this Contract is terminated as provided by this subsection (c), the Commonwealth may, in addition to any other rights provided in this

subsection (c), and subject law and to other applicable provisions of this Contract, require the Contractor to deliver to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such Software, Data, Developed Works, Documentation and other materials as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated.

- (d) The rights and remedies of the Commonwealth provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- (e) The Commonwealth's failure to exercise any rights or remedies provided in this section shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- (f) Following exhaustion of the Contractor's administrative remedies as set forth in **Section 30, Contract Controversies**, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

29. BACKGROUND CHECKS.

- (a) The Contractor, at its expense, must arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth IT facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- (b) Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that an employee of the Contractor or an employee of a subcontractor of the Contractor has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this section on more than one occasion or Contractor's failure to cure any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.

- (c) The Commonwealth specifically reserves the right of the Commonwealth to conduct or require background checks over and above that described herein.

30. CONTRACT CONTROVERSIES.

- (a) Pursuant to Section 1712.1 of the *Commonwealth Procurement Code*, 62 Pa. C.S. § 1712.1, in the event of a claim arising from the Contract or a purchase order, the Contractor, within **six (6) months** after the cause of action accrues, must file a written claim with the Contracting Officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within **60 days** thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program, <http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx>.
- (b) If the Contractor or the Contracting Officer requests mediation, and the other party agrees, the Contracting Officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required **120 days** after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the Contracting Officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within **120 days** of the receipt of the claim, unless extended by consent of the Contracting Officer and the Contractor. The Contracting Officer shall send his/her written determination to the Contractor. If the Contracting Officer fails to issue a final determination within the **120 days** (unless extended by consent of the parties), the claim shall be deemed denied. The Contracting Officer's determination shall be the final order of the purchasing agency.
- (c) Within **15 days** of the mailing date of the determination denying a claim or within **135 days** of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract or purchase order in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract or purchase order.

31. CONFIDENTIALITY, PRIVACY AND COMPLIANCE.

- (a) General. The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. Unless the context otherwise clearly indicates the need for confidentiality, information is deemed

confidential only when the party claiming confidentiality designates the information as “confidential” in such a way as to give notice to the other party (for example, notice may be communicated by describing the information, and the specifications around its use or disclosure, in the Solicitation or in the Proposal). Neither party may assert that information owned by the other party is such party’s confidential information. Notwithstanding the foregoing, all Data provided by, or collected, processed, or created on behalf of the Commonwealth is Confidential Information unless otherwise indicated in writing.

- (b) Copying; Disclosure; Termination. The parties agree that confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon expiration or termination of this Contract or any license granted hereunder, the receiving party will return to the disclosing party, or certify as to the destruction of, all confidential information in the receiving party’s possession, other than one copy (where permitted by law or regulation), which may be maintained for archival purposes only, and which will remain subject to this Contract’s security, privacy, data retention/destruction and confidentiality provisions. A material breach of these requirements may result in termination for default pursuant to **Subsection 28(c)**, in addition to other remedies available to the non-breaching party.

- (c) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this section do not apply to information:
 - (i) already known to the recipient at the time of disclosure other than through the contractual relationship;
 - (ii) independently generated by the recipient and not derived from the information supplied by the disclosing party;
 - (iii) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
 - (iv) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
 - (v) required to be disclosed by the recipient by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how or data processing techniques developed alone or jointly with

the Commonwealth in connection with services provided to the Commonwealth under this Contract.

- (d) Omitted.
- (e) Disclosure of Recipient or Beneficiary Information Prohibited. The Contractor shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from Services under the Contract for any purpose not connected with the Contractor's responsibilities, except with consent pursuant to applicable law or regulations. All material associated with direct disclosures of this kind (including the disclosed information) shall be provided to the Commonwealth prior to the direct disclosure.
- (f) Compliance with Laws. Contractor will comply with all applicable laws or regulations related to the use and disclosure of information, including information that constitutes Protected Health Information (PHI) as defined by the *Health Insurance Portability and Accountability Act* (HIPAA). Further, by signing this Contract, the Contractor agrees to the terms of the Business Associate Agreement, which is incorporated into this Contract as **Exhibit A-1**, or as otherwise negotiated by the Contractor and the purchasing agency. It is understood that **Exhibit A-1** is only applicable if and to the extent indicated in the Contract.
- (g) Additional Provisions. Additional privacy and confidentiality requirements may be specified in the Contract.
- (h) Restrictions on Use. All Data and all intellectual property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract shall be used only for the work of this Contract. No Data, intellectual property, Documentation or Developed Works may be used, disclosed, or otherwise opened for access by or to the Contractor or any third party unless directly related to and necessary under the Contract.

32. PCI SECURITY COMPLIANCE—INTENTIONALLY OMITTED.

33. DATA BREACH OR LOSS.

- (a) Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification laws, including but not limited to the *Breach of Personal Information Notification Act*, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329.
- (b) For Data and Confidential Information in the possession, custody, and control of the Contractor or its employees, agents, and/or subcontractors:

- (i) The Contractor shall report unauthorized access, use, release, loss, destruction or disclosure of Data or Confidential Information (“Incident”) to the Commonwealth within **one (1) hour** of when the Contractor knows of or has reasonable confirmation such Incident, and the Contractor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such Data or Confidential Information.
 - (ii) Contractor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of an Incident. The notice must be pre-approved by the Commonwealth. At the Commonwealth’s request, Contractor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any Incident requiring notice.
 - (iii) Contractor shall be solely responsible for any costs, losses, fines, or damages incurred by the Commonwealth due to Incidents to the extent the Incidents were not the result of the Commonwealth’s acts or omissions.
- (c) As to Data and Confidential Information fully or partially in the possession, custody, or control of the Contractor and the Commonwealth, the Contractor shall diligently perform all of the duties required in this section in cooperation with the Commonwealth, until the time at which a determination of responsibility for the Incident, and for subsequent action regarding the Incident, is made final.

34. INSURANCE.

- (a) General. Unless otherwise indicated in the Solicitation, the Contractor shall maintain at its expense and require its agents, contractors and subcontractors to procure and maintain, as appropriate, the following types and amounts of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth:
- (i) Workers’ Compensation Insurance for all of the Contractor’s employees and those of any subcontractor engaged in performing Services in accordance with the *Worker’s Compensation Act*, Act of June 2, 1915, P.L. 736, No. 338, reenacted and amended June 21, 1939, P.L. 520, No. 281, as amended, 77 P.S. §§ 1—2708.
 - (ii) Commercial general liability insurance providing coverage from claims for damages for personal injury, death and property of others, including loss of use resulting from any property damage which may arise from its operations under this Contract, whether such operation be by the Contractor, by any agent, contractor or subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not

less than \$500,000 per person and \$2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured, as its interests may appear. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth as an additional insured against the insurance coverages in regard to the Services performed for or Supplies provided to the Commonwealth.

- (iii) Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of \$2,000,000, per accident/occurrence/annual aggregate.
 - (iv) Professional Liability/Errors and Omissions Insurance in the amount of \$2,000,000, per accident/occurrence/annual aggregate, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.
 - (v) Network/Cyber Liability Insurance (including coverage for Professional and Technology-Based Services Liability if not covered under Company's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of \$3,000,000, per accident/occurrence/annual aggregate, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.
 - (vi) Completed Operations Insurance in the amount of \$2,000,000, per accident/occurrence/annual aggregate, covering the Contractor, its employees, agents, contractors, and subcontractors in the performance of all services.
 - (vii) Comprehensive crime insurance in an amount of not less than \$5,000,000 per claim.
- (b) Certificate of Insurance. Prior to commencing Services under the Contract, and annually thereafter, the Contractor shall provide the Commonwealth with a copy of each current certificate of insurance required by this section. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed in such a way to cause the coverage to fail to comply with the requirements of this section until at least **15 days'** prior written notice has been given to the Commonwealth. Such cancellation or change shall not relieve the Contractor of its continuing obligation to maintain insurance coverage in accordance with this section.

- (c) Insurance coverage length. The Contractor agrees to maintain such insurance for the latter of the life of the Contract, or the life of any purchase orders issued under the Contract.

35. CONTRACTOR RESPONSIBILITY PROGRAM.

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term Contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- (a) The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Contract, a written explanation of why such certification cannot be made.
- (b) The Contractor also certifies, in writing, that as of the date of its execution of this Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- (c) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within **15 days** of the date of suspension or debarment.
- (d) The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- (e) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of

investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- (f) The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.pa.gov> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No. (717) 783-6472
FAX No. (717) 787-9138

36. OFFSET PROVISION FOR COMMONWEALTH CONTRACTS.

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

37. TAXES-FEDERAL, STATE, AND LOCAL.

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23-7400001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this section is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

38. LIMITATION OF LIABILITY.

- (a) General. The Contractor's liability to the Commonwealth under this Contract shall be limited to the greater of \$250,000 or the value of this Contract (including any amendments). This limitation will apply, except as otherwise stated in this section, regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not, however, apply to any damages:

- (i) for bodily injury;
 - (ii) for death;
 - (iii) for intentional injury;
 - (iv) for damage to real property or tangible personal property for which the Contractor is legally liable;
 - (v) under **Section 42, Patent, Copyright, Trademark and Trade Secret Protection**; or
 - (vi) under **Section 41(a), Virus, Malicious, Mischievous or Destructive Programming**.
- (b) The Contractor will not be liable for consequential or incidental damages, except for damages as set forth in paragraphs (a)(i)—(vii) above, or as otherwise specified in the Contract.
- (c) Under Section 33, Data Breach or Loss, which limitation shall be five million dollars (\$5,000,000); or

39. COMMONWEALTH HELD HARMLESS.

- (a) The Contractor shall indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. § 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- (b) Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

40. SOVEREIGN IMMUNITY.

No provision of this Contract may be construed to waive or limit the sovereign immunity of the Commonwealth of Pennsylvania or its governmental sub-units.

41. VIRUS, MALICIOUS, MISCHIEVOUS OR DESTRUCTIVE PROGRAMMING.

- (a) The Licensor warrants that the Licensed Products as delivered by the Licensor does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code to allow unauthorized intrusion upon, disabling of, or erasure of the Licensed Products (each a “Virus”). However, the Licensed Products may contain a key limiting use to the scope and quantity of the license(s) granted, and license keys issued by Licensor for temporary use are time-sensitive.
- (b) The Licensor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that results from the Licensor’s failure to take commercially reasonable proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Licensor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and security updates (such as operating systems security patches, etc.).
- (c) In the event of destruction or modification of any Licensed Products, the Licensor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth’s software, and be liable to the Commonwealth for any resulting damages, subject to the limitation of liability in section 38.
- (d) In the event of destruction or modification of Software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth’s software, and be liable to the Commonwealth for any resulting damages.
- (e) The Contractor shall be responsible for reviewing Commonwealth software security standards and complying with those standards.
- (f) The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide Services to the Commonwealth for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made.
- (g) The Contractor may use the anti-virus software used by the Commonwealth to protect Contractor’s computing devices used in the course of providing services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.

- (h) The Commonwealth will not be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.

42. PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET PROTECTION.

- (a) The Contractor shall hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States or foreign patents, copyrights, or trademarks, or for a misappropriation of trade secrets arising out of performance of this Contract, including all work, services, materials, reports, studies, and computer programs provided by the Contractor, and in any such suit or proceeding will satisfy any final award for such infringement, including costs. The Commonwealth agrees to give Contractor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P.S. § 732-101—732-506, the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG, however, in its sole discretion and under the terms it deems appropriate, may delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits. No settlement that prevents the Commonwealth from continuing to use the Developed Works as provided herein shall be made without the Commonwealth's prior written consent. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Contractor that, in the event it requests that the Commonwealth provide support to the Contractor in defending any such claim, the Contractor shall reimburse the Commonwealth for all expenses (including attorneys' fees, if such are made necessary by the Contractor's request) incurred by the Commonwealth for such support. If OAG does not delegate the defense of the matter, the Contractor's obligation to indemnify ceases. The Contractor, at its expense, will provide whatever cooperation OAG requests in the defense of the suit.
- (b) The Contractor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Contractor certifies that, in all respects applicable to this Contract, it has exercised and will continue to exercise due diligence to ensure that all works produced under this Contract do not infringe on the patents, copyrights, trademarks, trade secrets or other proprietary interests of any kind which may be held by third parties. The Contractor also agrees to certify that work produced for the Commonwealth under this contract shall be free and clear from all claims of any nature.
- (c) If the defense of the suit is delegated to the Contractor, the Contractor shall pay all damages and costs awarded therein against the Commonwealth. If information and

assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

- (d) If, in the Contractor's opinion, the products, materials, reports, studies, or computer programs furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, or trademark, or for a misappropriation of trade secret, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, at its option and expense, substitute functional equivalents for the alleged infringing products, materials, reports, studies, or computer programs or, at the Contractor's option and expense, obtain the rights for the Commonwealth to continue the use of such products, materials, reports, studies, or computer programs.
- (e) If any of the products, materials, reports, studies, or computer programs provided by the Contractor are in such suit or proceeding held to constitute infringement and the use or publication thereof is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing products, materials, reports, studies, or computer programs, replace them with non-infringing items, or modify them so that they are no longer infringing.
- (f) If the Contractor is unable to do any of the preceding, the Contractor agrees to pay the Commonwealth:
 - (i) any amounts paid by the Commonwealth less a reasonable amount based on the acceptance and use of the deliverable;
 - (ii) the license fee paid for the infringing Licensed Product, less the amount for the period of usage of the Licensed Product; and
 - (iii) the prorated portion of any service fees representing the time remaining in any period of service for which payment was made.
- (g) Notwithstanding the above, the Contractor shall have no obligation for:
 - (i) modification of any product, service, or deliverable provided by the Commonwealth;
 - (ii) any material provided by the Commonwealth to the Contractor and incorporated into, or used to prepare, a product, service, or deliverable;
 - (iii) use of the product, service, or deliverable in other than its specified operating environment;
 - (iv) the combination, operation, or use of the product, service, or deliverable with other products, services, or deliverables not provided by the Contractor

as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Contractor did not provide;

- (v) infringement of a non-Contractor product alone;
 - (vi) the Commonwealth's distribution, marketing or use beyond the scope contemplated by the Contract; or
 - (vii) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Contractor at no charge.
- (h) The obligation to indemnify the Commonwealth, under the terms of this section, shall be the Contractor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

43. CONTRACT CONSTRUCTION.

The provisions of this Contract shall be construed in accordance with the provisions of all applicable laws and regulations of the Commonwealth. However, by executing this Contract, the Contractor agrees that it has and will continue to abide by the intellectual property laws and regulations of the United States of America.

44. USE OF CONTRACTOR AND THIRD PARTY PROPERTY.

- (a) Definitions.
 - (i) "Contractor Property" refers to Contractor-owned tangible and intangible property.
 - (ii) "Third Party" refers to a party that licenses its property to Contractor for use under this Contract.
 - (iii) "Third Party Property" refers to property licensed by the Contractor for use in its work under this Contract.
- (b) Contractor Property shall remain the sole and exclusive property of the Contractor. Third Party Property shall remain the sole and exclusive property of the Third Party. The Commonwealth acquires rights to the Contractor Property and Third Party Property as set forth in this Contract.
 - (i) Where the Contractor Property or Third Party Property is integrated into the Supplies or Services which are not Developed Works), or the Contractor Property is otherwise necessary for the Commonwealth to attain the full benefit of the Supplies or Services in accordance with the terms of the Contract and subject to the separate Software/Services License

Requirements Agreement entered into between the parties, the Contractor hereby grants to the Commonwealth a non-exclusive, fully-paid up, worldwide license to use the Contractor Property to access, use, reproduce, and modify Contractor Property in accordance with the terms of the Contract and as necessary to meet the requirements of the Contract.. These rights are granted for a duration and to an extent necessary to meet the requirements under this Contract. If a Third Party or the Contractor requires a separate license agreement, such license terms shall include the aforementioned rights, be acceptable to the Commonwealth and include the applicable provisions set forth in these terms at **Exhibit B, Software License Requirements Agreement Template**.

- (ii) If Third Party Property is integrated into the Supplies or Services which are not Developed Works, or the Third Party Property is otherwise necessary for the Commonwealth to attain the full benefit of the Supplies or Services in accordance with the terms of the Contract, the Contractor shall gain the written approval of the Commonwealth prior to the use of the Third Party Property or the integration of the Third Party Property into the Supplies or Services. Third Party Property approved by the Commonwealth is hereby licensed to the Commonwealth as necessary to meet the Contract requirements.
- (iii) If the Third Party requires a separate license agreement, the license terms shall be acceptable to the Commonwealth and include the applicable provisions set forth in these terms at **Exhibit B, Software License Requirements Agreement Template**.
- (iv) If the use or integration of the Third Party Property is not approved in writing under this section, the Third Party Property shall be deemed to be licensed under **paragraph (b)(i)** above.
- (v) If the Contract expires or is terminated for default pursuant to **Subsection 28(c)** before the Contract requirements are complete, all rights are granted for a duration and for purposes necessary to facilitate Commonwealth's or a Commonwealth-approved vendor's completion of the Supplies, Services or Developed Works under this Contract. The Contractor, in the form used by Contractor in connection with the Supplies, Services, or Developed Works, shall deliver to Commonwealth the object code version of such Contractor Property, the Third Party Property and associated licenses immediately prior to such expiration or termination to allow the Commonwealth to complete such work.
- (vi) Where third party users are reasonably anticipated by the Contract, all users are granted the right to access and use Contractor Property for the purposes of and within the scope indicated in the Contract.

- (c) The Commonwealth will limit its agents and contractors' use and disclosure of the Contractor Property as necessary to perform work on behalf of the Commonwealth.
- (d) Except as provided in the separate Software/Services License Requirements Agreement entered into between the parties, the parties agree that the Commonwealth, by acknowledging Contractor Property, does not agree to any terms and conditions of the Contractor Property agreements that are inconsistent with or supplemental to this Contract.
- (e) Reports: When a report is provided under this Contract, but was not developed specifically for the Commonwealth under this Contract, the ownership of the report will remain with the Contractor, provided, however, that the Commonwealth has the right to use, copy and distribute the report within the executive agencies of the Commonwealth.

45. USE OF COMMONWEALTH PROPERTY.

“Commonwealth Property” refers to Commonwealth-owned Software, Data and property (including intellectual property) and third party owned Software and property (including intellectual property) licensed to the Commonwealth.

- (a) Confidentiality of Commonwealth Property. All Commonwealth Property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract shall be considered confidential information under **Section 31, Confidentiality, Privacy, and Compliance**.
- (b) License grant and restrictions. During the term of this Contract, Commonwealth grants to Contractor and its subcontractors for the limited purpose of providing the Services covered under this Contract, a limited, nonexclusive, nontransferable, royalty-free right (subject to the terms of any third party agreement to which the Commonwealth is a party) to access, use, reproduce, and modify Commonwealth Property in accordance with the terms of the Contract. The Commonwealth's license to Contractor is limited by the terms of this Contract.
 - (i) The Contractor hereby assigns to the Commonwealth its rights, if any, in any derivative works resulting from Contractor's modification of the Commonwealth Intellectual Property. Contractor agrees to execute any documents required to evidence this assignment and to waive any moral rights and rights of attribution provided for in Section 106A of Title 17 of the United States Code, the *Copyright Act of 1976*, as amended.
 - (ii) Neither Contractor nor any of its subcontractors may decompile or reverse engineer, or attempt to decompile or reverse engineer, any of the Commonwealth Intellectual Property. Commonwealth hereby represents

that it has the authority to provide the license grant and rights set forth in this section.

- (c) Reservation of rights. All rights, not expressly granted here to Contractor are reserved by the Commonwealth.
- (d) Termination of Commonwealth license grant.
 - (i) Rights Cease: Upon the expiration or termination for any reason of Contractor's obligation to provide the Services under this Contract, all rights granted to Contractor under this section shall immediately cease.
 - (ii) Return Commonwealth Property: Contractor shall, at no cost to Commonwealth, deliver to Commonwealth all of the Commonwealth Intellectual Property (including any related source code then in Contractor's possession or under its control) in the form in use as of the Effective Date of such expiration or termination (except that Commonwealth Data shall be turned over in a form acceptable to the Commonwealth).
 - (iii) List of utilized Commonwealth Property/Destruction: Within **30days** after termination, the Licensor must promptly return to the Commonwealth all Commonwealth's data (and all copies of this information) that is in the Licensor's possession or control. The Commonwealth's data shall be returned in an industry standard format agreed to by the Commonwealth. Contractor shall destroy or erase all other copies of any of the Commonwealth Software then in Contractor's possession or under its control unless otherwise instructed by Commonwealth, in writing; provided, however, that Contractor may retain one archival copy of such Commonwealth Software, until final resolution of any actively asserted pending disputes between the Parties, such retention being for the sole purpose of resolving such disputes.
- (e) Effect of license grant termination. Consistent with the provisions of this section, Contractor shall refrain from manufacturing, copying, marketing, distributing or using any Commonwealth Software or any other work which incorporates the Commonwealth Software.
- (f) Commonwealth Property Protection.
 - (i) Contractor acknowledges Commonwealth's exclusive right, title and interest, including without limitation copyright and trademark rights, in and to Commonwealth Data, Commonwealth Software and the Developed Works developed under the provisions of this Contract, and Contractor shall not, directly or indirectly, do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of said right, title, and interest, and shall not use or disclose the Commonwealth Data,

Commonwealth Software or the Developed Works without Commonwealth's written consent, which consent may be withheld by the Commonwealth for any reason.

- (ii) Contractor shall not, in any manner, represent that Contractor has any ownership interest in the Commonwealth Data, Commonwealth Software or the Developed Works.

46. OWNERSHIP OF DEVELOPED WORKS.

Unless otherwise specified in the Contract's Statement of Work or the separate Software/Services License Requirements Agreement entered into between the parties, ownership of all Developed Works shall be in accordance with the provisions set forth in this section.

(a) Rules for usage for Developed Works.

- (i) *Property of Contractor:* If Developed Works modify, improve, contain, or enhance application software programs or other materials generally licensed by the Contractor, then such Developed Works shall be the property of the Contractor, and Contractor hereby grants Commonwealth an irrevocable, nonexclusive, worldwide, fully paid-up license (to include source code and relevant documentation) to access and use in accordance with the Contract.
- (ii) *Property of Commonwealth/licensor:* If the Developed Works modify, improve or enhance application software or other materials not licensed to the Commonwealth by the Contractor, then such modifications, improvements and enhancements shall be the property of the Commonwealth or its licensor.

(b) Copyright Ownership.

- (i) *Works made for hire; general:* Except as indicated in paragraph (a)(i), above, Developed Works developed as part of the scope of work for the Project, including Developed Works developed by subcontractors, are the sole and exclusive property of the Commonwealth and shall be considered "works made for hire" under the *Copyright Act of 1976*, as amended, 17 United States Code.
- (ii) *Assignment:* In the event that the Developed Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, Contractor agrees to assign and, upon their authorship or creation, expressly and automatically assigns, all copyright interests, proprietary rights, trade secrets, and other right, title, and interest in and to such Developed Works to Commonwealth. Contractor further agrees that it will have its subcontractors assign, and upon their authorship

or creation, expressly and automatically assigns all copyright interest, proprietary rights, trade secrets, and other right, title, and interest in and to the Developed Works to the Commonwealth.

- (iii) *Rights to Commonwealth:* Commonwealth shall have all rights accorded an owner of copyright under the United States copyright laws including, but not limited to, the exclusive right to reproduce the Developed Works in multiple copies, the right to distribute copies by sales or other transfers, the right to register all copyrights in its own name as author in the United States and in foreign countries, the right to prepare derivative works based upon the Developed Works and the right to display the Developed Works.
 - (iv) *Subcontracts:* The Contractor further agrees that it will include the requirements of this section in any subcontractor or other agreement with third parties who in any way participate in the creation or development of Developed Works.
 - (v) *Completion or termination of Contract:* Upon completion or termination of this Contract, Developed Works, or completed portions thereof, shall immediately be delivered by Contractor to the Commonwealth.
 - (vi) *Warranty of noninfringement:* Contractor represents and warrants that the Developed Works are original and do not infringe any copyright, patent, trademark, or other intellectual property right of any third party and are in conformance with the intellectual property laws and regulations of the United States.
- (c) Patent ownership. The Contractor and its subcontractors shall retain ownership to patentable items, patents, processes, inventions or discoveries (collectively, the Patentable Items) made by the Contractor during the performance of this Contract. Notwithstanding the foregoing, the Commonwealth shall be granted a nonexclusive, nontransferable, royalty free license to use or practice the Patentable Items unless otherwise provided herein or in writing signed by both parties. Commonwealth may disclose to third parties any such Patentable Items made by Contractor or any of its subcontractors under the scope of work for the Project that have been previously publicly disclosed. Commonwealth understands and agrees that any third party disclosure will not confer any license to such Patentable Items.
- (d) Federal government interests. Certain funding under this Contract may be provided by the federal government. Accordingly, the rights to Developed Works or Patentable Items of the Contractor or subcontractors hereunder will be further subject to government rights as set forth in 37 C.F.R. § 401, as amended, and other applicable law or regulations.
- (e) Usage rights. Except as otherwise covered by this section, either Party, in the ordinary course of conducting business, may use any ideas, concepts, know-how,

methodologies, processes, components, technologies, algorithms, designs, modules or techniques relating to the Services.

- (f) Contractor's copyright notice obligations. In the event that a Developed Work has been created within the scope of this Contract the parties shall negotiate in good faith and mutually agree upon notice obligations of the Contractor.

47. INTENTIONALLY OMITTED.

48. LOCATION, STATUS AND DISPOSITION OF DATA.

Unless this Contract specifies otherwise:

- (a) All Data must be stored within the United States.
- (b) The Contractor shall be responsible for maintaining the privacy, security and integrity of Data in the Contractor's or its subcontractors' possession.
- (c) All Data shall be provided to the Commonwealth upon request, in an industry standard form acceptable to the Commonwealth and at no cost, provided such request is no more than twice per year or as otherwise agreed to in the Purchase Order. .
- (d) Any Data shall be destroyed by the Contractor at the Commonwealth's request.
- (e) Any Data shall be held for litigation or public records purposes by the Contractor at the Commonwealth's request, and in accordance with the security, privacy and accessibility requirements of this Contract.

49. PUBLICATION RIGHTS AND/OR COPYRIGHTS.

- (a) Except as otherwise provided in **Section 46, Ownership of Developed Works**, the Contractor shall not publish any of the results of the work without the written permission of the Commonwealth. In the event that a Developed Work has been created within the scope of this Contract the parties shall negotiate in good faith and mutually agree upon notice obligations of the Contractor. The Contractor shall not include in the documentation any copyrighted matter, unless the Contractor provides the Commonwealth with written permission of the copyright owner.
- (b) Except as otherwise provided in the Contract, the Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report or data designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

50. CHANGE OF OWNERSHIP OR INSOLVENCY.

In the event that the Contractor should change ownership for any reason whatsoever, the Commonwealth shall have the exclusive option of continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns for the full remaining term of this Contract, or continuing under the terms and conditions of this Contract with the Contractor or its successors or assigns for such period of time as is necessary to replace the products, materials, reports, studies, or computer programs, or immediately terminating this Contract. Nothing in this section limits the Commonwealth's exercise of any rights that the Commonwealth may have under [Section 28, Termination](#).

51. OFFICIALS NOT TO BENEFIT.

No official or employee of the Commonwealth and no member of its General Assembly who exercises any functions or responsibilities under this Contract shall participate in any decision relating to this Contract which affects their personal interest or the interest of any corporation, partnership, or association in which they are, directly or indirectly, interested; nor shall any such official or employee of the Commonwealth or member of its General Assembly have any interest, direct or indirect, in this Contract or the proceeds thereof.

52. COMPLIANCE WITH LAWS.

- (a) The Contractor shall comply with all federal, state and local laws, regulations applicable to its Services, including, but not limited to, all statutes, regulations that are in effect as of the Effective Date of the Contract and shall procure at its expense all licenses and all permits necessary for the fulfillment of its obligation.
- (b) The Contractor shall use commercially reasonable efforts to abide by the applicable Commonwealth's Information Technology Policies (ITPs), a list of the most relevant being attached hereto as Attachment 2-A. The Commonwealth will advise the Contractor of the relevant policies and any material changes to those policies.
- (c) If any existing law or, regulation is changed or if any new law, regulation or policy is enacted that affects the Services provided under this Contract, the Parties shall modify this Contract, via [Section 27, Changes](#), to the extent reasonably necessary to:
 - (i) Ensure that such Services will be in full compliance with such laws, regulations and policies; and
 - (ii) Modify the rates applicable to such Supplies or Services, unless otherwise indicated in the Solicitation.

53. THE AMERICANS WITH DISABILITIES ACT.

During the term of this Contract, the Contractor agrees as follows:

- (a) Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through Contracts with outside Contractors.
- (b) The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from losses, damages, expenses claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subsection (a).

54. EXAMINATION OF RECORDS.

- (a) The Contractor agrees to maintain, using its standard procedures, and in accordance with Generally Accepted Accounting Principles, books, records, documents, and other evidence pertaining to the charges under this Contract to the extent and in such detail as will properly reflect all charges for which reimbursement is claimed under the provisions of this Contract.
- (b) The Contractor agrees to make available at the office of the Contractor at all reasonable times, and upon reasonable written notice, during the term of this Contract and the period set forth in subsection (c) below, any of the records for inspection, audit, or reproduction by any authorized Commonwealth representative. To the extent allowed by applicable laws or regulations, the Commonwealth agrees to maintain any documents so provided in accordance with the confidentiality provisions in **Section 31, Confidentiality, Privacy and Compliance**.
- (c) The Contractor shall preserve and make available its records for a period of **three (3) years** from the date of final payment under this Contract:
 - (i) If this Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of **three (3) years** from the date of any resulting final settlement.
 - (ii) Non-privileged records which relate to litigation or the settlement of claims arising out of the performance of this Contract, or charges under this Contract as to which exception has been taken by the auditors, shall be retained by the Contractor until such litigation, claims, or exceptions have been finally resolved.

- (d) Except for documentary evidence retained pursuant to **Paragraph (c)(ii)**, the Contractor may in fulfillment of its obligation to retain its records as required by this section substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of **two (2) years** following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Commonwealth with the concurrence of its auditors.
- (e) The provisions of this section shall be applicable to and included in each subcontract hereunder.

55. SINGLE AUDIT ACT OF 1984.

In compliance with the *Single Audit Act of 1984*, as amended, the Contractor agrees to the following:

- (a) This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in *Government Auditing Standards*, 1994 Revisions (Yellow Book).
- (b) The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the *Single Audit Act of 1984*, as amended, 31 U.S.C. § 7501, *et seq.*, and all rules and regulations promulgated pursuant to the Act.
- (c) The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.
- (d) The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the *Single Audit Act of 1984*, as amended.

56. AGENCY-SPECIFIC SENSITIVE AND CONFIDENTIAL COMMONWEALTH DATA (IF APPLICABLE).

- (a) Contractor understands that its level of access may allow or require it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws, regulations and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the Supplies or Services, the Contractor must receive and sign off on particular instructions and limitations as dictated by that Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements. This sign-off document, a sample of which is attached as **Exhibit C**, will include a description of the nature of the data which

may be implicated based on the nature of the Contractor's access, and will incorporate the Business Associate Agreement if it is applicable.

- (b) Contractor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Supplies, the Contractor is and shall remain compliant with all applicable state and federal laws, and regulations regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract.
- (c) This section does not require a Commonwealth agency to exhaustively list the laws or, regulations to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Contractor's access, to refer the Contractor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with applicable laws, regulations .
- (d) The Contractor shall use commercially reasonable efforts to abide by the applicable Commonwealth's Information Technology Policies (ITPs), a list of the most relevant being attached hereto as Attachment 2-A. The Commonwealth will advise the Contractor of the relevant policies and any material changes to those policies.
- (e) The requirements of this section are in addition to and not in lieu of other requirements of this Contract, its Exhibits, Appendices and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Contractor comply with all applicable Commonwealth ITPs, which can be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.
- (f) Contractor shall conduct additional background checks, in addition to those required in **Section 29, Background Checks**, as may be required by a Commonwealth agency in its sign-off documents. The Contractor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Contract. The Contractor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

57. FEDERAL REQUIREMENTS.

If applicable, the Contractor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Supplies and Services. This sign-off document, in addition to any applicable requirements of **Section 56, Agency-Specific Sensitive and Confidential Commonwealth Data**, will include a description of the required federal provisions, along with the applicable forms necessary for the Contractor and/or Software Licensor execute,

as necessary. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract.

58. ADDITIONAL FEDERAL PROVISIONS.

Additional contract provisions may be incorporated into this Contract pursuant to federal law, regulation or policy.

59. ENVIRONMENTAL PROTECTION.

In carrying out this Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including the *Clean Streams Law*, Act of June 22, 1937 (P.L. 1987, No. 394), as amended, 35 P.S. § 691.601 *et seq*; the *Pennsylvania Solid Waste Management Act*, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. § 6018.101 *et seq*; and the *Dam Safety and Encroachment Act*, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. § 693.1.

60. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE.

The Contractor agrees:

- (a) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (b) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- (c) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
- (d) Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public*

Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

- (e) The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- (f) The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- (g) The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- (h) The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract related to this Contract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- (i) The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

- (j) The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

61. CONTRACTOR INTEGRITY PROVISIONS.

It is essential that those who seek to contract with the Commonwealth of Pennsylvania (“Commonwealth”) observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

- (a) **DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this section:
 - (i) “Affiliate” means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
 - (ii) “Consent” means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
 - (iii) “Contractor” means the individual or entity, that has entered into this contract with the Commonwealth.
 - (iv) “Contractor Related Parties” means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
 - (v) “Financial Interest” means either:
 - (1) Ownership of more than a five percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - (vi) “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The

exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the 4 Pa. Code § 7.153(b), shall apply.

(vii) “Non-bid Basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

(b) In furtherance of this policy, Contractor agrees to the following:

(i) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

(ii) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees shall Posting these Contractor Integrity Provisions on the Contractor’s company intranet satisfy this requirement.

(iii) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

(iv) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this Contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.

(v) Contractor certifies to the best of its knowledge and belief that within the last **five (5) years** Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;



- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along Contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the Contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- (vi) Contractor shall comply with the requirements of the *Lobbying Disclosure Act* (65 Pa. C.S. § 13A01, *et seq.*) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the *Pennsylvania Election Code* (25 P.S. § 3260a).
- (vii) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- (viii) Contractor, by execution of this Contract and by the submission of any bills, invoices or requests for payment pursuant to the Contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth

in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- (ix) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this subsection in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- (x) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

62. ASSIGNMENT OF RIGHTS UNDER THE ANTITRUST LAWS.

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by Contractor's suppliers resulting from violations of state and federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of this Contract, and intending to be legally bound, the Contractor assigns to the

Commonwealth all rights, title, and interest in and to any claims Contractor now has or may hereafter acquire under state and federal antitrust laws relating to the goods and services which are subject to this Contract.

63. WARRANTIES.

Except as otherwise set forth in the Contract, the Contractor warrants that the Services, Supplies and Developed Works will conform in all material respects to the functional specifications for the Services, Supplies and Developed Works and/or the requirements of the Contract or the separate Software/Services License Requirements Agreement entered into between the parties. The warranty period for the Services, Supplies and Developed Works shall be **90 days** from delivery or final acceptance, if final acceptance is provided for in the Statement of Work. If third-party Services, Supplies or Developed Works are subject to a warranty that exceeds **90 days** from final acceptance, the longer warranty period shall apply.

- (a) Disruption. The Contractor hereby represents and warrants to the Commonwealth that the Contractor will not cause, or take any action that, directly or indirectly, may cause substantial disruption of the Commonwealth's operations.
- (b) Nonconformity. In the event of any nonconformity with the foregoing warranties, the Commonwealth will provide written notification of such nonconformity to the Contractor and the Contractor, at no cost to the Commonwealth, shall within **10 days'** notice of the nonconformity, commence work to remedy the nonconformity and shall work diligently, at no charge to the Commonwealth, until such time as the deliverable conforms, in all material respects, to the Service requirements and/or the functional specifications of the Developed Works set forth in this Contract. The Contractor shall have no obligation with respect to nonconformities arising out of:
 - (i) Modifications to Developed Works made by the Commonwealth;
 - (ii) Use of the Developed Works not in accordance with the documentation or specifications applicable thereto;
 - (iii) Failure by the Commonwealth to implement any corrections or enhancements made available by the Contractor;
 - (iv) Combination of the Developed Works with any items not supplied or approved by the Contractor; or
 - (v) Failure of any software licensed under a separate license agreement to conform to its specifications or documentation.
- (c) Industry standards. The Contractor hereby represents and warrants to the Commonwealth that the Services shall be performed in accordance with industry standards and skill.

- (d) Right to perform. The Contractor hereby represents and warrants to the Commonwealth that the Contractor has the necessary legal rights, including licenses to third party products, tools or materials, to perform the Services and deliver the Developed Works under this Contract.
- (e) Sole warranties. THE FOREGOING EXPRESS WARRANTIES ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED, SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

64. INTENTIONALLY OMITTED.

65. SERVICE LEVELS.

- (a) The Contractor shall comply with the procedures and requirements of the Service Level Agreements, if any, which are made part of this Contract.
- (b) Where there are expressly defined Service Levels, Contractor shall measure and report its performance against these standards on at least a monthly basis, except as may otherwise be agreed between the parties. Regardless of the presence or absence of expressly defined Service Levels, any failure to adequately or timely perform a Service may result in consequences under this Contract, up to and including Contract termination.
- (c) The Commonwealth's acceptance of any financial credit incurred by the Contractor in favor of the Commonwealth for a Service Level default ("Service Level Credit") shall not bar or impair Commonwealth's rights and remedies in respect of the failure or root cause as set forth elsewhere in this Contract, including without limitation other claims for injunctive relief and termination rights; provided however, Service Level Credits paid would be credited against any such claims for damages.

66. FORCE MAJEURE.

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within **five (5) days** and in writing within **10 days** of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract.

67. PUBLICITY/ADVERTISEMENT.

The Contractor shall not issue news releases, internet postings, advertisements, endorsements, or any other public communication regarding the Contract without prior written approval of the Commonwealth, and then only in coordination with the Commonwealth. This includes the use of any trademark or logo.

68. TERMINATION ASSISTANCE.

- (a) Upon the Commonwealth's request, Contractor shall provide termination assistance services (Termination Assistance Services) directly to the Commonwealth, or to any vendor designated by the Commonwealth. The Commonwealth may request termination assistance from the Contractor upon full or partial termination of the Contract and/or upon the expiration of the Contract term, including any renewal periods. Contractor shall take all necessary and appropriate actions to accomplish a complete, timely and seamless transition of any Services from Contractor to the Commonwealth, or to any vendor designated by the Commonwealth, without material interruption of or material adverse impact on the Services. Contractor shall cooperate with the Commonwealth and any new contractor and otherwise promptly take all steps required or reasonably requested to assist the Commonwealth in effecting a complete and timely transition of any Services.
- (b) Such Termination Assistance Services shall first be rendered using resources included within the fees for the Services, provided that the use of such resources shall not adversely impact the level of service provided to the Commonwealth; then by resources already included within the fees for the Services, to the extent that the Commonwealth permits the level of service to be relaxed; and finally, using additional resources at costs determined by the Parties via **Section 27, Changes**. Nothing contained herein shall require Contractor to provide Termination Assistance Services without compensation.

69. NOTICE.

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address such party may designate by notice given pursuant to this section.

70. RIGHT-TO-KNOW LAW.

- (a) The Pennsylvania *Right-to-Know Law*, 65 P.S. §§ 67.101—3104, *as amended*, (“RTKL”) applies to this Contract. For the purpose of this section, the term “the Commonwealth” shall refer to the contracting Commonwealth organization.
- (b) If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL that is related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- (c) Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - (i) Provide the Commonwealth, within **10 days** after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - (ii) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- (d) If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within **seven (7) days** of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

- (e) The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure and in the Contractor's possession, custody and control, the Contractor shall provide the Requested Information within **five (5) business days** of receipt of written notification of the Commonwealth's determination.
- (f) If the Contractor fails to provide the Requested Information that is in its possession, custody or control within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- (g) The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- (h) The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL provided the Commonwealth provided Contractor with notice of the RTKL request.
- (i) The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

71. GOVERNING LAW.

This Contract shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. Except as set forth in **Section 30, Contract Controversies**, Commonwealth and Contractor agree that the courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof. Any legal action relating to this Contract must be

brought in Dauphin County, Pennsylvania, and the parties agree that jurisdiction and venue in such courts is appropriate.

72. CONTROLLING TERMS AND CONDITIONS.

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's website, quotations, invoices, business forms, click-through agreements, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor, and not binding on the Commonwealth.

73. SMALL DIVERSE BUSINESS/SMALL BUSINESS COMMITMENT.

Contractor shall meet and maintain the commitments to small diverse businesses in the Small Diverse Business and Small Business ("SDB/SB") set forth in a Purchase Order. Any proposed change to a SDB/SB commitment must be submitted to the DGS Bureau of Diversity, Inclusion and Small Business Opportunities ("BDISBO"), which will make a recommendation as to a course of action to the Commonwealth Contracting Officer. Contractor shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the Commonwealth Contracting Officer and BDISBO within **10 business days** at the end of each calendar quarter that the Contract is in effect.

74. RECYCLED MATERIALS.

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified below.

75. SURVIVAL.

Sections [11](#), [30](#), [31](#), [33](#), [37](#), [38](#), [39](#), [41](#), [42](#), [45](#), [46](#), [47](#), [48](#), [49](#), [52](#), [54](#), [55](#), [56](#), [63](#), [67](#), [69](#), [70](#), [71](#) and [75](#) and any right or obligation of the parties in this Contract which, by its express terms or nature and context is intended to survive termination or expiration of this Contract, will survive any such termination or expiration shall survive the expiration or termination of the Contract.

EXHIBIT A-1

COMMONWEALTH OF PENNSYLVANIA BUSINESS ASSOCIATE AGREEMENT

Health Insurance Portability and Accountability Act (HIPAA) Compliance

WHEREAS, the [name of program and/or Department] (Covered Entity) and the Contractor (Business Associate), intend to protect the privacy and security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the *Health Insurance Portability and Accountability Act of 1996*, as amended, Pub. L. No. 104-191 (HIPAA), the *Health Information Technology for Economic and Clinical Health (HITECH) Act*, as amended, Title XIII of Division A and Title IV of Division B of the *American Recovery and Reinvestment Act of 2009* (ARRA), as amended, Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164, as amended, 42 C.F.R. §§ 431.301—431.302, 42 C.F.R. Part 2, 45 C.F.R. § 205.50, 42 U.S.C. § 602(a)(1)(A)(iv), 42 U.S.C. § 1396a(a)(7), 35 P.S. § 7607, 50 Pa. C.S. § 7111, 71 P.S. § 1690.108(c), 62 P.S. § 404, 55 Pa. Code Chapter 105, 55 Pa. Code Chapter 5100, the Pennsylvania *Breach of Personal Information Notification Act*, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance; and

WHEREAS, Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI may be handled, used or disclosed only in accordance with this Business Associate Agreement (BAA), the Underlying Agreement and the standards established by HIPAA, the HITECH Act and related regulations, and other applicable laws and agency guidance.

NOW, THEREFORE, Covered Entity and Business Associate agree as follows:

1. Definitions.

- (a) “**Business Associate**” shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule and agency guidance.
- (b) “**Business Associate Agreement**” or “**BAA**” shall mean this Agreement.
- (c) “**Covered Entity**” shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule and agency guidance.
- (d) “**HIPAA**” shall mean the Health Insurance Portability and Accountability Act of 1996, as amended, Pub. L. No. 104-191.

- (e) “**HITECH Act**” shall mean the Health Information Technology for Economic and Clinical Health (HITECH) Act, as amended, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009).
- (f) “**Privacy Rule**” shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164, as amended, and related agency guidance.
- (g) “**Protected Health Information**” or “**PHI**” shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule (all as amended) and agency guidance.
- (h) “**Security Rule**” shall mean the security standards in 45 C.F.R. Parts 160, 162 and 164, as amended, and related agency guidance.
- (i) “**Underlying Agreement**” shall mean Contract/Purchase Order # _____.
- (j) “**Unsecured PHI**” shall mean PHI that is not secured through the use of a technology or methodology as specified in HITECH Act regulations, as amended, and agency guidance or as otherwise defined in the HITECH Act, as amended.

2. **Changes in Law.**

Business Associate agrees that it will comply with any changes in the HIPAA Rules by the compliance date established by any such changes and will provide the Covered Entity with written certification of such compliance.

3. **Stated Purposes for Which Business Associate May Use or Disclose PHI.**

Except as otherwise limited in this BAA, Business Associate shall be permitted to use or disclose PHI provided by or obtained by or obtained on behalf of Covered Entity to perform those functions, activities, or services for, or on behalf of, Covered Entity which are specified in [Appendix A](#) to this BAA, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity. Business Associate agrees to make uses, disclosures and requests for PHI consistent with Covered Entity’s minimum policies and procedures.

4. **Additional Purposes for Which Business Associate May Use or Disclose Information.**

Business Associate shall not use or disclose PHI provided by, or created or obtained on behalf of, Covered Entity for any other purposes except as required by law. Business Associate shall not use PHI to de-identify the information in accordance with 45 CFR § 164.514 (a)—(c) without the Covered Entity’s express written authorization(s). Business

Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

5. Business Associate Obligations.

- (a) **Limits on Use and Further Disclosure Established by Business Associate Agreement and Law.** Business Associate hereby agrees that the PHI provided by, or created or obtained on behalf of, Covered Entity shall not be further used or disclosed other than as permitted or required by BAA or as required by law.
- (b) **Appropriate Safeguards.** Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this BAA that reasonably and appropriately protects the confidentiality, integrity, and availability of the PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity as required by [Subpart C](#) of 45 CFR Part [164](#). Appropriate safeguards shall include but are not limited to implementing:
- (i) administrative safeguards required by 45 CFR § [164.308](#);
 - (ii) physical safeguards as required by 45 CFR § [164.310](#);
 - (iii) technical safeguards as required by 45 CFR § [164.312](#); and
 - (iv) policies and procedures and document requirements as required by 45 CFR § [164.316](#).
- (c) **Training and Guidance.** Business Associate shall provide annual training to relevant contractors, Subcontractors, employees, agents and representatives on how to prevent the improper use or disclosure of PHI. Business Associate shall also comply with annual guidance on the most effective and appropriate technical safeguards issued by the Secretary of Health and Human Services.
- (d) **Reports of Improper Use or Disclosure or Breach.** Business Associate hereby agrees that it shall notify the Covered Entity's Project Officer and the Covered Entity's Legal Office within **two (2) days** of discovery of any use or disclosure of PHI not provided for or allowed by this BAA, including breaches of unsecured PHI as required by 45 CFR § [164.410](#). Such notification shall be written and shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the improper use or disclosure or Breach. Business Associate shall furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to individuals under 45 CFR § [164.404\(c\)](#) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. An improper use or disclosure or Breach shall be treated as discovered by the Business Associate on the **first day**

on which it is known to the Business Associate (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of the Business Associate) or should reasonably have been known to the Business Associate to have occurred.

- (e) Business Associate agrees that if any of its employees, agents, contractors, subcontractors or representatives use or disclose PHI received from, or created or received on behalf of, Covered Entity, or any derivative de-identified information, Business Associate shall ensure that such employees, agents, contractors, subcontractors and representatives shall receive training on Business Associate's procedure for compliance with the HIPAA Rules. Business Associate Agrees that if any of its employees, agents, contractors, subcontractors or representatives use or disclose PHI received from, or created or received on behalf of, Covered Entity, or any derivative de-identified information in a manner not provided for in this BAA, Business Associate shall ensure that such employees, agents, contractors, subcontractors and representatives are sanctioned or prevented from accessing any PHI Business Associate receives from, or creates or receives on behalf of Covered Entity. Use or disclosure of PHI in a manner contrary to the terms of this BAA shall constitute a material breach of the Underlying Agreement.
- (f) **Contractors, Subcontractors, Agents and Representatives.** In accordance with 45 CFR § 164.502(e)(1)(ii) and 45 CFR § 164.308(b)(2), if applicable, ensure that any contractors, subcontractors, agents and representatives that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information. The existence of any contractors, subcontractors, agents and representatives shall not change the obligations of Business Associate to the Covered Entity under this BAA.
- (g) **Reports of Security Incidents.** Business Associate hereby agrees that it shall notify, in writing, the Department's Project Officer within **two (2) days** of discovery of any Security Incident at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available.
- (h) **Right of Access to PHI.** Business Associate hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to and copy that individual's PHI within **10 business days** of receiving a written request from the Covered Entity or an authorized individual in accordance with the HIPAA Rules. Business Associate shall provide PHI in the format requested, unless it cannot readily be produced in such format, in which case it shall be provided in standard hard copy. If any individual requests from Business Associate or its contractors, subcontractors, agents or representatives, access to PHI, Business Associate shall notify Covered Entity of same within **five (5) business days**. Business Associate shall further conform with and meet all of the requirements of 45 CFR § 164.524.

- (i) **Amendment and Incorporation of Amendments.** Within **five (5) business days** of receiving a request from Covered Entity or from the individual for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available to the Covered Entity and incorporate the amendment to enable Covered Entity to comply with 45 CFR § [164.526](#). If any individual requests an amendment from Business Associate or its contractors, subcontractors, agents or representatives, Business Associate shall notify Covered Entity of same within **five (5) business days**.
- (j) **Provide Accounting of Disclosures.** Business Associate agrees to maintain a record of all disclosures of PHI in accordance with 45 CFR § [164.528](#). Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, the purpose of the disclosure, and shall include disclosures made on or after the date which is **six (6) years** prior to the request. Business Associate shall make such record available to the individual or the Covered Entity within **10 business days** of a request for an accounting of disclosures and in accordance with 45 CFR § [164.528](#).
- (k) **Access to Books and Records.** Business Associate hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, created or received by Business Associate on behalf of the Covered Entity, available to the Covered Entity and the Secretary of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules.
- (l) **Return or Destruction of PHI.** At termination of this BAA, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this BAA. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this BAA to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.
- (m) **Maintenance of PHI.** Notwithstanding [subsection 5\(l\)](#) of this BAA, Business Associate and its contractors, subcontractors, agents and representatives shall retain all PHI throughout the term of the Underlying Agreement and shall continue to maintain the information required under [subsection 5\(j\)](#) of this BAA for a period of **six (6) years** after termination of the Underlying Agreement, unless Covered Entity and Business Associate agree otherwise.
- (n) **Mitigation Procedures.** Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this BAA or the HIPAA Rules. Business Associate further agrees to

mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this BAA or the Privacy Rule.

- (o) **Sanction Procedures.** Business Associate agrees that it shall develop and implement a system of sanctions for any contractor, Subcontractor, employee, agent and representative who violates this BAA or the HIPAA Rules.
- (p) **Application of Civil and Criminal Penalties.** All Civil and Criminal Penalties under the HIPAA Rules shall apply to Business Associate's violation of any provision contained in the HIPAA Rules.
- (q) **Breach Notification.** Business Associate shall comply with the Breach notification requirements of 45 CFR [Part 164](#). In the event of a Breach requiring indemnification in accordance with [subsection 5\(v\)](#), below, Covered Entity may elect to directly comply with Breach notification requirements or require Business Associate to comply with all Breach notification requirements of 45 CFR [Part 164](#) on behalf of Covered Entity. If Covered Entity requires Business Associate to comply with Breach notification requirements, Business Associate shall provide Covered Entity with a detailed weekly, written report, starting one week following discovery of the Breach. The report shall include, at a minimum, Business Associate's progress regarding Breach notification and mitigation of the Breach. If Covered Entity elects to directly meet the requirements of 45 CFR [Part 164](#), Business Associate shall be financially responsible to Covered Entity for all resulting costs and fees incurred by Covered Entity, including, but not limited to, labor, materials, or supplies. Covered Entity may at its sole option:
 - (i) Offset amounts otherwise due and payable to Business Associate under the Underlying Agreement; or
 - (ii) Seek reimbursement of or direct payment to a third party of Covered Entity's costs and fees incurred under this subsection.

Business Associate shall make payment to Covered Entity (or a third party as applicable) within **30 days** from the date of Covered Entity's written notice to Business Associate.

- (r) **Grounds for Breach.** Any non-compliance by Business Associate with this BAA or the HIPAA Rules will automatically be considered to be a breach of the Underlying Agreement.
- (s) **Termination by Commonwealth.** Business Associate authorizes termination of this BAA or Underlying Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion that the Business Associate has violated a material term of this BAA.

- (t) **Failure to Perform Obligations.** In the event Business Associate including its contractors, Subcontractors, agents and representatives fails, to perform its obligations under this BAA, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this BAA and applicable law.
- (u) **Privacy Practices.** The Covered Entity will provide, and Business Associate shall immediately begin using and/or distributing to clients, any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date of this BAA, or as otherwise designated by the Program or Covered Entity. The Covered Entity retains the right to change the applicable privacy practices, documents and forms. The Business Associate shall implement changes as soon as practicable, but not later than **45 days** from the date of notice of the change.
- (v) **Indemnification.** Business Associate shall indemnify, defend and hold harmless Covered Entity from and all claims and actions, whether in law or equity, resulting from Business Associate's Breach or other violation of the HIPAA Rules (this includes but is not limited to Breach and violations by Business Associate's contractors, subcontractors, employees, agents and representatives). Additionally, Business Associate shall reimburse Covered Entity for any civil monetary penalties imposed on Covered Entity as a result of a Breach or violation cognizable under this [subsection 5\(v\)](#).

6. **Obligations of Covered Entity.**

- (a) **Provision of Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR § [164.520](#) ([Appendix A](#) to this BAA), as well as changes to such notice.
- (b) **Permissions.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) **Restrictions.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR § [164.522](#) to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

7. **Survival.**

The requirements, rights and obligations created by this BAA shall survive the termination of the Underlying Agreement.

Appendix A to Exhibit A-1, Commonwealth Business Associate Agreement

Permitted Purposes for the Creation, Receipt, Maintenance, Transmission, Use and/or Disclosure of Protected Health Information

1. Purpose of Disclosure of PHI to Business Associate: To allow _____ to meet the requirements of the Underlying Agreement.
2. Information to be disclosed to Business Associate: _____.
3. Use Shall Effectuate Purpose of Underlying Agreement: _____ may use and disclose PHI to the extent contemplated by the Underlying Agreement, and as permitted by law with Commonwealth approval.

EXHIBIT B

PA Supplier ID Number: _____

**SOFTWARE/SERVICES LICENSE REQUIREMENTS AGREEMENT
BETWEEN
THE COMMONWEALTH OF PENNSYLVANIA,
ACTING BY AND THROUGH THE GOVERNOR'S OFFICE OF ADMINISTRATION
AND**



This Software/Services License Requirements Agreement (“Agreement”) by and between _____ (Licensor) and the Commonwealth of Pennsylvania, acting by and through the Governor’s Office of Administration (Commonwealth) is effective the date the Agreement has been fully executed by the Licensor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained.

1. Order of Precedence.

The terms and conditions of this Agreement supplement, and to the extent a conflict exists, supersede and take precedence over the terms and conditions of the attached [insert exhibits that are to be made part of this Agreement]. The parties agree that the terms of this Agreement supersede and take precedence over the terms included in any quote, purchase order, terms of any shrink-wrap agreement included with the Licensed Products, terms of any click through agreement included with the Licensed Products or any other terms purported to apply to the Licensed Products. The products specified in Attachment 1, along with support and services for said products, shall be referred to as “Licensed Products.”

2. Enterprise Language.

- (a) The parties agree that more than one agency of the Commonwealth (“Commonwealth Agency”) may license products subject to this Agreement, provided that the procurement of any Licensed Products by any Commonwealth Agency must be made pursuant to one or more executed purchase orders or purchase documents submitted by each Commonwealth Agency seeking to use the Licensed Products.
- (b) The parties agree that, if the licensee is a “Commonwealth Agency” as defined by Section 103 of the *Commonwealth Procurement Code*, 62 Pa. C. S. § 103, the terms and conditions of this Agreement apply to any procurement of Licensed Products made by the Commonwealth, and that the terms and conditions of this Agreement become part of the purchase document without further need for execution.

3. List of Licensed Products.

- (a) Attached hereto and made a part of this Agreement by reference is [Attachment 1](#), which lists the Licensed Products that may be licensed under this Agreement. With the consent of the Commonwealth, the list of Licensed Products on [Attachment 1](#) may be updated by the Licensor providing the Commonwealth with a revised [Attachment 1](#) that adds the new product to the list. The Commonwealth, in its sole discretion, may consent either via written communication directly to the Licensor or, if applicable, providing the Commonwealth's reseller with a copy of Licensor's notification to update [Attachment 1](#).
- (b) No amendment will be required to add a new Licensed Product to the list. If, however, the Licensor desires to add a new Licensed Product to the list that requires additional licensing terms or other requirements, either an amendment to this Agreement or a new agreement will be required.

4. Choice of Law/Venue.

This Agreement shall be interpreted in accordance with and governed by the laws of the Commonwealth of Pennsylvania, without giving effect to its conflicts of law provisions. The courts of the Commonwealth of Pennsylvania and the federal courts of the Middle District of Pennsylvania shall have exclusive jurisdiction over disputes under this Contract and the resolution thereof.

5. Indemnification/Immunity.

The Commonwealth does not have the authority to and shall not indemnify any entity. The Commonwealth agrees to pay for any loss, liability or expense, which arises out of or relates to the Commonwealth's acts or omissions with respect to its obligations hereunder, where a final determination of liability on the part of the Commonwealth is established by a court of law or where settlement has been agreed to by the Commonwealth. This provision shall not be construed to limit the Commonwealth's rights, claims or defenses that arise as a matter of law or pursuant to any other provision of this Agreement. No provision in this Agreement shall be construed to limit the sovereign immunity of the Commonwealth.

6. Patent, Copyright, Trademark and Trade Secret Protection.

- (a) The Licensor shall, at its expense, defend, indemnify and hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United States patents, copyrights, trademarks or trade dress, or for a misappropriation of a United States trade secret arising out of performance of this Agreement ("Claim"), including all Licensed Products provided by the Licensor. For the purposes of this Agreement, "indemnify and hold harmless" shall

mean the Licensor's specific, exclusive, and limited obligation to (a) pay any judgments, fines and penalties finally awarded by a court of competent jurisdiction, governmental/administrative body or any settlements reached pursuant to a Claim and (b) reimburse the Commonwealth for its reasonable administrative costs or expenses, including without limitation reasonable attorney's fees, it necessarily incurs in handling the Claim. The Commonwealth agrees to give the Licensor prompt notice of any such claim of which it learns. Pursuant to the *Commonwealth Attorneys Act*, Act of October 15, 1980, P.L. 950, No. 164, as amended, 71 P. S. §§ 732-101—732-506, the Office of Attorney General ("OAG") has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG, however, in its sole discretion, and under the terms the OAG deems appropriate, may delegate its right of defense of a Claim. If the OAG delegates the defense to the Licensor, the Commonwealth will cooperate with all reasonable requests of the Licensor made in the defense of and/or settlement of a Claim. The Licensor shall not, without the Commonwealth's consent, enter into any settlement agreement which (a) states or implies that the Commonwealth has engaged in any wrongful or improper activity other than the innocent use of the material which is the subject of the Claim, (b) requires the Commonwealth to perform or cease to perform any act or relinquish any right, other than to cease use of the material which is the subject of the Claim, or (c) requires the Commonwealth to make a payment which the Licensor is not obligated by this Agreement to pay on behalf of the Commonwealth. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Licensor that, in the event it requests that the Commonwealth provide support to the Licensor in defending any such Claim, the Licensor shall reimburse the Commonwealth for all necessary expenses (including attorneys' fees, if such are made necessary by the Licensor's request) incurred by the Commonwealth for such support. If the OAG does not delegate to the Licensor the authority to control the defense and settlement of a Claim, the Licensor's obligation under this section ceases. The Licensor, at its own expense, shall provide whatever cooperation the OAG requests in the defense of the suit.

- (b) The Licensor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Licensor certifies that, in all respects applicable to this Agreement, it has exercised and will continue to exercise due diligence to ensure that all Licensed Products provided under this Agreement do not infringe on the patents, copyrights, trademarks, trade dress, trade secrets or other proprietary interests of any kind which may be held by third parties.
- (c) If the defense of a Claim and the authority to control any potential settlements thereof is delegated to the Licensor, the Licensor shall pay all damages and costs finally awarded therein against the Commonwealth or agreed to by Licensor in any settlement. If information and assistance are furnished by the Commonwealth at the Licensor's written request, it shall be at the Licensor's expense, but the responsibility for such expense shall be only that within the Licensor's written authorization.

- (d) If, in the Licensor's opinion, the Licensed Products furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, trade dress or trademark, or for a misappropriation of trade secret, then without diminishing the Licensor's obligation to satisfy any final award, the Licensor may, at its option and expense:
 - (i) substitute functional equivalents for the alleged infringing Licensed Products; or
 - (ii) obtain the rights for the Commonwealth to continue the use of such Licensed Products.
- (e) If any of the Licensed Products provided by the Licensor are in such suit or proceeding held to constitute infringement and the use thereof is enjoined, the Licensor shall, at its own expense and at its option:
 - (i) procure the right to continue use of such infringing products;
 - (ii) replace them with non-infringing items; or
 - (iii) modify them so that they are no longer infringing.
- (f) If use of the Licensed Products is enjoined and the Licensor is unable to do any of the preceding set forth in subsection (e) above, the Licensor agrees to, upon return of the Licensed Products, refund to the Commonwealth:
 - (i) the license fee paid for the infringing Licensed Products, less the amount for the period of usage of any software; and
 - (ii) the pro-rated portion of any maintenance fees representing the time remaining in any period of services for which payment was made.
- (g) The obligations of the Licensor under this section continue without time limit and survive the termination of this Agreement.
- (h) Notwithstanding the above, the Licensor shall have no obligation under this section for:
 - (i) modification of any Licensed Products provided by the Commonwealth or a third party acting under the direction of the Commonwealth;
 - (ii) any material provided by the Commonwealth to the Licensor and incorporated into, or used to prepare any Licensed Product;

- (iii) use of any Licensed Product after the Licensor recommends discontinuation because of possible or actual infringement and has provided one of the remedies under subsection (e) or subsection (f) above;
 - (iv) use of any Licensed Products in other than its specified operating environment;
 - (v) the combination, operation, or use of the Licensed Products with other products, services, or deliverables not provided by the Licensor as a system or the combination, operation, or use of the product, service, or deliverable, with any products, data, or apparatus that the Licensor did not provide;
 - (vi) infringement of a non-Licensor product alone;
 - (vii) the Commonwealth's use of the Licensed Product beyond the scope contemplated by the Agreement; or
 - (viii) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Licensor at no charge.
- (i) The obligation to indemnify the Commonwealth, under the terms of this section, shall be the Licensor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

7. Virus, Malicious, Mischievous or Destructive Programming.

- (a) The Licensor warrants that the Licensed Products as delivered by the Licensor does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code to allow unauthorized intrusion upon, disabling of, or erasure of the Licensed Products (each a "Virus"). However, the Licensed Products may contain a key limiting use to the scope and quantity of the license(s) granted, and license keys issued by Licensor for temporary use are time-sensitive.
- (b) The Licensor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that results from the Licensor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Licensor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and security updates (such as operating systems security patches, etc.).
- (c) In the event of destruction or modification of any Licensed Products, the Licensor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages.

8. Limitation of Liability.

- (a) The Licensor's liability to the Commonwealth under this Agreement shall be limited the total dollar amount of purchase orders issued for Licensed Products and services covered by this Agreement during the during the **twelve (12)-month** period prior to the event giving rise to the damage claim. This limitation does not apply to damages:
- (i) for bodily injury;
 - (ii) for death;
 - (iii) for intentional injury;
 - (iv) to real property or tangible personal property for which the Licensor is legally liable;
 - (v) Under **Section 6, Patent, Copyright, Trade Secret and Trademark Protection**;
 - (vi) for damages related to a breach of the security of a system maintained or managed by the Licensor, including the costs for notification, mitigation and credit monitoring services required due to such breach; or
 - (vii) under **Section 7, Virus, Malicious, Mischievous or Destructive Programming**.
- (b) In no event will the Licensor be liable for consequential, indirect, or incidental damages unless otherwise specified in the Agreement.

9. Payment.

The Commonwealth will make purchase and make payment through a reseller contract or another procurement document, which shall control with regard to payment amounts and provisions.

10. Termination.

- (a) The Licensor may not terminate for non-payment of an order issued through a reseller contract or another procurement document that controls payment.
- (b) The Commonwealth may terminate this Agreement without cause by giving Licensor **30 calendar days'** prior written notice ("Notice of Termination") whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth ("Termination for Convenience").

11. Background Checks.

- (a) Upon prior written request by the Commonwealth, the Licensor must, at its expense, arrange for a background check for each of its employees, as well as for the employees of its subcontractors, who will have access to the Commonwealth's IT facilities, either through on site or remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>. The background check must be conducted prior to initial access by an IT employee and annually thereafter.
- (b) Before the Commonwealth will permit an employee access to the Commonwealth's facilities, the Licensor must provide written confirmation to the office designated by the applicable Commonwealth Agency that the background check has been conducted. If, at any time, it is discovered that an employee has a criminal record that includes a felony or misdemeanor involving terrorist threats, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility; or which raises concerns about building, system, or personal security, or is otherwise job-related, the Licensor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee, and shall not permit that employee remote access to Commonwealth facilities or systems, unless the Commonwealth Agency consents, in writing, prior to the access being provided. The Commonwealth Agency may withhold its consent at its sole discretion. Failure of the Licensor to comply with the terms of this subsection may result in the default of the Licensor under its Agreement with the Commonwealth.
- (c) The Commonwealth specifically reserves the right to conduct background checks over and above that described herein.
- (d) Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the applicable Commonwealth Agency and the Department of General Services set forth in Enclosure 3 of [Commonwealth Management Directive 625.10 Amended](#), *Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings*. The requirements, policy and procedures include a processing fee payable by the Licensor for contracted personnel photo identification or access badges.

12. Confidentiality.

- (a) Definition. "Confidential Information:"

- (i) For the Commonwealth: All data and other information of or in the possession of the Commonwealth or any Commonwealth Agency or any private individual, organization or public agency, in each case to the extent such information and documentation is not permitted to be disclosed to third parties under local, Commonwealth or federal laws and regulations or pursuant to any policy adopted by the Commonwealth or pursuant to the terms of any third-party agreement to which Commonwealth is a party.
 - (ii) For the Licensor: All information identified in writing by the Licensor as confidential or proprietary to the Licensor or its subcontractors.
- (b) Confidential Information. All Confidential Information of or relating to a party shall be held in confidence by the other party to the same extent and in at least the same manner as such party protects its own confidential or proprietary information. Neither party shall disclose, publish, release, transfer or otherwise make available any Confidential Information of the other party in any form to, or for the use or benefit of, any person or entity without the other party's consent. Subject to the other provisions of this Agreement, each party shall, however, be permitted to disclose relevant aspects of the other party's Confidential Information to its officers, agents, subcontractors and personnel and to the officers, agents, subcontractors and personnel of its corporate affiliates or subsidiaries to the extent that such disclosure is reasonably necessary for the performance of its duties and obligations under this Agreement; provided, however, that such party shall take all reasonable measures to ensure that Confidential Information of the other party is not disclosed or duplicated in contravention of the provisions of this Agreement by such officers, agents, subcontractors and personnel and that such party shall be responsible for any unauthorized disclosure of the Confidential Information of the other party by such officers, agents, subcontractors or personnel; and further provided, that if the disclosure is by the Commonwealth to another contractor or sub-contractor, such disclosure is subject to a suitable non-disclosure agreement imposing equally or more stringent requirements for data privacy and security. Except to the extent provided otherwise by any applicable law, the obligations of this subsection (b) shall not apply with respect to information which:
- (i) is developed by the other party without violating the disclosing party's proprietary rights,
 - (ii) is or becomes publicly known (other than through unauthorized disclosure),
 - (iii) is disclosed by the owner of such information to a Third Party free of any obligation of confidentiality,
 - (iv) is already known by such party without an obligation of confidentiality other than pursuant to this Agreement or any confidentiality contract entered into before the Effective Date of the Agreement between the Commonwealth and the Licensor, or

- (v) is rightfully received by the disclosing party free of any obligation of confidentiality.
- (c) Obligations. Each party shall:
 - (i) Notify the other party promptly of any known unauthorized possession, use or knowledge of the other party's Confidential Information by any person or entity.
 - (ii) Promptly furnish to the other party full details known by such party relating to the unauthorized possession, use or knowledge thereof and shall use reasonable efforts to assist the other party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge of the other party's Confidential Information.
 - (iii) Use reasonable efforts to cooperate with the other party in any litigation and investigation against third parties deemed necessary by the other party to protect its proprietary rights.
 - (iv) Promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of the other party's Confidential Information.
- (d) Cost of compliance; required disclosure. Each party shall bear the cost it incurs as a result of compliance with this section. The obligations in this section shall not restrict any disclosure by either party pursuant to any applicable law or pursuant to the order of any court or other legal process or government agency of competent jurisdiction (provided that the disclosing party shall give prompt notice to the non-disclosing party of such disclosure or order in a timeframe to allow the non-disclosing party to resist the disclosure or order).
- (e) Submitting Confidential Information to the Commonwealth. The Licensor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:
 - (i) Prepare an un-redacted version of the appropriate document;
 - (ii) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret;
 - (iii) Prepare a signed written statement that states:
 - (1) the attached document contains confidential or proprietary information or trade secrets;

- (2) the Licensor is submitting the document in both redacted and un-redacted format in accordance with Section 707(b) of the *Right-to-Know Law*, 65 P.S. § 67.707(b); and
 - (3) the Licensor is requesting that the document be considered exempt under Section 708(b)(11) of the *Right-to-Know Law*, 65 P.S. § 67.708(b)(11) from public records requests; and
- (iv) Submit the **two (2)** documents with the signed written statement to the Commonwealth.
- (f) Confidential Information at termination. Upon expiration or termination of this Agreement, or a purchase order or other procurement document for Licensed Products governed by the terms of this Agreement, and at any other time at the written request of a party, the other party must promptly return to such party all of such party's Confidential Information and Data (and all copies of this information) that is in the other party's possession or control, in whatever form. With regard to the Commonwealth's Confidential Information and/or Data, the Licensor shall comply with the requirements of subsection (e).
- (g) Not confidential. Additionally, neither the Agreement nor any pricing information related to the Agreement, nor purchase orders issued pursuant to the Agreement, will be deemed confidential.

13. Sensitive Information.

- (a) The Licensor shall not publish or otherwise disclose, except to the Commonwealth or the Licensor's subcontractors, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a way that allows the information or data furnished by or about any particular person or establishment to be identified.
- (b) The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Agreement for any purpose not connected with the parties' Agreement responsibilities.
- (c) The Licensor will comply with all obligations applicable to it under all applicable data protection legislation in relation to all personal data that is processed by it in the course of performing its obligations under this Agreement including by:
 - (i) Maintaining a valid and up to date registrations and certifications; and
 - (ii) Complying with all data protection legislation applicable to cross border data flows of personal data and required security measures for personal data.

14. Agency-specific Sensitive and Confidential Commonwealth Data (If applicable).

- (a) The Licensor understands that its level of access may allow it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws and policies that vary from Commonwealth Agency to Commonwealth Agency, and from program to program within a Commonwealth Agency. If applicable, prior to the issuance of a purchase order or other procurement document for a Licensed Product or the deployment of a Licensed Product on any Commonwealth Agency's facilities, the Licensor must receive and sign off on particular instructions and limitations as dictated by that Commonwealth Agency, including but not limited to, as necessary, Business Associate Agreements as required by the Health Insurance Portability and Accountability Act (HIPAA), as amended, a sample of which is attached hereto as [Attachment 3](#). This sign-off document (a sample of which is attached hereto as [Attachment 4](#)), will include a description of the nature of the data which may be implicated based on the nature of the Licensor's access, and will incorporate the HIPAA Business Associate Agreement if it is applicable.
- (b) The Licensor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Licensed Products), the Licensor is and shall remain compliant with all applicable state and federal law and policy regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory of the Licensor authorized to bind the Licensor is valid and is hereby integrated and incorporated by reference into this Agreement.
- (c) This section does not require a Commonwealth agency to exhaustively list the law to which implicated data is subject; the Commonwealth Agency is obligated only to list the nature of the data implicated by the Licensor's access, to refer the Licensor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with law and policy.
- (d) The requirements of this section are in addition to and not in lieu of other requirements of this Agreement, its Exhibits and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Licensor comply with [Attachment 2, Requirements for Non-Commonwealth Hosting Applications/Services](#), and all applicable Commonwealth Information Technology Policies (ITPs), which can be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.
- (e) The Licensor shall conduct additional background checks, in addition to those required in [Section 11](#) of this Agreement, as may be required by a Commonwealth Agency in its sign-off documents. The Licensor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those

contained in this Agreement. The Licensor shall provide information regarding its agents, employees, contractors and subcontractors to the Commonwealth upon request.

15. Publicity/Advertisement.

The Licensor must obtain written Commonwealth approval prior to mentioning the Commonwealth or a Commonwealth agency in an advertisement, endorsement, or any other type of publicity. This includes the use of any trademark or logo.

16. Portability.

The parties agree that a Commonwealth Agency may move a Licensed Product from machine to machine, whether physical or virtual, and to other locations, where those machines and locations are internal to the Commonwealth or to a Commonwealth contractor, as long as such relocation and the use being made of the Licensed Product comports with the license grant and restrictions. Notwithstanding the foregoing, a Commonwealth Agency may move the machine or appliance provided by the Licensor upon which the Licensed Product is installed.

17. Taxes-Federal, State and Local. Taxes-Federal, State and Local.

- (a) The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax-free purchases under registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas-guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this section is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.
- (b) The only interest the Commonwealth is authorized to pay is in accordance with Act of December 13, 1982, P.L. 1155, No. 266, as amended, 72 P. S. § 1507, (relating to Interest Penalties on Commonwealth Accounts) and accompanying regulations 4 Pa. Code §§ 2.31—2.40 (relating to Interest Penalties for Late Payments).

18. Commonwealth Audit Responsibilities.

- (a) The Commonwealth will maintain, and promptly provide to the Licensor upon its request, accurate records regarding use of the Licensed Product by or for the

Commonwealth. If the Commonwealth becomes aware of any unauthorized use of all or any part of the Licensed Product, the Commonwealth will notify the Licensor promptly, providing reasonable details. The limit of the Commonwealth's responsibility for use of the Licensed Products by more individuals than are permitted by the licensing terms applicable to the Licensed Products shall be to purchase additional licenses and Maintenance and Support (if applicable) for such Licensed Products through a reseller contract or procurement document.

- (b) The Commonwealth will perform a self-audit upon the request of the Licensor, which request may not occur more often than annually, and report any change in user count (hereinafter "True up number"). The Commonwealth shall notify the Licensor of the True up number no later than **45 calendar days** after the request that the Commonwealth perform a self-audit. If the user count has increased, the Commonwealth will make an additional purchase of the Licensed Products through a reseller contract or another procurement document, which is equivalent to the additional users. This section sets out the sole license audit right under this Agreement.

19. *Right-to-Know Law.*

The Pennsylvania *Right-to-Know Law*, Act of February 14, 2008, P.L. 6, No. 3, 65 P.S. §§ 67.101—3104 ("RTKL"), applies to this Agreement.

20. *Third party software.*

If the Licensed Product utilizes or includes third party software and other copyrighted material and is subject, therefore, to additional licensing terms, acknowledgements or disclaimers compliance with this Agreement constitutes compliance with those third-party terms. The parties agree that the Commonwealth, by acknowledging third party software, does not agree to any terms and conditions of the third party software agreements that are inconsistent with or supplemental to this Agreement.

21. *Attorneys' Fees.*

The Commonwealth will not pay attorneys' fees incurred by or paid by the Licensor.

22. *Controversies.*

- (a) Pursuant to Section 1712.1 of the *Commonwealth Procurement Code*, 62 Pa. C.S. § 1712.1, in the event of a claim arising from the Agreement or a purchase order, the Licensor, within **six (6) months** after the claim accrues, must file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Licensor asserts a controversy exists. If the Licensor fails to file a claim or files an untimely claim, the Licensor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within **60 days** thereafter, either party may request mediation through the Commonwealth Office

of General Counsel Dispute Resolution Program, <http://www.ogc.pa.gov/Services%20to%20Agencies/Mediation%20Procedures/Pages/default.aspx>.

- (b) If the Licensor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required **120 days** after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within **120 days** of the receipt of the claim, unless extended by consent of the contracting officer and the Licensor. The contracting officer shall send a written determination to the Licensor. If the contracting officer fails to issue a final determination within the **120 days** (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- (c) Within **15 days** of the mailing date of the determination denying a claim or within **135 days** of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Licensor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Licensor shall proceed diligently with the performance of the Agreement or purchase order in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Licensor pursuant to the terms of the Agreement, purchase order or other procurement document.

23. Insurance.

- (a) The Licensor shall maintain at its expense, and require its agents, contractors and subcontractors to procure and maintain, as appropriate, the following types and amounts of insurance issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth:
 - (i) Workers' Compensation Insurance for all of the employees engaged in performing Services in accordance with the *Worker's Compensation Act*, Act of June 2, 1915, P.L. 736, No. 338, reenacted and amended June 21, 1939, P.L. 520, No. 281, as amended, 77 P.S. §§ 1—2708
 - (ii) Commercial general liability insurance providing coverage from claims for damages for personal injury, death (including bodily injury), sickness or disease, accidental death and damage to and property of others, including loss of use resulting from any property damage which may arise from the Licensor's operations under this Agreement, whether such operation be by the Licensor, its agent, contractor or subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an

amount not less than \$500,000 per person and \$2,000,000 per occurrence, personal injury and property damage combined. Such policies shall be occurrence based rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured, as its interests may appear. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth as an additional insured against the insurance coverages in regard to the Services performed for or supplies provided to the Commonwealth.

- (iii) Professional and Technology-Based Services Liability Insurance (insuring against damages and claim expenses as a result of claims arising from any actual or alleged wrongful acts in performing cyber and technology activities) in the amount of \$5,000,000, per incident/occurrence/annual aggregate.
 - (iv) Technology Products Liability/Professional Liability/Errors & Omissions Insurance in the aggregate amount of not less than \$2,000,000, per incident/occurrence/annual aggregate, covering the Licensor, its employees, agents, contractors, and subcontractors in the performance of all services.
 - (v) Comprehensive crime insurance in an amount of not less than \$5,000,000 per claim.
 - (vi) Information Security and Privacy Liability Insurance including Privacy Notification Costs (including coverage for Technology Professional Liability if not covered under the Licensor's Professional Liability/Errors and Omissions Insurance referenced above) in the amount of \$3,000,000, per accident/occurrence/annual aggregate, covering the Licensor, its employees, agents, contractors, and subcontractors in the performance of all services.
- (b) Certificate of Insurance. Prior to providing Licensed Products under this Agreement, and annually thereafter, the Licensor shall provide the Commonwealth with a copy of each current certificate of insurance required by this section. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed in such a way to cause the coverage to fail to comply with the requirements of this section until at least **15 days'** prior written notice has been received by the Commonwealth. Such cancellation or change shall not relieve the Licensor of its continuing obligation to maintain insurance coverage in accordance with this section.
- (c) Insurance coverage length. The Licensor agrees to maintain such insurance for the life of any applicable purchase order issued pursuant to the Agreement.

24. Federal Requirements.

Exhibit B, Software/Services License Requirements Agreement

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25. If applicable, in addition to the requirements set forth in [Section 14](#) of this Agreement, the Licensor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Licensed Products. This sign-off document, in addition to any applicable requirements of [Section 14](#) of this Agreement, will include a description of the required federal provisions, along with the applicable forms necessary for the Licensor execute, as necessary. The sign-off document, along with attachments, must be attached to the purchase order.

26. Signatures.

The fully executed Agreement may not contain ink signatures by the Commonwealth. In that event, the Licensor understands and agrees that the receipt of an electronically-printed Agreement with the printed name of the Commonwealth purchasing agent constitutes a valid, binding contract with the Commonwealth. The printed name of the purchasing agent represents the signature of that individual who is authorized to bind the Commonwealth to the obligations contained in the Agreement. The printed name also indicates that all approvals required by Commonwealth contracting procedures have been obtained.

27. Travel.

The Licensor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Agreement or Statement of Work. If not otherwise specified in the Agreement or Statement of Work, travel and related expenses shall be reimbursed in accordance with [Management Directive 230.10 Amended](#), *Commonwealth Travel Policy*, and [Manual 230.1](#), *Commonwealth Travel Procedures Manual*.

28. Entire Agreement.

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes and integrates all prior discussions, agreements and understandings pertaining thereto. No modification of this Agreement will be effective unless in writing and signed by both Parties. Other terms and conditions or additional terms and conditions included or referenced in the Licensor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Licensor and not binding on the Commonwealth.

29. Notice.

Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.), with confirmed receipt, or by certified or registered United States

mail, postage prepaid, return receipt requested, sent to the address such party may designate by notice given pursuant to this section.

30. Survival.

The termination or expiration of this Agreement will not affect any provisions of this Agreement which by their nature survive termination or expiration, including the provisions that deal with the following subject matters: definitions, confidentiality, term and termination, effect of termination, intellectual property, license compliance, limitation of liability, indemnification and privacy.

31. Waiver.

Failure to enforce any provision will not constitute a waiver.

32. Severability.

If any provision is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.

33. Nonexclusive Remedy.

Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

34. Integration.

This Agreement, including all Exhibits, Attachments and referenced documents, and any Purchase Orders referencing this Agreement, constitutes the entire agreement between the parties. No agent, representative, employee or officer of the Commonwealth or of the Licensor has authority to make any statement, agreement, or representation, oral or written, in connection with this Agreement, which in any way can be deemed to modify, add to, or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of this Agreement. No modifications, alterations, changes, or waiver to this Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment executed by the parties.

IN WITNESS WHEREOF, the Parties to this Agreement have executed it, through their respective duly authorized representatives.

Witness:

Licensor:

Signature Date

Signature Date

Printed Name

Printed Name

Title

Title

If a corporation, the Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer and Chief Operating Officer must sign; if a sole proprietor, then the owner must sign; if a general or limited partnership, a general partner must sign; if a limited liability company, then a member must sign, unless it is a managed by a manager, then the manager must sign; otherwise a resolution indicating authority to bind the corporation must be attached to this Agreement.

COMMONWEALTH OF PENNSYLVANIA

See Section 25
Agency Head or Designee

APPROVED AS TO FORM AND LEGALITY:

See Section 25
Office of Chief Counsel

See Section 25
Office of General Counsel

See Section 25
Office of Attorney General

APPROVED:

See Section 25
Office of the Budget, Office of Comptroller Operations

ATTACHMENT 1

LIST OF LICENSED PRODUCTS

With the consent of the Commonwealth, Licensor may add additional Licensed Products to this attachment by providing Commonwealth with a new copy of this [Attachment 1](#).

Licensed Product:

The Licensed Product includes (**list all titles covered by this agreement**):

ATTACHMENT 2

Requirements for Non-Commonwealth Hosted Applications/Services

The purpose of this [Attachment 2](#) is to define requirements for technology solutions procured by the Commonwealth that are not hosted within Commonwealth infrastructure.

A. Hosting Requirements.

1. The Licensor or its subcontractor shall supply all hosting equipment (hardware and software) required for the cloud services and performance of the software and services set forth in the Quote and Statement of Work.
2. The Licensor shall provide secure access to applicable levels of users via the internet.
3. The Licensor shall use commercially reasonable resources and efforts to maintain adequate internet connection bandwidth and server capacity.
4. The Licensor or its subcontractors shall maintain all hosting equipment (hardware and software) and replace as necessary to maintain compliance with the Service Level Agreements
5. The Licensor shall monitor, prevent and deter unauthorized system access. Any and all known attempts must be reported to the Commonwealth within **two (2)** business days. In the event of any impermissible disclosure unauthorized loss or destruction of Confidential Information, the receiving Party must immediately notify the disclosing Party and take all reasonable steps to mitigate any potential harm or further disclosure of such Confidential Information. In addition, pertaining to the unauthorized access, use, release, or disclosure of data, the Licensor shall comply with state and federal data breach notification statutes and regulations, and shall report security incidents to the Commonwealth within **one (1) hour** of when the Licensor has reasonable confirmation of such unauthorized access, use, release, or disclosure of data.
6. The Licensor or the Licensor's subcontractor shall allow the Commonwealth or its delegate, at times chosen by the Commonwealth, and within at least **three (3)** business days' notice, to review the hosted system's data center locations and security architecture.
7. The Licensor's employees or subcontractors, who are directly responsible for day-to-day monitoring and maintenance of the hosted system, shall have industry standard certifications applicable to the environment and system architecture used.
8. The Licensor or the Licensor's subcontractor shall locate servers in a climate-controlled environment. The Licensor or the Licensor's contractor shall house all servers and equipment in an operational environment that meets industry standards

including climate control, fire and security hazard detection, electrical needs, and physical security.

9. The Licensor shall examine applicable system and error logs daily to minimize and predict system problems and initiate appropriate action.
10. The Licensor shall completely test and apply patches for all third-party software products in the server environment before release.
11. The Licensor shall provide the Commonwealth with its annual American Institute of Certified Public Accountants (AICPA) Attestation Standard (AT) Sec. 101 Service Organization Control (“SOC”) 2, Type 2 certification (AT Sec. 101 SOC 2, Type 2), or an equivalent certification approved by the Commonwealth. Equivalent certifications include, but are not limited to: International Organization of Standards (ISO) 2700x certification; certification under the *Federal Information Security Management Act* (FISMA); and AT Sec. 101 SOC 3 (SysTrust/WebTrust) certification. Annually, Licensor shall provide an AT Sec. 101 SOC 2, Type 2 audit report, or its equivalent, to the Commonwealth upon request.

B. Security Requirements.

1. The Licensor shall conduct a third-party independent security/vulnerability assessment at its own expense on an annual basis.
2. The Licensor shall comply with the Commonwealth’s directions/resolutions to remediate the results of the security/vulnerability assessment to align with the standards of the Commonwealth.
3. The Licensor shall use industry best practices to protect access to the system with a firewall and firewall rules to prevent access by non-authorized users and block all improper and unauthorized access attempts.
4. The Licensor shall use industry best practices to provide applicable system intrusion detection and prevention in order to detect intrusions in a timely manner.
5. The Licensor shall use industry best practices to provide applicable malware and virus protection on all servers and network components.
6. The Licensor shall limit access to Commonwealth-specific systems and services and provide access only to those staff that must have access to provide services proposed.
7. The Licensor shall provide the Services, using security technologies and techniques in accordance with industry best practices and the Commonwealth’s ITPs set forth in [Attachment 2-A](#), including those relating to the prevention and detection of intrusions, and any other inappropriate use or access of systems and networks.

C. Data Storage.

1. The Licensor shall store all Commonwealth data in the United States.
2. The Licensor shall use industry best practices to update and patch all applicable systems and third-party software security configurations to reduce security risk. The Licensor shall protect their operational systems with applicable anti-virus, host intrusion protection, incident response monitoring and reporting, network firewalls, application firewalls, and employ system and application patch management to protect its network and customer data from unauthorized disclosure.
3. The Licensor shall be solely responsible for applicable data storage required.
4. The Licensor shall take all commercially viable and applicable measures to protect the data including, but not limited to, the backup of the servers on a daily basis in accordance with industry best practices and encryption techniques.
5. The Licensor agrees to have appropriate controls in place to protect critical or sensitive data and shall employ stringent policies, procedures, to protect that data particularly in instances where such critical or sensitive data may be stored on a Licensor-controlled or Licensor-owned electronic device.
6. The Licensor shall utilize a secured backup solution to prevent loss of data, back up all data every day and store backup media. Stored backup media must be kept in an all-hazards protective storage safe at the worksite and when taken offsite. All back up data and media shall be encrypted.

D. Adherence to Policy.

1. Licensor support and problem resolution solution shall provide a means to classify problems as to criticality and impact and with appropriate resolution procedures and escalation process for classification of each problem.
2. Licensor shall abide by the applicable Commonwealth's Information Technology Policies (ITPs), a list of the most relevant being attached hereto as [Attachment 2-A](#).
3. Licensor shall comply with all pertinent federal and state privacy regulations.

E. Closeout.

When the purchase order's or other procurement document's term expires or terminates, and a new purchase order or other procurement document has not been issued by a Commonwealth Agency to the Commonwealth Software Reseller within **sixty (60) days** of expiration or termination, or at any other time at the written request of the

Commonwealth, the Licensor must promptly return to the Commonwealth all Commonwealth's data (and all copies of this information) that is in the Licensor's possession or control. The Commonwealth's data shall be returned in a format agreed to by the Commonwealth.

ATTACHMENT 2-A

Information Technology Policies (ITPs) for Outsourced/Licensor(s)-hosted Solutions

ITP Number-Name	Policy Link
ITP_ACC001-Accessibility Policy	http://www.oa.pa.gov/Policies/Documents/itp_acc001.pdf
ITP_APP030-Active Directory Architecture	http://www.oa.pa.gov/Policies/Documents/itp_app030.pdf
ITP_BUS007-Enterprise Service Catalog	http://www.oa.pa.gov/Policies/Documents/itp_bus007.pdf
ITP_BUS010-Business Process Management Policy	http://www.oa.pa.gov/Policies/Documents/itp_bus010.pdf
ITP_BUS011-Commonwealth Cloud Computing Services Requirements	https://www.oa.pa.gov/Policies/Documents/itp_bus011.pdf
ITP_BUS012-Artificial Intelligence General Policy	https://www.oa.pa.gov/Policies/Documents/itp_bus012.pdf
ITP_INF000-Enterprise Data and Information Management Policy	http://www.oa.pa.gov/Policies/Documents/itp_inf000.pdf
ITP_INF001-Database Management Systems	http://www.oa.pa.gov/Policies/Documents/itp_inf001.pdf
ITP_INF006-Commonwealth County Code Standard	http://www.oa.pa.gov/Policies/Documents/itp_inf006.pdf
ITP_INF009-e-Discovery Technology Standard	http://www.oa.pa.gov/Policies/Documents/itp_inf009.pdf
ITP_INF010-Business Intelligence Policy	http://www.oa.pa.gov/Policies/Documents/itp_inf010.pdf
ITP_INF011-Reporting Policy	http://www.oa.pa.gov/Policies/Documents/itp_inf011.pdf
ITP_INF012-Dashboard Policy	http://www.oa.pa.gov/Policies/Documents/itp_inf012.pdf
ITP_INFRM001-The Life Cycle of Records: General Policy Statement	http://www.oa.pa.gov/Policies/Documents/itp_infrm001.pdf
ITP_INFRM004-Management of Web Records	http://www.oa.pa.gov/Policies/Documents/itp_infrm004.pdf
ITP_INFRM005-System Design Review of Electronic Systems	http://www.oa.pa.gov/Policies/Documents/itp_infrm005.pdf
ITP_INFRM006-Electronic Document Management Systems	http://www.oa.pa.gov/Policies/Documents/itp_infrm006.pdf
ITP_INT_B_1-Electronic Commerce Formats and Standards	http://www.oa.pa.gov/Policies/Documents/itp_int_b_1.pdf
ITP_INT_B_2-Electronic Commerce Interface Guidelines	http://www.oa.pa.gov/Policies/Documents/itp_int_b_2.pdf
ITP_INT006-Business Engine Rules	http://www.oa.pa.gov/Policies/Documents/itp_int006.pdf
ITP_NET004-Internet Protocol Address Standards	http://www.oa.pa.gov/Policies/Documents/itp_net004.pdf
ITP_NET005-Commonwealth External and Internal Domain Name Services (DNS)	http://www.oa.pa.gov/Policies/Documents/itp_net005.pdf
ITP_PRV001-Commonwealth of Pennsylvania Electronic Information Privacy Policy	http://www.oa.pa.gov/Policies/Documents/itp_prv001.pdf
ITP_SEC000-Information Security Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec000.pdf
ITP_SEC002-Internet Accessible Proxy Servers and Services	http://www.oa.pa.gov/Policies/Documents/itp_sec002.pdf
ITP_SEC003-Enterprise Security Auditing and Monitoring	http://www.oa.pa.gov/Policies/Documents/itp_sec003.pdf
ITP_SEC004-Enterprise Web Application Firewall	http://www.oa.pa.gov/Policies/Documents/itp_sec004.pdf
ITP_SEC006-Commonwealth of Pennsylvania Electronic Signature Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec006.pdf
ITP_SEC007-Minimum Standards for IDs, Passwords and Multi-Factor Authentication	http://www.oa.pa.gov/Policies/Documents/itp_sec007.pdf
ITP_SEC008-Enterprise E-mail Encryption	http://www.oa.pa.gov/Policies/Documents/itp_sec008.pdf

*Exhibit B, Attachment 2-A, Information Technology Policies (ITPs) for
Outsourced/Licensor(s)-hosted Solutions*

ITP Number-Name	Policy Link
ITP_SEC009-Minimum Contractor Background Checks Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec009.pdf
ITP_SEC010-Virtual Private Network Standards	http://www.oa.pa.gov/Policies/Documents/itp_sec010.pdf
ITP_SEC011-Enterprise Policy and Software Standards for Agency Firewalls	http://www.oa.pa.gov/Policies/Documents/itp_sec011.pdf
ITP_SEC013-Identity Protection and Access Management (IPAM) Architectural Standard and Identity Management Services	http://www.oa.pa.gov/Policies/Documents/itp_sec013.pdf
ITP_SEC015-Data Cleansing	http://www.oa.pa.gov/Policies/Documents/itp_sec015.pdf
ITP_SEC017-Copa Policy for Credit Card Use for e-Government	http://www.oa.pa.gov/Policies/Documents/itp_sec017.pdf
ITP_SEC019-Policy and Procedures for Protecting Commonwealth Electronic Data	http://www.oa.pa.gov/Policies/Documents/itp_sec019.pdf
ITP_SEC020-Encryption Standards for Data at Rest	http://www.oa.pa.gov/Policies/Documents/itp_sec020.pdf
ITP_SEC021-Security Information and Event Management Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec021.pdf
ITP_SEC023-Information Technology Security Assessment and Testing Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec023.pdf
ITP_SEC024-IT Security Incident Reporting Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec024.pdf
ITP_SEC025-Proper Use and Disclosure of Personally Identifiable Information (PII)	http://www.oa.pa.gov/Policies/Documents/itp_sec025.pdf
ITP_SEC029-Physical Security Policy for IT Resources	http://www.oa.pa.gov/Policies/Documents/itp_sec029.pdf
ITP_SEC031-Encryption Standards for Data in Transit	http://www.oa.pa.gov/Policies/Documents/itp_sec031.pdf
ITP_SEC032-Enterprise Data Loss Prevention (DLP) Compliance Standards	http://www.oa.pa.gov/Policies/Documents/itp_sec032.pdf
ITP_SEC034-Enterprise Firewall Rule Set	http://www.oa.pa.gov/Policies/Documents/itp_sec034.pdf
ITP_SEC037-Identity Proofing of Online Users	http://www.oa.pa.gov/Policies/Documents/itp_sec037.pdf
ITP_SEC038-Commonwealth Data Center Privileged User IAM Policy	http://www.oa.pa.gov/Policies/Documents/itp_sec038.pdf
ITP_SFT000-Software Development Life Cycle (SDLC) Policy	http://www.oa.pa.gov/Policies/Documents/itp_sft000.pdf
ITP_SFT001-Software Licensing	http://www.oa.pa.gov/Policies/Documents/itp_sft001.pdf
ITP_SFT002-Commonwealth of PA Website Standards	http://www.oa.pa.gov/Policies/Documents/itp_sft002.pdf
ITP_SFT003-Geospatial Enterprise Service Architecture	http://www.oa.pa.gov/Policies/Documents/itp_sft003.pdf
ITP_SFT004-Geospatial Information Systems (GIS)	http://www.oa.pa.gov/Policies/Documents/itp_sft004.pdf
ITP_SFT005-Managed File Transfer (MFT)	http://www.oa.pa.gov/Policies/Documents/itp_sft005.pdf
ITP_SFT007-Office Productivity Policy	http://www.oa.pa.gov/Policies/Documents/itp_sft007.pdf
ITP_SFT008-Enterprise Resource Planning (ERP) Management	http://www.oa.pa.gov/Policies/Documents/itp_sft008.pdf
ITP_SFT009-Application Development	http://www.oa.pa.gov/Policies/Documents/itp_sft009.pdf
ITP_SYM003-Off-Site Storage for Commonwealth Agencies	http://www.oa.pa.gov/Policies/Documents/itp_sym003.pdf
ITP_SYM004-Policy for Establishing Alternate Processing Sites for Commonwealth Agencies	http://www.oa.pa.gov/Policies/Documents/itp_sym004.pdf
ITP_SYM006-Commonwealth IT Resources Patching Policy	http://www.oa.pa.gov/Policies/Documents/itp_sym006.pdf
ITP_SYM008-Server Virtualization Policy	http://www.oa.pa.gov/Policies/Documents/itp_sym008.pdf
ITP_SYM010-Enterprise Services Maintenance Scheduling	http://www.oa.pa.gov/Policies/Documents/itp_sym010.pdf

Exhibit B, Attachment 2-A, Information Technology Policies (ITPs) for Outsourced/Licensor(s)-hosted Solutions

ATTACHMENT 3

COMMONWEALTH OF PENNSYLVANIA SAMPLE BUSINESS ASSOCIATE AGREEMENT (*Business Associate Agreements as provided by Agencies may differ*)

WHEREAS, the _____ (Covered Entity) and _____ (Business Associate) intend to protect the privacy and security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the *Health Insurance Portability and Accountability Act of 1996*, as amended, Pub. L. No. 104-191 (HIPAA), the *Health Information Technology for Economic and Clinical Health (HITECH) Act*, as amended, Title XIII of Division A and Title IV of Division B of the *American Recovery and Reinvestment Act of 2009* (ARRA), as amended, Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164, as amended, 42 C.F.R. §§ 431.301—431.302, 42 C.F.R. Part 2, 45 C.F.R. § 205.50, 42 U.S.C. § 602(a)(1)(A)(iv), 42 U.S.C. § 1396a(a)(7), 35 P.S. § 7607, 50 Pa. C.S. § 7111, 71 P.S. § 1690.108(c), 62 P.S. § 404, 55 Pa. Code Chapter 105, 55 Pa. Code Chapter 5100, the Pennsylvania *Breach of Personal Information Notification Act*, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance; and

WHEREAS, Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI may be handled, used or disclosed only in accordance with this Agreement, and the standards established by HIPAA, the HITECH Act and related regulations, and other applicable laws and agency guidance.

NOW, THEREFORE, Covered Entity and Business Associate agree as follows:

1. Definitions.

- (a) “**Business Associate**” shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule and agency guidance.
- (b) “**Covered Entity**” shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule and agency guidance.
- (c) “**HIPAA**” shall mean the *Health Insurance Portability and Accountability Act of 1996*, as amended, Pub. L. No. 104-191.
- (d) “**HITECH Act**” shall mean the *Health Information Technology for Economic and Clinical Health (HITECH) Act*, as amended, Title XIII of Division A and Title IV

of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009).

- (e) **“Privacy Rule”** shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164, as amended, and related agency guidance.
- (f) **“Protected Health Information”** or **“PHI”** shall have the meaning given to such term under HIPAA, the HITECH Act and related regulations, the Privacy Rule, the Security Rule (all as amended) and agency guidance.
- (g) **“Security Rule”** shall mean the security standards in 45 C.F.R. Parts 160, 162 and 164, as amended, and related agency guidance.
- (h) **“Unsecured PHI”** shall mean PHI that is not secured through the use of a technology or methodology as specified in HITECH Act regulations, as amended, and agency guidance or as otherwise defined in the HITECH Act, as amended.

2. Changes in Law.

Business Associate agrees that it will comply with any changes in the HIPAA Rules by the compliance date established by any such changes and will provide the Covered Entity with written certification of such compliance.

3. Stated Purposes for Which Business Associate May Use or Disclose PHI.

The Parties hereby agree that Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the following stated purposes, except as otherwise stated in this Agreement:

NO OTHER DISCLOSURES OF PHI OR OTHER INFORMATION ARE PERMITTED.

4. BUSINESS ASSOCIATE OBLIGATIONS.

- (a) **Limits on Use and Further Disclosure.** Business Associate shall not further use or disclose PHI provided by, or created or obtained on behalf of, Covered Entity other than as permitted or required by this Addendum, as requested by Covered Entity, or as required by law and agency guidance.
- (b) **Appropriate Safeguards.** Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary requirements as set forth in applicable federal and state statutory and regulatory requirements and agency guidance.
- (c) **Reports of Improper Use or Disclosure.** Business Associate hereby agrees that it shall report to _____ at _____, within **two (2) days** of discovery any use or disclosure of PHI not provided for or allowed by this Agreement.
- (d) **Reports on Security Incidents.** In addition to following the breach notification requirements in section 13402 of the *Health Information Technology for Economic and Clinical Health Act of 2009* (“HITECH Act”), as amended, and related regulations, the Privacy Rule, the Security Rule, agency guidance and other applicable federal and state laws, Business Associate shall report to _____ at _____, **within two (2) days** of discovery any security incident of which it becomes aware. At the sole expense of Business Associate, Business Associate shall comply with all federal and state breach notification requirements, including those applicable to Business Associate and those applicable to Covered Entity. Business Associate shall indemnify the Covered Entity for costs associated with any incident involving the acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted under federal or state law and agency guidance. For purposes of the security incident reporting requirement, inconsequential unsuccessful incidents that occur on a daily basis, such as scans, “pings,” or other unsuccessful attempts to penetrate computer networks or servers containing electronic PHI maintained by Business Associate, need not be reported in accordance with this section, but may instead be reported in the aggregate on a monthly basis.
- (e) **Subcontractors and Agents.** At any time PHI is provided or made available to Business Associate subcontractors or agents, Business Associate shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains substantially the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Agreement.

- (f) **Right of Access to PHI.** Business Associate shall allow, for any PHI maintained in a designated record set, Covered Entity to have access to and copy an individual's PHI within **five (5) business days** of receiving a written request from the Covered Entity. Business Associate shall provide PHI in the format requested, if it is readily producible in such form and format; or if not, in a readable hard copy form or such other form and format as agreed to by Business Associate and the individual. If the request is for information maintained in one or more designated record sets electronically and if the individual requests an electronic copy of such information, Business Associate must provide Covered Entity with access to the PHI in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by the Business Associate and Covered Entity. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity within **five (5) business days**. Business Associate shall further conform with all of the requirements of [45 C.F.R. § 164.524](#) and other applicable laws, including the HITECH Act, as amended, related regulations and agency guidance. Business Associate shall indemnify Covered Entity for costs/damages associated with Business Associate's failure to respond within the time frames set forth in this subsection [3\(f\)](#).
- (g) **Amendment and Incorporation of Amendments.** Within **five (5) business days** of receiving a written request from Covered Entity for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with [45 C.F.R. § 164.526](#), applicable federal and state law, including the HITECH Act, as amended and related regulations, the Privacy Rule, the Security Rule and agency guidance. If any individual requests an amendment from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity within **five (5) business days**.
- (h) **Provide Accounting of Disclosures.** Business Associate shall maintain a record of all disclosures of PHI made by Business Associate which are not excepted from disclosure accounting requirements under HIPAA, HITECH and related regulations, the Privacy Rule or the Security Rule (all as amended) in accordance with [45 C.F.R. § 164.528](#) and other applicable laws and agency guidance, including the HITECH Act and related regulations. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, and the purpose of the disclosure. Business Associate shall make such record available to the Covered Entity within **five (5) business days** of a written request for an accounting of disclosures. Business Associate shall indemnify Covered Entity for costs/damages associated with Business Associate's failure to respond within the time frames set forth in this subsection [3\(h\)](#).
- (i) **Requests for Restriction.** Business Associate shall comply with requests for restrictions on disclosures of PHI about an individual if the disclosure is to a health

plan for purposes of carrying out payment or health care operations (and is not for treatment purposes), and the PHI pertains solely to a health care item or service for which the service involved was paid in full out-of-pocket. For other requests for restriction, Business associate shall otherwise comply with the Privacy Rule, as amended, and other applicable statutory and regulatory requirements and agency guidance.

- (j) **Access to Books and Records.** Business Associate shall make its internal practices, books and records relating to the use or disclosure of PHI received from, or created or received, by Business Associate on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with applicable laws and agency guidance.
- (k) **Return or Destruction of PHI.** At termination of this Agreement, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this Agreement. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this Agreement to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.
- (l) **Maintenance of PHI.** Notwithstanding subsection 3(k) of this Agreement, Business Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the information required under the various documentation requirements of this Agreement (such as those in subsection 3(h)) for a period of **six (6) years** after termination of the Agreement, unless Covered Entity and Business Associate agree otherwise.
- (m) **Mitigation Procedures.** Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or the Privacy Rule, as amended. Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement or applicable laws and agency guidance.
- (n) **Sanction Procedures.** Business Associate agrees that it shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Agreement, applicable laws or agency guidance.
- (o) **Grounds for Breach.** Non-compliance by Business Associate with this Agreement or the Privacy or Security Rules, as amended, is a breach of the Agreement, if Business Associate knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-

compliance. Commonwealth may elect to terminate Business Associate's contract for such breach.

- (p) **Termination by Commonwealth.** Business Associate authorizes termination of this Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion, that the Business Associate has violated a material term of this Agreement.
- (q) **Failure to Perform Obligations.** In the event Business Associate fails to perform its obligations under this Agreement, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Agreement and applicable laws and agency guidance.
- (r) **Privacy Practices.** Covered Entity will provide Business Associate with all applicable forms, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date designated by the Program or Covered Entity. Covered Entity may change applicable privacy practices, documents and forms. The Business Associate shall make reasonable endeavors to implement changes as soon as practicable, but not later than **45 days** from the date of notice of the change. Business Associate shall otherwise comply with all applicable laws and agency guidance pertaining to notices of privacy practices, including the requirements set forth in [45 C.F.R. § 164.520](#).

5. OBLIGATIONS OF COVERED ENTITY.

- (a) **Provision of Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with applicable law and agency guidance, as well as changes to such notice. Covered Entity will post on its website any material changes to its notice of privacy practices by the effective date of the material change.
- (b) **Permissions.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware if such changes affect Business Associate's permitted or required uses and disclosures.
- (c) **Restrictions.** Covered Entity shall notify Business Associate in writing of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. § [164.522](#), as amended, and other applicable laws and applicable agency guidance, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

- (d) **Requests.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA, HITECH and related regulations, the Privacy Rule or the Security Rule, all as amended, if done by Covered Entity.

6. MISCELLANEOUS.

- (a) **Regulatory References.** A reference in this Addendum to a section in HIPAA, HITECH and related regulations, the Privacy Rule or the Security Rule refers to the most current version of the section in effect or as amended.
- (b) **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time in order to ensure compliance with the requirements of the HIPAA, HITECH and related regulations, the Privacy Rule, the Security Rule and any other applicable law, all as amended.
- (c) **Conflicts.** In the event that any terms of this Agreement are inconsistent with the terms of the Agreement, then the terms of this Agreement shall control.

EXHIBIT C

Sign-Off Document No. _____, under Agreement No. _____
Between
[Contractor _____] and the Commonwealth of PA, [Agency]
[Contractor _____] Agency-level Deployment

This document becomes, upon its execution by the signatories named below, a legally valid, binding part of Agreement No. _____ between the Commonwealth and _____ (Contractor), and is subject to the terms of that Agreement.

1. Scope of Deployment (need not be entire agency):

2. Nature of Data implicated or potentially implicated:

3. Agency Policies to which Contractor is subject (incorporated by reference):

4. Background checks (describe if necessary):

5. Additional requirements (describe with specificity):

6. Is Contractor a Business Associate (yes or no)?

If yes, the attached Business Associates Agreement, as completed by the Agency, is applicable and is hereby incorporated into this Sign-Off Document by reference.

Agency Contact Person Signature and Date: _____

[Contractor _____]
Authorized Signatory and Date: _____



**GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSAAAdvantage!®, a menu-driven database system. The INTERNET address for GSAAAdvantage!® is: GSAAAdvantage.gov. For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at fss.gsa.gov.

**GENERAL PURPOSE COMMERCIAL INFORMATION
TECHNOLOGY EQUIPMENT, SOFTWARE AND SERVICES**

FSC Group Class: 70
FSC Class/Product Code: 7010

GS-35F-317GA

Contract Period: March 24, 2017 through March 23, 2022
Current through Modification PS-0005, Effective February 12, 2018

AssetWorks LLC
998 Old Eagle School Road, STE 1215
Wayne, PA 19087-1805
Phone: (610) 687-9202
Fax: (610) 971-9447
www.assetworks.com
AssetWorks LLC is registered as a Large Business

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1a. Table of awarded special item numbers with appropriate cross-reference to item descriptions and awarded prices.

SIN	Description	Awarded Prices
132-8	Purchase of New Equipment	See GSA Pricelist
132-12	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	See GSA Pricelist
132-32	Term Software License	See GSA Pricelist
132-33	Perpetual Software License	See GSA Pricelist
132-34	Maintenance of Software as a Service	See GSA Pricelist
132-50	Training Courses	See GSA Pricelist
132-51	Information Technology Professional Services	See GSA Pricelist

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract.

SIN	Lowest Price Part Number	GSA Price
132-8	See GSA Pricelist	See GSA Pricelist
132-12	See GSA Pricelist	See GSA Pricelist
132-32	See GSA Pricelist	See GSA Pricelist
132-33	See GSA Pricelist	See GSA Pricelist
132-34	See GSA Pricelist	See GSA Pricelist
132-50	See GSA Pricelist	See GSA Pricelist
132-51	See GSA Pricelist	See GSA Pricelist

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided.

Please see GSA pricelist.

2. Maximum order.

The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:

Special Item Number 132-8	Purchase of Equipment
Special Item Number 132-12	Maintenance of Equipment, Repair Service, and Repair Parts/Spare Parts
Special Item Number 132-32	Term Software Licenses
Special Item Number 132-33	Perpetual Software Licenses
Special Item Number 132-34	Maintenance of Software
Special Item Number 132-51	Information Technology (IT) Professional Services

The Maximum Order value for the following Special Item Numbers (SINs) is \$25,000:

Special Item Number 132-50	Training Courses
----------------------------	------------------

3. Minimum order.

The minimum dollar value of orders to be issued is \$100.00

4. Geographic coverage (delivery area).

The Geographic Scope of Contract will be domestic delivery only. Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

5. Points of production.

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

6. Discount from list prices or statement of net price.

Prices shown are NET Prices; Basic Discounts have been deducted.

7. Quantity discounts.

None.

8. Prompt payment terms.

None, Net 30.

Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions.

9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.

Government purchase cards are accepted at or below the micro-purchase threshold.

9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

Government purchase cards are accepted above the micro-purchase threshold.

10. Foreign items.

See GSA Pricelist

11a. Time of delivery.

Negotiated at Task Order

11b. Expedited Delivery.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

11c. Overnight and 2-day delivery.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

11d. Urgent Requirements.

Negotiated at Task Order

When expedited delivery is required, the Contractor will bill the agency the difference between Standard Delivery and Expedited Delivery.

12. F.O.B. points.

Destination

13a. Ordering address.

AssetWorks LLC
998 Old Eagle School Road, Suite 1215
Wayne, PA 19087

13b. Ordering procedures:

For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. Payment address.

AssetWorks LLC
998 Old Eagle School Road, Suite 1215
Wayne, PA 19087

15. Warranty provision.

Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract. Limited Warranty - AssetWorks warrants the media on which Software is furnished to be free from defects in material and workmanship, under normal use, for a period of 90 days following the date of delivery to you. Customer Remedies - In the event of defects, the sole liability of the AssetWorks shall be to replace the defective media, which has been returned with your dated invoice and explanation of the defect. Any replacement Software will be warranted for the remainder of the original Limited Warranty period. No other warranties – Neither AssetWorks nor its suppliers warrant that the software will operate without error or interruption. Except for the express limited warranty, and disclaims all other warranties with respect to the software either express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement of third party rights. Limitation of Liability - Neither AssetWorks nor its suppliers shall be liable for any direct, indirect, punitive, special, incidental, consequential or any other damages of any kind, or relating to, including without limitation, damages for loss of profits, whether in an action under contract, tort (including negligence) or otherwise arising out of the delivery, performance or use of the software, even if AssetWorks is expressly advised of the possibility of such damages. In no event will AssetWorks' or its suppliers' liability for any claim, whether in contract, tort, or any other theory of liability, exceed the license fee paid. Some jurisdictions do not allow the exclusion of or limitation of liability for incidental or consequential damages, so the above limitations may not apply. U.S. Government End User - Where the U.S. Government is the end user, the terms of this Agreement shall be binding on the U.S. Government consistent with Federal Acquisition Regulation 12.212.

16. Export packing charges, if applicable.

Not Applicable

17. Terms and conditions of Government purchase card acceptance.

None

18. Terms and conditions of rental, maintenance, and repair.

See GSA Pricelist

19. Terms and conditions of installation.

See GSA Pricelist

20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices.

See GSA Pricelist

20a. Terms and conditions for any other services.

See GSA Pricelist

21. List of service and distribution points.

See GSA Pricelist

22. List of participating dealers.

See GSA Pricelist

23. Preventive maintenance.

See GSA Pricelist

24a. Special attributes such as environmental attributes.

None

24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at:

www.Section508.gov/.

25. Data Universal Number System (DUNS) number.

82-854-8961

26. Notification regarding registration in System for Award Management (SAM) database.

AssetWorks LLC is up to date in SAM.gov. CAGE Code: 58R41

**TERMS AND CONDITIONS APPLICABLE TO
PURCHASE OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
EQUIPMENT (SPECIAL ITEM NUMBER 132-8)**

1. Materials And Workmanship

All equipment furnished hereunder must satisfactorily perform the function for which it is intended.

2. Order

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order. For credit card orders and BPAs, telephone orders are permissible.

3. Transportation Of Equipment

FOB Origin. Prices do not cover equipment delivery to destination, for any location within the geographic scope of this contract. Shipping charges will be quoted at cost when orders are placed.

4. Installation And Technical Services

All items are self-installable.

a. Installation

When the equipment provided under this contract is not normally self-installable, the Contractor's technical personnel shall be available to the Government, at the Government's location, to install the equipment and to train Government personnel in the use and maintenance of the equipment. The charges, if any, for such services are listed below, or in the price schedule:

Not Applicable

Installation, Deinstallation, Reinstallation

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies. The requisitioning activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8.

b. Operating And Maintenance Manuals

The Contractor shall furnish the Government with one (1) copy of all operating and maintenance manuals which are normally provided with the equipment being purchased.

5. 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 equipment that has been tendered for acceptance. The Government may require repair or replacement of nonconforming equipment at no increase in contract price. The Government must exercise its postacceptance 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.

6. Warranty

- a. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the contract's commercial pricelist will apply to this contract.
- Limited Warranty - AssetWorks warrants the media on which Software is furnished to be free from defects in material and workmanship, under normal use, for a period of 90 days following the date of delivery to you.
- Customer Remedies - In the event of defects, the sole liability of the AssetWorks shall be to replace the defective media, which has been returned with your dated invoice and explanation of the defect. Any replacement Software will be warranted for the remainder of the original Limited Warranty period.
- No other warranties – Neither AssetWorks nor its suppliers warrant that the software will operate without error or interruption. Except for the express limited warranty, and disclaims all other warranties with respect to the software either express or implied, including but not limited to implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement of third party rights.
- Limitation of Liability - Neither AssetWorks nor its suppliers shall be liable for any direct, indirect, punitive, special, incidental, consequential or any other damages of any kind, or relating to, including without limitation, damages for loss of profits, whether in an action under contract, tort (including negligence) or otherwise arising out of the delivery, performance or use of the software, even if AssetWorks is expressly advised of the possibility of such damages. In no event will AssetWorks' or its suppliers' liability for any claim, whether in contract, tort, or any other theory of liability, exceed the license fee paid. Some jurisdictions do not allow the exclusion of or limitation of liability for incidental or consequential damages, so the above limitations may not apply.
- U.S. Government End User - Where the U.S. Government is the end user, the terms of this Agreement shall be binding on the U.S. Government consistent with Federal Acquisition Regulation 12.212.
- b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- d. If inspection and repair of defective equipment under this warranty will be performed at the Contractor's plant, the address is as follows: 998 Old Eagle School Road, Suite 1215, Wayne, PA 19087-1805

7. Purchase Price For Ordered Equipment

The purchase price that the Government will be charged will be the Government purchase price in effect at the time of order placement, or the Government purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less.

8. Responsibilities Of The Contractor

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

9. Trade-In Of Information Technology Equipment

When an agency determines that Information Technology equipment will be replaced, the agency shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46)

**TERMS AND CONDITIONS APPLICABLE TO MAINTENANCE, REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS FOR GOVERNMENT-OWNED GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY EQUIPMENT (AFTER EXPIRATION OF GUARANTEE/WARRANTY PROVISIONS AND/OR WHEN REQUIRED SERVICE IS NOT COVERED BY GUARANTEE/WARRANTY PROVISIONS) AND FOR LEASED EQUIPMENT
(SPECIAL ITEM NUMBER 132-12)**

1. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

- a. Agencies may use written orders, EDI orders, credit card orders, blanket purchase agreements (BPAs), or small order procedures for ordering repair service and/or repair parts/spare parts under this contract. Orders for repair service shall not extend beyond the end of the contract period.

2. LOSS OR DAMAGE

When the Contractor removes equipment to his establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the equipment is removed from the ordering activity installation, until the equipment is returned to such installation.

3. SCOPE

- a. The Contractor shall provide maintenance for all equipment listed herein, as requested by the ordering activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under maintenance service shall be in good operating condition.
- (1) In order to determine that the equipment is in good operating condition, the equipment shall be subject to inspection by the Contractor, without charge to the ordering activity.
- (2) Costs of any repairs performed for the purpose of placing the equipment in good operating condition shall be borne by the Contractor, if the equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
- (3) If the equipment was not under the Contractor's responsibility, the costs necessary to place the equipment in proper operating condition are to be borne by the ordering activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).

4. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering activity personnel shall not perform maintenance or attempt repairs to equipment while such equipment is under the purview of a maintenance order, unless agreed to by the Contractor.
- b. Subject to security regulations, the ordering activity shall permit access to the equipment which is to be maintained or repaired.

5. RESPONSIBILITIES OF THE CONTRACTOR

For equipment not covered by a maintenance contract or warranty, the Contractor's repair service personnel shall complete repairs as soon as possible after notification by the ordering activity that service is required. Within the service areas, this repair service should normally be done within 4 hours after notification.

6. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

All parts, furnished as spares or as repair parts in connection with the repair of equipment, unless otherwise indicated in this pricelist, shall be new, standard parts manufactured by the equipment manufacturer. All parts shall be furnished at prices indicated in the Contractor's commercial pricelist dated TBD, at a discount of (see GSA pricelist for discount information)% from such listed prices.

7. **GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS**
REPAIR PARTS/SPARE PARTS
All parts, furnished either as spares or repairs parts will be guaranteed/warranted for a period of 1 year.

8. **INVOICES AND PAYMENTS**
Repair Service and Repair Parts/Spare Parts
Invoices for repair service and parts shall be submitted by the Contractor as soon as possible after completion of work. Payment under blanket purchase agreements will be made quarterly or monthly, except where cash payment procedures are used. Invoices shall be submitted separately to each ordering activity office ordering services under the contract. The cost of repair parts shall be shown as a separate item on the invoice, and shall be priced in accordance with paragraph #10, above. **PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.**

**TERMS AND CONDITIONS APPLICABLE TO
TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL
SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND
MAINTENANCE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE
COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE**

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The Ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The Ordering activity must exercise its postacceptance 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 software, unless the change is due to the defect in the software.

2. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

Warranty:

Ninety (90) day warranty, begins on the date of product installation at the customer site.

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. **Limitation of Liability.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the Ordering activity, shall provide a hot line technical support number for software (610) 687-9202 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 8:00am to 5:00pm EST. The hotline technical support number for Facility Software is (800) 268-0324 and is available from 7:00am to 7:00pm Central Time.

4. SOFTWARE MAINTENANCE

a. Software maintenance service shall include the following:
Program updates and enhancements as well as an extended warranty for the software.
Software maintenance is 20% of the license fee per year.

1. **Software Maintenance as a Product (SIN 132-32 or SIN 132-33)**

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

2. Software Maintenance as a Service (SIN 132-34)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

5. PERIODS OF TERM LICENSES (132-32) AND MAINTENANCE (132-34)

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Maintenance may be discontinued by the Ordering activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for maintenance, the period of the maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of maintenance orders citing the new appropriation shall be required, if the maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an ordering office's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering office may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering offices should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if maintenance is to be terminated at that time. Orders for the continuation of maintenance will be required if the maintenance is to be continued during the subsequent period.

6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Contractor does not offer conversion from term license to perpetual license.

7. TERM LICENSE CESSATION

Contractor does not offer term license cessation.

8. UTILIZATION LIMITATIONS - (132-32, 132-33, AND 132-34)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Ordering activity, commercial computer software and related documentation so legend shall be subject to the following:
 - (1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

- (2) Software licenses are by site and by agency. An agency is defined as a cabinet level or independent agency. The software may be used by any subdivision of the agency (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one agency's site. This would allow other agencies access to one agency's database. For Ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user agency will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user agency's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user agency.
- (3) Except as is provided in paragraph 8.b(2) above, the Ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the Ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use software, documentation, or information therein, which the Ordering activity may already have or obtains without restrictions.
- (4) The Ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of disaster recovery, the Ordering activity has the right to transfer the software to another site if the Ordering activity site for which it is acquired is deemed to be unsafe for Ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
- (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

9. SOFTWARE CONVERSIONS - (132-32 AND 132-33)

Full monetary credit will be allowed to the Ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version.

10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

11. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses.

Software is CPU specific, however, if a designated CPU becomes temporarily inoperative the software may be used on another computer. Use of the Software on other computers of Customer required additional fees. The fee for multiple copies will be 50% of the original cost. Software provided by AssetWorks, LLC, in machine readable form may be copied by Customer for use with the designated computer to the extent necessary for archive or emergency restart purposes, to replace a worn copy, to understand the contents of such machine-readable material, or to modify the Software.

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)
TRAINING COURSES (SPECIAL ITEM NUMBER 132-50)**

1. SCOPE

- a. The Contractor shall provide training courses normally available to commercial customers, which will permit ordering activity users to make full, efficient use of general purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's facility and/or at the ordering activity's location, as agreed to by the Contractor and the ordering activity.

2. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

3. TIME OF DELIVERY

The Contractor shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the ordering activity.

4. CANCELLATION AND RESCHEDULING

- a. The ordering activity will notify the Contractor at least seventy-two (72) hours before the scheduled training date, if a student will be unable to attend unless otherwise stated in each individual Products Lines' product specific Terms and Conditions. The Contractor will then permit the ordering activity to either cancel the order or reschedule the training at no additional charge unless otherwise stated in each individual Product Lines' product specific Terms and Conditions. In the event the training class is rescheduled, the ordering activity will modify its original training order to specify the time and date of the rescheduled training class.
- b. In the event the ordering activity fails to cancel or reschedule a training course within the time frame specified in paragraph a, above, the ordering activity will be liable for the contracted dollar amount of the training course. The Contractor agrees to permit the ordering activity to reschedule a student who fails to attend a training class within ninety (90) days from the original course date, at no additional charge.
- c. The ordering activity reserves the right to substitute one student for another up to the first day of class.
- d. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the ordering activity, the Contractor must notify the ordering activity at least seventy-two (72) hours before the scheduled training date.

5. FOLLOW-UP SUPPORT

The Contractor agrees to provide each student with unlimited telephone support for a period of one (1) year from the completion of the training course. During this period, the student may contact the Contractor's instructors for refresher assistance and answers to related course curriculum questions, unless otherwise stated in each individual Product Lines' product specific Terms and Conditions.

6. PRICE FOR TRAINING

The price that the ordering activity will be charged will be the ordering activity training price in effect at the time of order placement, or the ordering activity price in effect at the time the training course is conducted, whichever is less.

7. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after ordering activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

8. FORMAT AND CONTENT OF TRAINING

- a. The Contractor shall provide written materials (i.e., manuals, handbooks, texts, etc.) normally provided with course offerings. Such documentation will become the property of the student upon completion of the training class.
- b. ****If applicable**** For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Contractor shall provide the following information for each training course offered:
 - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
 - (2) The length of the course;
 - (3) Mandatory and desirable prerequisites for student enrollment;
 - (4) The minimum and maximum number of students per class;
 - (5) The locations where the course is offered;
 - (6) Class schedules; and
 - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the ordering activity’s location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.

9. “NO CHARGE” TRAINING

The Contractor shall describe any training provided with equipment and/or software provided under this contract, free of charge, in the space provided below.

Not applicable

**TERMS AND CONDITIONS APPLICABLE TO INFORMATION TECHNOLOGY (IT)
PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 132-51)**

1. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 132-51 Information Technology Professional Services apply exclusively to IT Services within the scope of this Information Technology Schedule.
- b. The Contractor shall provide services at the Contractor's facility and/or at the Ordering activity location, as agreed to by the Contractor and the ordering office.

2. PERFORMANCE INCENTIVES

- a. Performance incentives may be agreed upon between the Contractor and the ordering activity on individual fixed price orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- b. The ordering activity must establish a maximum performance incentive price for these services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering activities shall consider establishing incentives where performance is critical to the ordering activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

3. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.
- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

4. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the ordering office.
- b. The Contractor agrees to render services only during normal working hours, unless otherwise agreed to by the Contractor and the ordering office.
- c. The Agency should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of IT Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Ordering activity per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

5. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days

after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

1. Cancel the stop-work order; or
 2. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
1. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 2. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- c. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- d. If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

6. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time-and-Materials and Labor-Hour (JAN 1986) clause at FAR 52.246-6 applies to time-and-materials and labor-hour orders placed under this contract.

7. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of a task order is software, then FAR 52.227-14 Rights in Data – General, may apply.

8. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the ordering office shall permit Contractor access to all facilities necessary to perform the requisite IT Services.

9. INDEPENDENT CONTRACTOR

All IT Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering activity.

10. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.
“Contractor” means the person, firm, unincorporated association, joint venture, partnership, or corporation that is a party to this contract.

“Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering activity contract, without some restriction on activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.

- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering activity, ordering offices may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

11. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for IT Services. Progress payments may be authorized by the ordering office on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

12. PAYMENTS

For firm-fixed price orders the ordering activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time-and-materials orders, the Payments under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate I (APR 1984) applies to time-and-materials orders placed under this contract. For labor-hour orders, the Payment under Time-and-Materials and Labor-Hour Contracts at FAR 52.232-7 (DEC 2002), Alternate II (DEC 2002) applies to labor-hour orders placed under this contract.

13. RESUMES

Resumes shall be provided to the GSA Contracting Officer or the user agency upon request.

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the ordering agency in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The ordering activity may require that the Contractor receive, from the ordering activity's Contracting Officer, written consent before placing any subcontract for furnishing any of the work called for in a task order.

16. DESCRIPTION OF IT SERVICES AND PRICING

Please refer to the attached Professional Information Technology Labor Category Descriptions and GSA pricing.

17. EQUIVALENCY

AssetWorks, LLC, reserves the right to make the following substitutions in the education and/or experience requirements of any of the service skill categories set forth herein.

1. One (1) year experience is the equivalent of (1) year of education.
2. One (1) year of education is the equivalent of one (1) year of experience.
3. Certification related to the technology is equivalent to two (2) years of the experience/education requirement.

LABOR CATEGORY DESCRIPTIONS

Labor Category Title: Fleet/Facilities Software Program Manager

Functional Responsibilities: Manages the implementation effort for many customers. This includes planning and coordinating both AssetWorks and customer activities to ensure that the goals and objectives of the implementation are accomplished within the defined time and funding parameters. Is fiscally responsible for achieving budgetary goals of the project. Consults with customers on the integration of Facility/FleetFocus products and the customer's standard operating procedures. Defines system interfaces, data conversion requirements, and software modifications required to support the customer's implementation requirements. Performs and/or supervises personnel in complex variance verifications, release testing and customer specific beta software support.

Minimum Education/Experience: Bachelor's and 10 years of experience

Labor Category Title: Fleet/Facilities Software Sr Project Manager

Functional Responsibilities: Serves as the primary contact with customer and works closely with other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures; program modifications, data interface programs; data conversion coding requirements; and variance verification. Coordinates with Customer to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Project Manager

Functional Responsibilities: Serves as the primary contact with customer and works closely with other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures; program modifications, data interface programs; data conversion coding requirements; and variance verification. Coordinates with Customer to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fleet/Facilities Software System Architect

Functional Responsibilities: Lead the overall design and development effort from a technical and functional perspective. Responsible for architectural underpinnings of the application and maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 10 years of experience

Labor Category Title: Fleet/Facilities Software Sr Developer

Functional Responsibilities: Maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Developer

Functional Responsibilities: Maintenance of the AssetWorks software product codes and extension of the product. Serves as a technical resource to the AssetWorks Customer Support Staff, Project Manager and Program Manager in the resolution of customer issues with data conversion and product functionality. Reviews functional and technical specifications for custom interfaces as well as requirement analysis documentation for custom software. Executes the production and maintenance of software specifications and technical documentation of developed code. Performs other duties as may be assigned by management.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fleet/Facilities Software Sr Implementation Specialist

Functional Responsibilities: Working with customers on-site and remotely to provide software training to personnel involved with the software - directors, supervisors, administrative personnel, craftsmen, and shop workers. Prepares and customizes documentation for classroom presentation. Develops class curriculum, workshops and new class offerings. Leads customers in implementing best practices and new workflows. Provides technical assistance to customers as needed.

Minimum Education/Experience: Bachelor's and 7 years of experience

Labor Category Title: Fleet/Facilities Software Implementation Specialist

Functional Responsibilities: Working with customers on-site and remotely to provide software training to personnel involved with the software - directors, supervisors, administrative personnel, craftsmen, and shop workers. Prepares and customizes documentation for classroom presentation. Develops class curriculum, workshops and new class offerings. Leads customers in implementing best practices and new workflows. Provides technical assistance to customers as needed.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fleet/Facilities Software Installation Engineer

Functional Responsibilities: Supports the Project Manager in working with the customer during the installation of the AssetWorks software. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fleet/Facilities Software Documentation Specialist

Functional Responsibilities: Prepare technical and complex documentation in support of the product or engagement under the direction of the Project Manager.

Minimum Education/Experience: Bachelor's and 3 years of experience

Labor Category Title: Fuel Program Manager

Functional Responsibilities: Serves as primary contact with customer and manages other staff on a variety of tasks to ensure successful implementation of the project plan including: analysis of customer work flow and standard operating procedures. Coordinates with Customer Project Manager to deliver training activities associated with the implementation. Prepares project plans, implementation schedules, customer status reports, trip reports, expense reports and travel schedules. Troubleshoots all aspects of the project plan and communicates regularly with the Customer Project Manager on status of the implementation.

Minimum Education/Experience: Bachelor's and 2 years of experience

Labor Category Title: Fuel Software Installer/Trainer

Functional Responsibilities: Supports the Project Manager in working with the customer during the installation of the AssetWorks software. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues. Provides classroom or field based training to customers.

Minimum Education/Experience: Bachelor's and 1 year of experience

Labor Category Title: Fuel Master Technician

Functional Responsibilities: Supports the Project Manager in performing the physical installation of the FuelFocus System hardware. Acts as liaison between Project Manager and outside contractors for site readiness. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Approved Service Representative and 5 years of experience

Labor Category Title: Fuel Technician Helper

Functional Responsibilities: Performs various tasks using appropriate equipment to assist Master Technician in technical and non-technical functions related to system installation. Supports the Project Manager and Master Technician in performing the physical installation of the FuelFocus System hardware in vehicles. Works closely with other AssetWorks and customer staff on a variety of tasks to ensure successful implementation. Assists in the troubleshooting of all installation tasks and related issues.

Minimum Education/Experience: Vocational Diploma and 1 year of experience

LABOR PRICING

SIN	Labor Category	GSA Price
132-51	Fleet/Facilities Software Program Manager	\$221.03
132-51	Fleet/Facilities Software Sr Project Manager	\$201.39
132-51	Fleet/Facilities Software Project Manager	\$186.65
132-51	Fleet/Facilities Software System Architect	\$221.03
132-51	Fleet/Facilities Software Sr Developer	\$186.65
132-51	Fleet/Facilities Software Developer	\$171.91
132-51	Fleet/Facilities Software Sr Implementation Specialist	\$221.03
132-51	Fleet/Facilities Software Implementation Specialist	\$191.56
132-51	Fleet/Facilities Software Installation Engineer	\$191.56
132-51	Fleet/Facilities Software Documentation Specialist	\$132.62
132-51	Fuel Program Manager	\$196.47
132-51	Fuel Software Installer/Trainer	\$196.47
132-51	Fuel Master Technician	\$181.74
132-51	Fuel Technician Helper	\$147.36

Contract Clause Document

for

Solicitation Number : **FCIS-JB-980001-B**

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Contract Number : **GS-35F-317GA**

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52.202-1 DEFINITIONS (NOV 2013)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures

52.203-13 Contractor Code of Business Ethics and Conduct (OCT 2015)

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

Agent means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

Full cooperation –

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require –

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from –

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

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).

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct.

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall –

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall –

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed –

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's

principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall –

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including –

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

52.203-3 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative—

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled—

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I—OCT 1995)

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)

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

“Executive” means officers, managing partners, or any other employees in management positions.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

“Month of award” means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information.

(d) (1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) database (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if –

(i) In the Contractor's preceding fiscal year, the Contractor received –

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

(2) *First-tier subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, the Contractor shall report the following information at <http://www.fsr.gov> for that first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsr.gov> to report the data.)

(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of

the subcontract.

- (vi) Subcontract number (the subcontract number assigned by the Contractor).
- (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
- (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.
- (ix) The prime contract number, and order number if applicable.
- (x) Awarding agency name and code.
- (xi) Funding agency name and code.
- (xii) Government contracting office code.
- (xiii) Treasury account symbol (TAS) as reported in FPDS.
- (xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor.* Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <http://www.fsr.gov>, if –

(i) In the subcontractor's preceding fiscal year, the subcontractor received –

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g) (1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSR database at <http://www.fsr.gov> will be prepopulated with some information from SAM and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting

officer. If the SAM database information is incorrect, the contractor is responsible for correcting this information.

52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2016)

(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) database*” 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 the SAM database;
- (2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;
- (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 www.sam.gov for the designated entity for establishing unique entity identifiers.

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

- (c) (1) (i) If a Contractor has legally changed its business name, *doing business* as name, or division name (whichever is shown on the contract), or has transferred the assets used in

performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to —

(A) Change the name in the SAM database;

(B) Comply with the requirements of subpart 42.12 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 (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(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 the 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 the 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. 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.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.acquisition.gov>.

52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)

(a) Definition.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed under this contract during the preceding Government fiscal year (October 1–September 30).

(c) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at www.sam.gov. (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the contracting officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

52.204-15 SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (OCT 2016)

(a) Definition.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed during the preceding Government fiscal year (October 1–September 30) under this contract for orders that exceed the thresholds established in 4.1703(a)(2).

(c) The Contractor shall report the following information:

(1) Contract number and order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at www.sam.gov. (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR subpart 42.15.

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f) (1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in 4.1703(a)(2), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier), and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (JUL 2016) 4.1804(c)

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

Commercial and Government Entity (CAGE) code means —

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

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

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with subpart 42.12. The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at <https://cage.dla.mil>. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>) or NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> to request CAGE changes.

(e) Additional guidance for maintaining CAGE codes is available at <https://cage.dla.mil>.

52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

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

52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)

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

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

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

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

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

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

(b) *Safeguarding requirements and procedures.*

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

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

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

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

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

**52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE,
SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY
KASPERSKY LAB AND OTHER COVERED ENTITIES (JUL 2018)**

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

Covered article means any hardware, software, or service that —

- (1) Is developed or provided by a covered entity;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or
- (3) Contains components using any hardware or software developed in whole or in part by a covered entity.

Covered entity means —

- (1) Kaspersky Lab;

- (2) Any successor entity to Kaspersky Lab;
- (3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or
- (4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115–91) prohibits Government use of any covered article. The Contractor is prohibited from —

- (1) Providing any covered article that the Government will use on or after October 1, 2018; and
- (2) Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

(1) In the event the Contractor identifies a covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor shall report, in writing, to the Contracting Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:

(i) Within 1 business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.

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

**52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON
POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)**

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

Postconsumer fiber means—

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

(b) The Contractor is required to submit paper documents, such as offers, letters, or reports that are printed or copied double-sided on paper containing at least 30 percent postconsumer fiber, whenever practicable, when not using electronic commerce methods to submit information or data to the Government.

52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(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) database” 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 the SAM database;

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

(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 www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to 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 the SAM database.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at 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) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.
- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) Offerors may obtain information on registration at <https://www.acquisition.gov> .

52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)

- (a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24, and Federal Information Processing Standards Publication (FIPS PUB) Number 201.
- (b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:
- (1) When no longer needed for contract performance.
 - (2) Upon completion of the Contractor employee's employment.
 - (3) Upon contract completion or termination.
- (c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in

writing by the Contracting Officer.

52.207-5 OPTION TO PURCHASE EQUIPMENT (FEB 1995)

(a) The Government may purchase the equipment provided on a lease or rental basis under this contract. The Contracting Officer may exercise this option only by providing a unilateral modification to the Contractor. The effective date of the purchase will be specified in the unilateral modification and may be any time during the period of the contract, including any extensions thereto.

(b) Except for final payment and transfer of title to the Government, the lease or rental portion of the contract becomes complete and lease or rental charges shall be discontinued on the day immediately preceding the effective date of purchase specified in the unilateral modification required in paragraph (a) of this clause.

(c) The purchase conversion cost of the equipment shall be computed as of the effective date specified in the unilateral modification required in paragraph (a) of this clause, on the basis of the purchase price set forth in the contract, minus the total purchase option credits accumulated during the period of lease or rental, calculated by the formula contained elsewhere in this contract.

(d) The accumulated purchase option credits available to determine the purchase conversion cost will also include any credits accrued during a period of lease or rental of the equipment under any previous Government contract if the equipment has been on continuous lease or rental. The movement of equipment from one site to another site shall be "continuous rental."

52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2014)

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

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

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

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation.

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

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

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

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

(a) *Definition.* “Commercially available off-the-shelf (COTS)” item, as used in this clause –

(1) Means any item of supply (including construction material) that is –

(i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

(b) The Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of \$35,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor’s knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the specific basis for the party’s debarment, suspension, or proposed debarment.

(e) *Subcontracts.* Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that –

(1) Exceeds \$35,000 in value; and

(2) Is not a subcontract for commercially available off-the-shelf items.

52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the System for Award Management database via <https://www.acquisition.gov>.

(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111–212), all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIIS consists of two segments —

(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by —

(i) Government personnel and authorized users performing business on behalf of the Government; or

(ii) The Contractor, when viewing data on itself; and

(2) The publicly-available segment, to which all data in the non-public segment of FAPIIS is automatically transferred after a waiting period of 14 calendar days, except for —

(i) Past performance reviews required by subpart 42.15;

(ii) Information that was entered prior to April 15, 2011; or

(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause.

(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the nonpublic segment of FAPIIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209–9 and request removal within 7 calendar days of the posting to FAPIIS.

(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) As required by section 3010 of Pub. L. 111–212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

52.211-16 VARIATION IN QUANTITY (APR 1984)

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to:

TBD percent increase

TBD percent decrease

This increase or decrease shall apply to TBD.

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS –
COMMERCIAL ITEMS (AUG 2012)**

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

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

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

Number	Title	Clause/Provision
52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)	Clause
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I -- OCT 1995)	Clause
52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016)	Clause
52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)	Clause
52.204-15	SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014)	Clause
52.209-6	PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)	Clause
52.219-13	NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)	Clause
52.219-14	LIMITATIONS ON SUBCONTRACTING (JAN 2017)	Clause
52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)	Clause
52.219-27	NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011)	Clause
52.219-28	POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)	Clause
52.219-29	NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO,	Clause

	ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)	
52.219-3	NOTICE OF TOTAL HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)	Clause
52.219-30	NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM (DEC 2015)	Clause
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)	Clause
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016)	Clause
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ALTERNATE II - NOV 2016)	Clause
52.222-17	NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014)	Clause
52.222-19	CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (JAN 2018)	Clause
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)	Clause
52.222-26	EQUAL OPPORTUNITY (SEP 2016)	Clause
52.222-3	CONVICT LABOR (JUN 2003)	Clause
52.222-35	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)	Clause
52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)	Clause
52.222-37	EMPLOYMENT REPORTS ON VETERANS (FEB 2016)	Clause
52.222-40	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)	Clause
52.222-50	COMBATING TRAFFICKING IN PERSONS (MAR 2015)	Clause
52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)	Clause
52.223-13	ACQUISITION OF EPEAT--REGISTERED IMAGING EQUIPMENT (JUN 2014)	Clause
52.223-14	ACQUISITION OF EPEAT-REGISTERED TELEVISIONS (JUN 2014)	Clause

52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)	Clause
52.223-16	ACQUISITION OF REPEAT--REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015)	Clause
52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)	Clause
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)	Clause
52.225-5	TRADE AGREEMENTS (OCT 2016)	Clause
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER -- SYSTEM FOR AWARD MANAGEMENT (JUL 2013)	Clause
52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	Clause

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

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

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

Number	Title	Clause/Provision
52.222-41	SERVICE CONTRACT LABOR STANDARDS (MAY 2014)	Clause
52.222-42	STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)	Clause
52.222-43	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDSâ##PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014)	Clause
52.222-51	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)	Clause
52.222-53	EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES--REQUIREMENTS (MAY 2014)	Clause

52.222-55 MINIMUM WAGES UNDER Clause
EXECUTIVE ORDER 13658 (DEC 2015)

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

Yes

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

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

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

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

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

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219–8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting

(iii) [Reserved]

(iv) 52.222–26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222–35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(vi) 52.222–36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

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

- (viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).
- (ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
- [.] Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).
- (x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).
- (xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. 351, et seq.).
- (xii) 52.222-54, Employment Eligibility Verification (Jul 2012).
- (xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA — MODIFICATIONS (OCT 2010) (ALTERNATE IV — OCT 2010)

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

(b) Provide data described below: *[Insert description of the data and the format that are required, including the access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]*

"Pricing information as described in SCP-FSS-001N, SCP-FSS-001S, SCP-FSS-004 and 552.212-70".

52.216-18 ORDERING (OCT 1995) (DEVIATION II -- FEB 2007)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through Contract expiration date.

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

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

52.216-19 ORDER LIMITATIONS (OCT 1995) (DEVIATION II – FEB 2007)16.506(b)

(a) *Minimum order.* When the ordering activity requires supplies or services covered by this contract in an amount of less than \$100, the ordering activity is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of
70-500 \$100,000 per order (see additional notes below)

132-3 \$500,000 per order

132-4 \$500,000 per order

132-8 \$500,000 per order

132-9 \$500,000 per order

132-12 \$500,000 per order

132-32 \$500,000 per order

132-33 \$500,000 per order

132-34 \$500,000 per order

132-40 \$500,000 per order

132-41 \$1,000,000 per order

132-44 \$500,000 per order

132-45A \$500,000 per order

132-45B \$500,000 per order

132-45C \$500,000 per order

132-45D \$500,000 per order

132-50 \$25,000 per order

132-51 \$500,000 per order

132-52 \$500,000 per order

132-53 \$500,000 per order

132-54 \$500,000 per order

132-55 \$500,000 per order

132-56 \$500,000 per order

132-60A \$1,000,000 per order

132-60B \$1,000,000 per order

132-60C \$1,000,000 per order

132-60D \$1,000,000 per order

132-60E \$1,000,000 per order

132-60F \$1,000,000 per order

132-61 \$1,000,000 per order

132-62 \$1,000,000 per order

132-99 \$1,000,000 per order

132-100 \$150,000 per order;

(2) Any order for a combination of items in excess of
70-500 \$100,000 per order (see additional notes below)

132-3 \$500,000 per order

132-4 \$500,000 per order

132-8 \$500,000 per order

132-9 \$500,000 per order

132-12 \$500,000 per order

132-32 \$500,000 per order

132-33 \$500,000 per order

132-34 \$500,000 per order

132-40 \$500,000 per order

132-41 \$1,000,000 per order

132-44 \$500,000 per order

132-45A \$500,000 per order

132-45B \$500,000 per order

132-45C \$500,000 per order

132-45D \$500,000 per order

132-50 \$25,000 per order

132-51 \$500,000 per order
132-52 \$500,000 per order
132-53 \$500,000 per order
132-54 \$500,000 per order
132-55 \$500,000 per order
132-56 \$500,000 per order
132-60A \$1,000,000 per order
132-60B \$1,000,000 per order
132-60C \$1,000,000 per order
132-60D \$1,000,000 per order
132-60E \$1,000,000 per order
132-60F \$1,000,000 per order
132-61 \$1,000,000 per order
132-62 \$1,000,000 per order
132-99 \$1,000,000 per order
132-100 \$150,000 per order; or

(3) A series of orders from the same ordering office within 5 days that together call for quantities exceeding the limitation in paragraph (b) (1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the ordering activity may acquire the supplies or services from another source.

Note: Regulation 52.216-19

Note: Due to a system limitation, a Maximum Order value of \$100,000 has been identified for the Order-Level Materials SIN. However, as Order-Level Materials are only acquired in direct support of an individual task or delivery order, the contractor's right to decline an order as outlined in FAR 52.216-19 Order Limitations paragraph (b) Maximum Order shall be based on the SINs that are the primary basis or purpose of the order, not the Maximum Order value associated with the Order-Level Materials SIN.

Additionally, Ordering agencies are reminded that the Maximum Order value identified for a Schedule SIN does not limit the value of an individual task or delivery order. Ordering limitations and procedures applicable to task or delivery orders inclusive of Order-Level Materials are outlined in GSAR 552.238-82, Special Ordering Procedures for the Acquisition of Order-Level Materials.

52.216-22 INDEFINITE QUANTITY (OCT 1995)

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

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or

services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the completion of customer order, including options, 60 months following the expiration of the basic contract ordering period [*insert date*].

52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within within 30 calendar days of contract expiration..

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 .; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least . 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 . (months) (years).

52.219-13 NOTICE OF SET-ASIDE OF ORDERS (NOV 2011)

The Contracting Officer will give notice of the order or orders, if any, to be set aside for small business concerns identified in 19.000(a)(3) and the applicable small business program. This notice, and its restrictions, will apply only to the specific orders that have been set aside for any of the small business concerns identified in 19.000(a)(3).

52.219-14 LIMITATIONS ON SUBCONTRACTING (JAN 2017)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for small business concerns or 8(a) participants;

(2) Part or parts of a multiple-award contract that have been set aside for small business concerns or 8(a) participants; and

(3) Orders set aside for small business or 8(a) participants under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for—

(1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will, perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)

(a) “Failure to make a good faith effort to comply with the subcontracting plan”, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled “Small Business Subcontracting Plan,” or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled “Small Business Subcontracting Plan,” the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

**52.219-27 NOTICE OF SERVICE-DISABLED VETERAN-OWNED
SMALL BUSINESS SET-ASIDE (NOV 2011)**

(a) *Definition.* “Service-disabled veteran-owned small business concern”—

(1) Means a small business concern —

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

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

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

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns; and

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(d) *Agreement.* A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for —

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other service-disabled veteran-owned small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other service-disabled veteran-owned small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns.

- (e) A joint venture may be considered a service-disabled veteran owned small business concern if —
- (1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;
 - (2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and
 - (3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation.
 - (4) The joint venture meets the requirements of 13 CFR 125.15(b)
- (f) Any service-disabled veteran-owned small business concern (nonmanufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)

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

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

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

- (b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

- (1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.
- (2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.
- (3) For long-term contracts —
 - (i) Within 60 to 120 days prior to the end of the fifth year of the contract; and
 - (ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

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

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor’s current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update. (f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

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

The Contractor represents that it _____ is, _____ is not a small business concern under NAICS Code _____ assigned to contract number _____. [*Contractor to sign and date and insert authorized signer's name and title*].

Contractor Signature / Date

Authorized Signer’s Name / Title

Note: Regulation 52.219-28
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**52.219-29 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE
AWARD TO, ECONOMICALLY DISADVANTAGED
WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015)**

(a) *Definitions.* “Economically disadvantaged women-owned small business (EDWOSB) concern” means —

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

“*WOSB Program Repository*” means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to —

- (1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, EDWOSB concerns;
- (2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns; and
- (3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) General.

- (1) Offers are solicited only from EDWOSB concerns. Offers received from concerns that are not EDWOSB concerns will not be considered.
- (2) Any award resulting from this solicitation will be made to an EDWOSB concern.
- (3) The contracting officer will ensure that the apparent successful offeror has provided all required documents to the WOSB Program Repository. The contract will not be awarded until all required documents are received.

(d) *Agreement*. An EDWOSB concern agrees that in the performance of the contract for —

- (1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;
- (2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);
- (3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and
- (4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

(e) *Joint Venture*. A joint venture may be considered an EDWOSB concern if —

- (1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);
- (2) The EDWOSB participant of the joint venture is designated in System for Award Management as an EDWOSB concern;
- (3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —
 - (i) Setting forth the purpose of the joint venture;
 - (ii) Designating an EDWOSB concern as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;
 - (iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the EDWOSB;
 - (iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB contract performed by the joint venture.

(4) The joint venture performs the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the EDWOSB or joint venture.

(f) Nonmanufacturer. An EDWOSB concern that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on an EDWOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

52.219-3 NOTICE OF HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)

(a) *Definitions.* See 13 CFR 125.6(e) for definitions of terms used in paragraph (c).

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, HUBZone small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns; and

(3) Orders set-aside for HUBZone small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(d) *Agreement.* A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for —

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction.

(i) At least 15 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors; and

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns; or

(4) Construction by special trade contractors.

(i) At least 25 percent of the cost of contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the HUBZone prime contractor's employees or on a combination of the HUBZone prime contractor's employees and employees of HUBZone small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns.

(e) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the aggregate of the HUBZone small business participants.

(f) (1) When the total value of the contract exceeds \$25,000, a HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business concern manufacturers.

(2) When the total value of the contract is equal to or less than \$25,000, a HUBZone small business concern nonmanufacturer may provide end items manufactured by other than a HUBZone small business concern manufacturer provided the end items are produced or manufactured in the United States.

(3) Paragraphs (f)(1) and (f)(2) of this section do not apply in connection with construction or service contracts.

(g) *Notice.* The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

**52.219-30 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE
AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS
ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS
PROGRAM (DEC 2015)**

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

"WOSB Program Repository" means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability.* This clause applies only to —

- (1) Contracts that have been set aside or reserved for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;
- (2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program; and
- (3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

- (1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB program shall not be considered.
- (2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.
- (3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Agreement.* A WOSB concern eligible under the WOSB Program agrees that in the performance of the contract for —

- (1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;
- (2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);
- (3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and
- (4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including cost of materials).

(e) *Joint Venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if —

- (1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);
- (2) The WOSB participant of the joint venture is designated in the System for Award Management as a WOSB concern eligible under the WOSB Program;
- (3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions —
 - (i) Setting forth the purpose of the joint venture;
 - (ii) Designating a WOSB concern eligible under the WOSB Program as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;
 - (iii) Stating that not less than 51 percent of the net profits earned by the joint venture will

be distributed to the WOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the WOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the WOSB contract performed by the joint venture.

(4) The joint venture must perform the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

(f) Nonmanufacturer. A WOSB concern eligible under the WOSB Program that is a non-manufacturer, as defined in 13 CFR 121.406(b) or FAR 19.102(f), may submit an offer on a WOSB requirement with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in those regulations.

52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011)

(a) *Definition.*

"*Small business concern,*" as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) *Applicability.* This clause applies only to —

(1) Contracts that have been totally set aside or reserved for small business concerns; and

(2) Orders set aside for small business concerns under multiple-award contracts as described in 8.405-5 and 16.505(b)(2)(i)(F).

(c) *General.*

(1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(d) *Agreement.*

A small business concern submitting an offer in its own name shall furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States or its outlying areas. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply to construction or service contracts.

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016)

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

HUBZone small business concern means a small business concern, certified by the Small Business Administration, that appears on the List of Qualified HUBZone Small Business Concerns maintained

by the Small Business Administration.

Service-disabled veteran-owned small business concern —

(1) Means a small business concern —

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

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

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

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

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

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

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

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

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

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 small business concern means a small business concern —

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

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

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency,

including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d) (1) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(2) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(i) The subcontractor is registered in SAM; and

(ii) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(3) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(4) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ALTERNATE II – NOV 2016)

(a) This clause does not apply to small business concerns.

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

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Electronic Subcontracting Reporting System (eSRS) means the Government-wide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

Individual subcontracting plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master subcontracting plan means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master subcontracting plan has been approved.

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

Total contract dollars means the final anticipated dollar value, including the dollar value of all options.

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor.

- (c) (1) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the Offeror ineligible for award of a contract.
- (2) (i) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.
- (ii) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(iv) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(d) The Offeror's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626 —

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of —

(i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
 - (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
 - (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
 - (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
 - (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
 - (vii) Total dollars planned to be subcontracted to women-owned small business concerns.
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to —
- (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns; and
 - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the Offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with —
- (i) Small business concerns (including ANC and Indian tribes);
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Offeror will —

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

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

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts 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 this clause using the Electronic Subcontracting Reporting System (eSRS) at <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 this clause, 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 entity identifier, and the email 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 DUNS number, and the email address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to

them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.*, 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 \$150,000, indicating —

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

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

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

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

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

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

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

(iv) Records of any outreach efforts to contact —

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, 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) Assurances that the Offeror will 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) Assurances that the Contractor will 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 (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will 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 52.242-5).

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with 52.219-8(d)(2).

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful

subcontract offeror, prior to award of the subcontract the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror and if the successful subcontract offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern.

(7) Assign each subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract.

(f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided —

(1) The master subcontracting plan has been approved;

(2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master subcontracting plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in 19.702(a), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with

(1) the clause of this contract entitled "Utilization Of Small Business Concerns," or

(2) an approved plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as

subcontract awards by the Contractor. Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontracting plan.

(i) The report shall be submitted semiannually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an *ISR*, the Contractor shall submit a corrected report within 30 days of receiving the notice of *ISR* rejection.

(ii) (A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(B) If a subcontracting plan has been added to the contract pursuant to 19.702(a)(3) or 19.301-2(e), the Contractor's achievements must be reported in the *ISR* on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(iv) The authority to acknowledge receipt or reject the *ISR* resides —

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*. (i) Reports submitted under individual contract plans.

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$700,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be

submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.

(D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of SSR rejection.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan.

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

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

52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014)

(a) "Service employee", as used in this clause, means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The term "service employee" includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(b) The Contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those service employees employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the service employees were hired, a right of first refusal of employment under this contract in positions for which the service employees are qualified.

(1) The Contractor and its subcontractors shall determine the number of service employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor Contractor employed in connection with performance of the work.

(2) Except as provided in paragraph (c) of this clause, there shall be no employment opening under this contract, and the Contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation.

(i) The successor Contractor and its subcontractors shall make a bona fide express offer of employment to each service employee as provided herein and shall state the time within which the service employee must accept such offer, but in no case shall the period within which the service employee must accept the offer of employment be less than 10 days.

(ii) The successor Contractor and its subcontractors shall decide any question concerning a service employee's qualifications based upon the individual's education and employment history, with particular emphasis on the employee's experience on the predecessor contract, and the Contractor may utilize employment screening processes only when such processes are provided for by the contracting agency, are conditions of the service contract, and are consistent with Executive Order 13495.

(iii) Where the successor Contractor does not initially offer employment to all the predecessor contract service employees, the obligation to offer employment shall continue for 90 days after the successor contractor's first date of performance on the contract.

(iv) An offer of employment will be presumed to be bona fide even if it is not for a position similar to the one the employee previously held, but is one for which the employee is qualified, and even if it is subject to different employment terms and conditions, including changes to pay or benefits. (See 29 CFR 9.12 for a detailed description of a bonafide offer of employment).

(c) (1) Notwithstanding the obligation under paragraph (b) of this clause, the successor Contractor and any subcontractors (i) may employ under this contract any service employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (ii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Labor Standards statute, 41 U.S.C. 6701(3), and (iii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor whom the Contractor or any of its subcontractors reasonably believes, based on the particular service employee's past performance, has failed to perform suitably on the job (see 29 CFR 9.12(c)(4) for additional information). The successor Contractor bears the responsibility of demonstrating the appropriateness of claiming any of these exceptions.

(2) In addition, any Contractor or subcontractor that has been certified by the U.S. Small Business Administration as a HUBZone small business concern must ensure that it complies with the statutory and regulatory requirements of the HUBZone Program (*e.g.*, it must ensure that at least 35 percent of all of its employees reside within a HUBZone). The HUBZone small business Contractor or subcontractor must consider whether it can meet the requirements of this clause and Executive Order 13495 while also ensuring it meets the HUBZone Program's requirements.

(3) Nothing in this clause shall be construed to permit a Contractor or subcontractor to fail to comply with any provision of any other Executive order or law. For example, the requirements of the HUBZone Program (see FAR subpart 19.13), Executive Order 11246 (Equal Employment Opportunity), and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 may conflict, in certain circumstances, with the requirements of Executive Order 13495. All applicable laws and Executive orders must be satisfied in tandem with, and if necessary prior to, the requirements of Executive Order 13495, 29 CFR part 9, and this clause.

(d) (1) The Contractor shall, not less than 30 days before completion of the Contractor's performance of services on the contract, furnish the Contracting Officer with a certified list of the

names of all service employees working under this contract and its subcontracts at the time the list is submitted. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Where changes to the workforce are made after the submission of the certified list described in this paragraph, the Contractor shall, in accordance with paragraph (e) of this clause, not less than 10 days before completion of the services on this contract, furnish the Contracting Officer with an updated certified list of the names of all service employees employed within the last month of contract performance. The updated list shall also contain anniversary dates of employment, and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor Contractors or their subcontractors.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(3) The Contracting Officer will direct the predecessor Contractor to provide written notice (Appendix B to 29 CFR chapter 9) to service employees of their possible right to an offer of employment with the successor contractor. Where a significant portion of the predecessor Contractor's workforce is not fluent in English, the notice shall be provided in English and the language(s) with which service employees are more familiar. The written notice shall be —

(i) Posted in a conspicuous place at the worksite; or

(ii) Delivered to the service employees individually. If such delivery is via email, the notification must result in an electronic delivery receipt or some other reliable confirmation that the intended recipient received the notice.

(e) (1) If required in accordance with 52.222-41(n), the predecessor Contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor Contractors or their subcontractors. If there are no changes to the workforce before the predecessor contract is completed, then the predecessor Contractor is not required to submit a revised list 10 days prior to completion of performance and the requirements of 52.222-41(n) are met. When there are changes to the workforce after submission of the 30-day list, the predecessor Contractor shall submit a revised certified list not less than 10 days prior to performance completion.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(f) The Contractor and subcontractor shall maintain the following records (regardless of format, e.g., paper or electronic) of its compliance with this clause for not less than a period of three years from the date the records were created.

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any service employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the service employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exemption claimed under this part.

- (3) A copy of the service employee list provided to or received from the contracting agency.
- (4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each service employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The Contractor shall also deliver a copy of the receipt to the service employee and file the original, as evidence of payment by the Contractor and receipt by the service employee, with the Administrator or an authorized representative within 10 days after payment is made.

(g) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause (52.233-1) of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: The Contractor, the contracting agency, the U.S. Department of Labor, and the service employees under the contract or its predecessor contract. The Contracting Officer will refer any service employee who wishes to file a complaint, or ask questions concerning this contract clause, to the: Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Contact email: displaced@dol.gov.

(h) The Contractor shall cooperate in any review or investigation by the Department of Labor into possible violations of the provisions of this clause and shall make such records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the Contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the Contractor or its subcontractors, as provided in Executive Order 13495, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

(j) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. However, if the Contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the Contractor may request that the United States, through the Secretary, enter into such litigation to protect the interests of the United States.

(k) The Contracting Officer will withhold, or cause to be withheld, from the prime Contractor under this or any other Government contract with the same prime Contractor, such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator, the Administrative Law Judge, or the Administrative Review Board, that there has been a failure to comply with the terms of this clause and that wages lost as a result of the violations are due to service employees or that other monetary relief is appropriate. If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the Contractor has failed to provide a list of the names of service employees working under the contract, the Contracting Officer may, in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(l) *Subcontracts.* In every subcontract over the simplified acquisition threshold entered into in order to perform services under this contract, the Contractor shall include a provision that ensures —

- (1) That each subcontractor will honor the requirements of paragraphs (b) through (c) of this clause with respect to the service employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor Contractor and its subcontractors;
- (2) That the subcontractor will provide the Contractor with the information about the service employees of the subcontractor needed by the Contractor to comply with paragraphs (d) and (e) of this clause; and

(3) The recordkeeping requirements of paragraph (f) of this clause.

**52.222-19 CHILD LABOR—COOPERATION WITH AUTHORITIES
AND REMEDIES (JAN 2018) 22.1505(b)**

(a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in —

(1) Canada, and the anticipated value of the acquisition is \$25,000 or more;

(2) Israel, and the anticipated value of the acquisition is \$50,000 or more;

(3) Mexico, and the anticipated value of the acquisition is \$80,317 or more; or

(4) Armenia, Aruba, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or the United Kingdom and the anticipated value of the acquisition is \$180,000 or more.

(b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) *Violations.* The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) *Remedies.*

(1) The Contracting Officer may terminate the contract.

(2) The suspending official may suspend the Contractor in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Contractor for a period not to exceed 3 years in

accordance with the procedures in FAR Subpart 9.4.

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

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

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

Segregated facilities means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

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

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

52.222-26 EQUAL OPPORTUNITY (SEP 2016)

(a) *Definition.* As used in this clause.

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

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

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

- (1) The access to compensation information is necessary in order to perform that function or another routinely assigned business task; or
- (2) The function or duties of the position include protecting and maintaining the privacy of employee personnel records, including compensation information.

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

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

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

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

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

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

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to —

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

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

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

(5) (i) The Contractor shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This prohibition against discrimination does not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise

have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

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

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

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

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

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

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

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

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

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

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

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

52.222-29 NOTIFICATION OF VISA DENIAL (APR 2015)

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

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

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

(b) *Requirement to notify.*

(1) It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual's race, color, religion, sex, sexual orientation, gender identity, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10).

(2) The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW., Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, sexual orientation, gender identity, or national origin of the employee or potential employee.

52.222-3 CONVICT LABOR (JUN 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons—

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if—

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

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

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60–300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

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

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings

52.222-37 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

(a) *Definitions.* As used in this clause, “active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” and “recently separated veteran,” have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on —

(1) The total number of employees in the contractor’s workforce, by job category and hiring location, who are protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by filing the VETS-4212 "Federal Contractor Veterans' Employment Report" (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at <http://www.dol.gov/vets/vets4212.htm>).

(d) The Contractor shall file VETS-4212 Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date –

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be —

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor- Management Standards Web site at <http://www.dol.gov/olms/regs/compliance/EO13496.htm>; or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

52.222-41 SERVICE CONTRACT LABOR STANDARDS (MAY 2014)

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

Contractor when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

Service employee means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable

provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards, and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 6702, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.* (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2) (i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv) (A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average

(mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Service Contract Labor Standards statute and this contract.

(vi) Upon discovery of failure to comply with subparagraphs (b)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under the contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor Contracts.* If this contract succeeds a contract subject to the Service Contract Labor Standards statute under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective

bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of 41 U.S.C. 6703 and of this contract.

(h) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the service employee. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.* (1) The Contractor and each subcontractor performing work subject to the Service Contract Labor Standards statute shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Service Contract Labor Standards statute —

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

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

(j) *Pay Periods.* The Contractor shall unconditionally pay to each employee subject to the Service Contract Labor Standards statute all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this statute may not be of any duration longer than semi-monthly.

(k) *Withholding of Payments and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Service Contract Labor Standards statute all or part of the wages or fringe benefits due under the Service Contract Labor Standards statute, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Service Contract Labor Standards statute.

(m) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority List.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent prime Contractor shall furnish to the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Ruling and Interpretations.* Rulings and interpretations of the Service Contract Labor Standards statute are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's Certification.* (1) By entering into this contract, the Contractor (and officials thereof)

certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under 41 U.S.C. 6706.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to 41 U.S.C. 6707 prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by 41 U.S.C. 6703(1), in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision —

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling

arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Labor Standards minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of 41 U.S.C. 6707(c).

(t) *Disputes Concerning Labor Standards.* The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

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

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

This Statement is for Information Only: It Is Not a Wage Determination

Employee Class	Monetary Wage – Fringe Benefits
.	.
.	.
.	.

52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS—PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

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

(c) The wage determination, issued under the Service Contract Labor Standards statute, (41 U.S.C. chapter 67), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to

reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

- (1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;
- (2) An increase or decrease wage determination otherwise applied to the contract by operation of law; or
- (3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment in its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

52.222-50 COMBATING TRAFFICKING IN PERSONS (MAR 2015)

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

Agent means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

Coercion means —

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

Commercially available off-the-shelf (COTS) item means —

- (1) Any item of supply (including construction material) that is —

- (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Forced Labor means knowingly providing or obtaining the labor or services of a person —

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

Involuntary servitude includes a condition of servitude induced by means of —

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

Severe forms of trafficking in persons means —

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) *Policy.* The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not —

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract;
- (3) Use forced labor in the performance of the contract;
- (4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;
- (5)
 - (i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work;
 - (ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;
- (6) Charge employees recruitment fees;
- (7)
 - (i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment —
 - (A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or
 - (B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that —
 - (ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is —
 - (A) Legally permitted to remain in the country of employment and who chooses to do so; or
 - (B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;
 - (iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return

transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Contractor requirements.* The Contractor shall —

(1) Notify its employees and agents of —

(i) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.*

(1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of —

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in —

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

- (3) Suspension of contract payments until the Contractor has taken appropriate remedial action;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
- (5) Declining to exercise available options under the contract;
- (6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (7) Suspension or debarment.

(f) *Mitigating and aggravating factors.* When determining remedies, the Contracting Officer may consider the following:

- (1) *Mitigating factors.* The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.
- (2) *Aggravating factors.* The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) *Full cooperation.*

- (1) The Contractor shall, at a minimum —
 - (i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;
 - (ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;
 - (iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and
 - (iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.
- (2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not —
 - (i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;
 - (ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or
 - (iii) Restrict the Contractor from —
 - (A) Conducting an internal investigation;

or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan.*

(1) This paragraph (h) applies to any portion of the contract that —

(i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(ii) Has an estimated value that exceeds \$500,000.

(2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate —

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.

(3) *Minimum requirements.* The compliance plan must include, at a minimum, the following:

(i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at help@befree.org.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable hostcountry legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting.*

(i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in

writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(5) *Certification.* Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that —

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either —

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that —

(A) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(B) Has an estimated value that exceeds \$500,000.

(2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

52.222-51 EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT--REQUIREMENTS (MAY 2014)

(a) The items of equipment to be serviced under this contract are used regularly for other than Government purposes, and are sold or traded by the Contractor in substantial quantities to the general public in the course of normal business operations.

(b) The services shall be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(1) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(2) An "established market price" is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

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

(d) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine the applicability of this exemption to any subcontract on or before subcontract award. In making a judgment that the exemption applies, the Contractor shall consider all factors and make an affirmative determination that all of the conditions in paragraphs (a) through (c) of this clause will be met.

(e) If the Department of Labor determines that any conditions for exemption in paragraphs (a) through (c) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures at 29 CFR 4.123(e)(1)(iv) and 29 CFR 4.5(c) will be followed

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for exempt services under this contract.

**52.222-53 EXEMPTION FROM APPLICATION OF THE SERVICE
CONTRACT LABOR STANDARDS TO CONTRACTS FOR
CERTAIN SERVICES--REQUIREMENTS (MAY 2014)**

(a) The services under this contract are offered and sold regularly to non-Governmental customers, and are provided by the Contractor to the general public in substantial quantities in the course of normal business operations.

(b) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) 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.

(d) The Contractor uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for these employees and for equivalent employees servicing commercial customers.

(e) (1) Except for services identified in FAR 22.1003-4(d)(1)(iv), the subcontractor for exempt services shall be selected for award based on other factors in addition to price or cost with the combination of other factors at least as important as price or cost; or

(2) A subcontract for exempt services shall be awarded on a sole source basis.

(f) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely subcontractors, that all or nearly all likely subcontractors will meet the conditions in paragraphs (a) through (d) of this clause. If the services are currently being performed under a subcontract, the Contractor shall consider the practices of the existing subcontractor in making a determination regarding the conditions in paragraphs (a) through (d) of this clause. If the Contractor has reason to doubt the validity of the certification, the requirements of the Service Contract Labor Standards statute shall be included in the subcontract.

(g) If the Department of Labor determines that any conditions for exemption at paragraphs (a) through (e) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures in at 29 CFR 4.123(e)(2)(iii) and 29 CFR 4.5(c) will be followed.

(h) The Contractor shall include the substance of this clause, including this paragraph (h), in subcontracts for exempt services under this contract.

52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)

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

Commercially available off-the-shelf (COTS) item –

(1) Means any item of supply that is –

(i) A commercial item (as defined in paragraph (1) of the definition at 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1(c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

Employee assigned to the contract means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee –

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

Subcontract means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall –

(i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of –

(i) *All new employees.*

(A) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of –

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in

accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee –

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that –

(1) Is for –

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than \$3,500; and

(3) Includes work performed in the United States.

52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015)

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

“*United States*” means the 50 states and the District of Columbia.

“*Worker*” —

(1) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 13658, and —

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

- (ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541; and
- (iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

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

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

(b) *Executive Order minimum wage rate.*

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the **Federal Register** no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on www.wdol.gov (or any successor Web site), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

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

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

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

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

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

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without

subsequent rebate or kickback. The Contractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 10.23, Deductions.

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

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

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

(10) The Contractor shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

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

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

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

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

(2) This clause does not apply to –

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

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

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

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

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

(d) *Notice.* The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the

worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/whd/govcontracts, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) *Payroll Records.*

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

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

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

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

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

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

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

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

(h) *Disputes.* Department of Labor has set forth in 29 CFR 10.51, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 10. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

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

(j) *Subcontractor compliance.* The Contractor is responsible for subcontractor compliance with the

requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

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

52.222-99 ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS (JUL 2014) (DEVIATION I – JUL 2014)

This clause implements Executive Order 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and OMB Policy Memorandum M-14-09, Implementation of the President's Executive Order Establishing a Minimum Wage for Contractors, dated June 12, 2014.

(a) Each service employee, laborer, or mechanic employed in the United States (the 50 states and the District of Columbia) in the performance of this contract by the prime Contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the Contractor and service employee, laborer, or mechanic, shall be paid not less than the applicable minimum wage under Executive Order 13658. The minimum wage required to be paid to each service employee, laborer, or mechanic performing work on this contract between January 1, 2015, and December 31, 2015, shall be \$10.10 per hour.

(b) The Contractor shall adjust the minimum wage paid under this contract each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all service employees, laborers, or mechanics subject to the Executive Order beginning January 1 of the following year. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor website). The applicable published minimum wage is incorporated by reference into this contract.

(c) The Contracting Officer will adjust the contract price or contract unit price under this clause only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Contracting Officer shall consider documentation as to the specific costs and workers impacted in determining the amount of the adjustment.

(d) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (c) of this clause, and will not provide price adjustments under this clause that result in duplicate price adjustments with the respective clause of this contract implementing the Service Contract Labor Standards statute (formerly known as the Service Contract Act) or the Wage Rate Requirements (Construction) statute (formerly known as the Davis Bacon Act).

(e) The Contractor shall include the substance of this clause, including this paragraph (e) in all subcontracts.

52.223-10 WASTE REDUCTION PROGRAM (MAY 2011)

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

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or

products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR part 247).

52.223-13 ACQUISITION OF EPEAT®-REGISTERED IMAGING EQUIPMENT (JUN 2014)

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

Imaging equipment means the following products:

(1) *Copier* — A commercially available imaging product with a sole function of the production of hard copy duplicates from graphic hard-copy originals. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as copiers or upgradeable digital copiers (UDCs).

(2) *Digital duplicator* — A commercially available imaging product that is sold in the market as a fully automated duplicator system through the method of stencil duplicating with digital reproduction functionality. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as digital duplicators.

(3) *Facsimile machine (fax machine)* — A commercially available imaging product whose primary functions are scanning hard-copy originals for electronic transmission to remote units and receiving similar electronic transmissions to produce hard-copy output. Electronic transmission is primarily over a public telephone system but also may be via computer network or the Internet. The product also may be capable of producing hard copy duplicates. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as fax machines.

(4) *Mailing machine* — A commercially available imaging product that serves to print postage onto mail pieces. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as mailing machines.

(5) *Multifunction device (MFD)* — A commercially available imaging product, which is a physically integrated device or a combination of functionally integrated components, that performs two or more of the core functions of copying, printing, scanning, or faxing. The copy functionality as addressed in this definition is considered to be distinct from singlesheet convenience copying offered by fax machines. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as MFDs or multifunction products.

(6) *Printer* — A commercially available imaging product that serves as a hardcopy output device and is capable of receiving information from single-user or networked computers, or other input devices (e.g., digital cameras). The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as printers, including printers that can be upgraded into MFDs in the field.

(7) *Scanner* — A commercially available imaging product that functions as an electro-optical device for converting information into electronic images that can be stored, edited, converted, or transmitted, primarily in a personal computing environment. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as scanners.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only imaging equipment that, at the time of submission of proposals and at the time of award, was EPEAT[®] bronze-registered or higher.

(c) For information about EPEAT[®], see www.epa.gov/epeat.

52.223-14 ACQUISITION OF EPEAT[®]-REGISTERED TELEVISIONS (JUN 2014)

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

Television or TV means a commercially available electronic product designed primarily for the reception and display of audiovisual signals received from terrestrial, cable, satellite, Internet Protocol TV (IPTV), or other digital or analog sources. A TV consists of a tuner/receiver and a display encased in a single enclosure. The product usually relies upon a cathode-ray tube (CRT), liquid crystal display (LCD), plasma display, or other display technology. Televisions with computer capability (*e.g.*, computer input port) may be considered to be a TV as long as they are marketed and sold to consumers primarily as televisions.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only televisions that, at the time of submission of proposals and at the time of award, were EPEAT[®] bronze-registered or higher.

(c) For information about EPEAT[®], see www.epa.gov/epeat.

52.223-15 Energy Efficiency in Energy-Consuming Products (DEC 2007)

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

Energy-efficient product--

(1) Means a product that--

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (*i.e.*, ENERGY STAR[®] products or FEMP-designated products) at the time of contract award, for products that are--

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

- (3) Furnished by the Contractor for use by the Government; or
 - (4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.
- (c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless--
- (1) The energy-consuming product is not listed in the ENERGY STAR[®] Program or FEMP; or
 - (2) Otherwise approved in writing by the Contracting Officer.
- (d) Information about these products is available for--
- (1) ENERGY STAR[®] at <http://www.energystar.gov/products>; and
 - (2) FEMP at http://www1.eere.energy.gov/femp/procurement/eep_requirements.html

52.223-16 ACQUISITION OF EPEAT[®]-REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015)

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

Computer means a device that performs logical operations and processes data. Computers are composed of, at a minimum:

- (1) A central processing unit (CPU) to perform operations;
- (2) User input devices such as a keyboard, mouse, digitizer, or game controller; and
- (3) A computer display screen to output information. Computers include both stationary and portable units, including desktop computers, integrated desktop computers, notebook computers, thin clients, and workstations. Although computers must be capable of using input devices and computer displays, as noted in (2) and (3) above, computer systems do not need to include these devices on shipment to meet this definition. This definition does not include server computers, gaming consoles, mobile telephones, portable hand-held calculators, portable digital assistants (PDAs), MP3 players, or any other mobile computing device with displays less than 4 inches, measured diagonally.

Computer display means a display screen and its associated electronics encased in a single housing or within the computer housing (*e.g.*, notebook or integrated desktop computer) that is capable of displaying output information from a computer via one or more inputs such as a VGA, DVI, USB, DisplayPort, and/or IEEE 1394–2008TM, Standard for High Performance Serial Bus. Examples of computer display technologies are the cathode-ray tube (CRT) and liquid crystal display (LCD).

Desktop computer means a computer where the main unit is intended to be located in a permanent location, often on a desk or on the floor. Desktops are not designed for portability and utilize an external computer display, keyboard, and mouse. Desktops are designed for a broad range of home and office applications.

Integrated desktop computer means a desktop system in which the computer and computer display function as a single unit that receives its AC power through a single cable. Integrated desktop computers come in one of two possible forms:

- (1) A system where the computer display and computer are physically combined into a single unit; or
- (2) A system packaged as a single system where the computer display is separate but is connected

to the main chassis by a DC power cord and both the computer and computer display are powered from a single power supply. As a subset of desktop computers, integrated desktop computers are typically designed to provide similar functionality as desktop systems.

Notebook computer means a computer designed specifically for portability and to be operated for extended periods of time either with or without a direct connection to an AC power source. Notebooks must utilize an integrated computer display and be capable of operation off of an integrated battery or other portable power source. In addition, most notebooks use an external power supply and have an integrated keyboard and pointing device. Notebook computers are typically designed to provide similar functionality to desktops, including operation of software similar in functionality to that used in desktops. Docking stations are considered accessories for notebook computers, not notebook computers. Tablet PCs, which may use touch-sensitive screens along with, or instead of, other input devices, are considered notebook computers.

Personal computer product means a computer, computer display, desktop computer, integrated desktop computer, or notebook computer.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only personal computer products that, at the time of submission of proposals and at the time of award, were EPEAT[®] bronze-registered or higher.

(c) For information about EPEAT[®], see www.epa.gov/PEAT.

52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)

(a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired#

- (1) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (2) Meeting contract performance requirements; or
- (3) At a reasonable price.

(b) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designated items is available at <http://www.epa.gov/cpg/products.htm>.

52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

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

“*Driving*” –

- (1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- (2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

“*Text messaging*” means reading from or entering data into any handheld or other electronic device,

including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving, dated October 1, 2009.

(c) The Contractor should –

(1) Adopt and enforce policies that ban text messaging while driving –

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as –

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

52.223-19 COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)

The Contractor's work under this contract shall conform with all operational controls identified in the applicable agency or facility Environmental Management Systems and provide monitoring and measurement information necessary for the Government to address environmental performance relative to the goals of the Environmental Management Systems.

52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless –

(1) The product cannot be acquired –

(i) Competitively within a time frame providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

- (i) Spacecraft system and launch support equipment.
 - (ii) Military equipment, *i.e.*, a product or system designed or procured for combat or combat-related missions.
- (b) Information about this requirement and these products is available at <http://www.biopreferred.gov>.
- (c) In the performance of this contract, the Contractor shall –
- (1) Report to the environmental point of contact identified in paragraph (d) of this clause, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30;
 - (2) Submit this report no later than –
 - (i) October 31 of each year during contract performance; and
 - (ii) At the end of contract performance.

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)

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

Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.

(b) Federal facilities are required to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050), and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

- (1) The emergency planning reporting requirements of Section 302 of EPCRA.
- (2) The emergency notice requirements of Section 304 of EPCRA.
- (3) The list of Material Safety Data Sheets, required by Section 311 of EPCRA.
- (4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA.
- (5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA.
- (6) The toxic chemical and hazardous substance release and use reduction goals of section 2(e) of Executive Order 13423 and of Executive Order 13514.

52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

52.224-2 PRIVACY ACT (APR 1984)

(a) The Contractor agrees to—

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

(i) The systems of records; and

(ii) The design, development, or operation work that the Contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c) (1) "*Operation of a system of records*," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "*Record*," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "*System of records on individuals*," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

**52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
(JUN 2008)**

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

52.225-5 TRADE AGREEMENTS (OCT 2016)

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

“Caribbean Basin country end product”—

(1) Means an article that —

(i) (A) Is wholly the growth, product, or manufacture of a Caribbean Basin country;

or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under 19 U.S.C. 2703(b).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (i.e., Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.usitc.gov/tata/hts/>. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”), Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

“Designated country end product” means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Free Trade Agreement country end product” means an article that —

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Least developed country end product” means an article that —

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but

for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-made end product” means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“WTO GPA country end product” means an article that —

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) Delivery of end products. The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”

52.227-14 RIGHTS IN DATA--GENERAL (MAY 2014)

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

“Computer database” or “database” means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

“Computer software” –

(1) Means

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

“Computer software documentation” means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

“Data” means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental

to contract administration, such as financial, administrative, cost or pricing, or management information.

“Form, fit, and function data” means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

“Limited rights” means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

“Limited rights data” means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

“Restricted computer software” means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

“Restricted rights” as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

“Technical data” means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See 41 U.S.C. 116).

“Unlimited rights” means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in--

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to--

(i) Assert copyright in data first produced in the performance of this contract to the extent

provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright--

(1) Data first produced in the performance of this contract.

(i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor--

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except--

- (1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);
- (2) As expressly set forth in this contract; or
- (3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g) (3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 4703, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have

been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor--

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may--

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall--

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) [Reserved]

(h) *Subcontracting*. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) *Relationship to patents or other rights*. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

52.229-1 STATE AND LOCAL TAXES (APR 1984) (DEVIATION I –MAY 2003)

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract price, and the ordering activity agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013) (DEVIATION – FEB 2007)

(a) As used in this clause —

“After-imposed Federal tax” means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

“After-relieved Federal tax” means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“All applicable Federal, State, and local taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

“Contract date” means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) (1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be —

- (i) Included in the contract price; nor
 - (ii) Reimbursed.
- (c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.
- (d) The contract price shall be decreased by the amount of any after-relieved Federal tax.
- (e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.
- (f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
- (g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.
- (h) The ordering activity shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

**52.232-33 PAYMENT BY ELECTRONIC FUNDS
TRANSFER—SYSTEM FOR AWARD MANAGEMENT (JUL 2013)**

- (a) Method of payment.
- (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
 - (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—
 - (i) Accept payment by check or some other mutually agreeable method of payment; or
 - (ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).
- (b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the System for Award Management (SAM) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the SAM database.
- (c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.
- (d) Suspension of payment. If the Contractor's EFT information in the SAM database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the SAM database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt

payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the SAM database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the SAM database.

**52.232-34 Payment by Electronic Funds Transfer—Other than
SYSTEM FOR AWARD MANAGEMENT (JUL 2013) (DEVIATION –**

FEB 2007)

(a) Method of payment.

(1) All payments by the ordering activity under this contract shall be made by electronic funds transfer (EFT) except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the ordering activity is unable to release one or more payments by EFT, the Contractor agrees to either—

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the ordering activity to extend payment due dates until such time as the ordering activity makes payment by EFT (but see paragraph (d) of this clause).

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required to provide the ordering activity with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by .. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) Mechanisms for EFT payment. The ordering activity may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) Suspension of payment.

(1) The ordering activity is not required to make any payment under this contract until after receipt, by the designated office, of the correct EFT payment information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the ordering activity shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) Liability for uncompleted or erroneous transfers.

(1) If an uncompleted or erroneous transfer occurs because the ordering activity used the

Contractor's EFT information incorrectly, the ordering activity remains responsible for—

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of ordering activity release of the EFT payment transaction instruction to the Federal Reserve System, and—

- (i) If the funds are no longer under the control of the payment office, the ordering activity is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the ordering activity shall not make payment and the provisions of paragraph (d) shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the ordering activity, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The ordering activity is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The ordering activity may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the ordering activity does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the ordering activity. If the ordering activity makes payment by check in accordance with paragraph (a) of this clause, the ordering activity shall mail the payment information to the remittance address in the contract.

(j) EFT information. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause).

The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the

Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, saving, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System; and, therefore, not the receiver of the wire transfer payment.

**52.232-36 PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION
– MAY 2003)**

(a) *General.*

(1) Except as provided in paragraph (a)(2) of this clause, the Contractor agrees to accept payments due under this contract, through payment by a third party in lieu of payment directly from the ordering activity, in accordance with the terms of this clause. The third party and, if applicable, the particular credit card to be used are identified elsewhere in this contract.

(2) The credit card is not authorized as a method of payment during any period of the System for Award Management (SAM) indicates that the Contractor has delinquent debt that is subject to collection under the Treasury Offset Program (TOP). Information on TOP is available at <http://fms.treas.gov/debt/index.html>. If the SAM subsequently indicates that the Contractor no longer has delinquent debt, the Contractor may request the Contracting Officer to authorize payment by credit card.

(b) *Contractor payment request.*

(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall make payment requests through a charge to the ordering activity account with the third party, at the time and for the amount due in accordance with those clauses of this contract that authorize the Contractor to submit invoices, contract financing requests, other payment requests, or as provided in other clauses providing for payment to the Contractor.

(2) When the Contracting Officer has notified the Contractor that the credit card is no longer an authorized method of payment, the Contractor shall make such payment requests in accordance with instructions provided by the Contracting Officer during the period when the purchase card is not authorized.

(c) *Payment.* The Contractor and the third party shall agree that payments due under this contract shall be made upon submittal of payment requests to the third party in accordance with the terms and conditions of an agreement between the Contractor, the Contractor's financial agent (if any), and the third party and its agents (if any). No payment shall be due the Contractor until such agreement is made. Payments made or due by the third party under this clause are not payments made by the ordering activity and are not subject to the Prompt Payment Act or any implementation thereof in this contract.

(d) *Documentation.* Documentation of each charge against the ordering activity's account shall be provided to the Contracting Officer upon request.

(e) *Assignment of claims.* Notwithstanding any other provision of this contract, if any payment is made under this clause, then no payment under this contract shall be assigned under the provisions of the

assignment of claims terms of this contract or the Assignment of Claims Act of 1940 (31 U.S.C. 3727, 41 U.S.C. 6305).

(f) *Other payment terms.* The other payment terms of this contract shall govern the content and submission of payment requests. If any clause requires information or documents in or with the payment request, that is not provided in the third party agreement referenced in paragraph (c) of this clause, the Contractor shall obtain instructions from the Contracting Officer before submitting such a payment request.

52.232-37 MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)

This contract or agreement provides for payments to the Contractor through several alternative methods. The applicability of specific methods of payment and the designation of the payment office(s) are either stated—

- (a) Elsewhere in this contract or agreement; or
- (b) In individual orders placed under this contract or agreement.

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

- (a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
- (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

52.233-1 DISPUTES (MAY 2014)

- (a) This contract is subject to 41 U.S.C chapter 71, Contract Disputes.
- (b) Except as provided in 41 U.S.C chapter 71, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) "Claim as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under 41 U.S.C chapter 71 until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under 41 U.S.C chapter 71. The submission may be converted to a claim under 41 U.S.C chapter 71, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

- (2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am authorized to certify the claim on behalf of the Contractor."
- (3) The certification may be executed by any person authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in 41 U.S.C chapter 71.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

52.233-3 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either—

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the

protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—

- (1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - (2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the request at any time before final payment under this contract.
- (c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.
- (e) The Government's rights to terminate this contract at anytime are not affected by action taken under this clause.
- (f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2), or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

52.237-3 CONTINUITY OF SERVICES (JAN 1991) (DEVIATION – MAY 2003)

- (a) The Contractor recognizes that the services under this contract are vital to the ordering activity and must be continued without interruption and that, upon contract expiration, a successor, either the ordering activity or another contractor, may continue them. The Contractor agrees to-
- (1) Furnish phase-in training; and
 - (2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

52.242-15 STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either —

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if —

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

52.242-5 PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)

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

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Untimely payment means a payment that is more than 90 days past due under the terms and conditions of a subcontract, for supplies and services for which the Government has paid the prime contractor.

(b) *Notice.* The Contractor shall notify the Contracting Officer, in writing, not later than 14 days after —

(1) A small business subcontractor was entitled to payment under the terms and conditions of the subcontract; and

(2) The Contractor —

(i) Made a reduced or untimely payment to the small business subcontractor; or

(ii) Failed to make a payment, which is now untimely.

(c) *Content of notice.* The Contractor shall include the reason(s) for making the reduced or untimely payment in any notice required under paragraph (b) of this clause.

52.246-4 INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996) (DEVIATION - MAY 2003)

- (a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the ordering activity covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the ordering activity during contract performance and for as long afterwards as the contract requires.
- (c) The ordering activity has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The ordering activity shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the ordering activity performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conform with contract requirements, the ordering activity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the ordering activity may—
- (1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
 - (2) Reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the ordering activity may--
- (1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the ordering activity that is directly related to the performance of such service; or
 - (2) Terminate the contract for default.

52.247-34 F.O.B. DESTINATION (NOV 1991) (DEVIATION – MAY 2003)

- (a) The term "f.o.b. destination," as used in this clause, means—
- (1) Free of expense to the ordering activity, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and
 - (2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The ordering activity shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the ordering activity acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the

Contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall—

- (1) (i) Pack and mark the shipment to comply with contract specifications; or
(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
- (2) Prepare and distribute commercial bills of lading;
- (3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
- (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
- (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
- (6) Pay and bear all charges to the specified point of delivery.

**52.247-38 F.o.b. Inland Carrier, Point of Exportation (FEB 2006)
(DEVIATION – FEB 2007)**

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

(b) The Contractor shall—

- (1) (i) Pack and mark the shipment to comply with contract specifications; or
(ii) In the absence of specifications, prepare the shipment for ocean transportation in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;
- (2) Prepare and distribute commercial bills of lading or other transportation receipt;
- (3) (i) Deliver the shipment in good order and condition in or on the conveyance of the carrier on the date or within the period specified; and
(ii) Pay and bear all applicable charges, including transportation costs, to the point of delivery specified in the contract;
- (4) Be responsible for any loss of and/or damage to the goods occurring before delivery of the shipment to the point of delivery in the contract; and
- (5) At the ordering activity’s request and expense, assist in obtaining the documents required for—
 - (i) Exportation; or
 - (ii) Importation at destination.

52.247-39 F.O.B. INLAND POINT, COUNTRY OF IMPORTATION

(APR 1984)

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

(b) The Contractor shall—

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

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

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

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

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

52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. The provisions of the clause at FAR 52.245-1, Government Property, apply to all property acquired under such authorization.

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):

For contract clauses which are contained in the Federal Acquisition Regulation (FAR) the address is <http://acquisition.gov/far/>.

Number	Title	Clause/Provision
52.202-1	DEFINITIONS (NOV 2013)	Clause
52.203-17	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)	Clause
52.203-3	GRATUITIES (APR 1984)	Clause
52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2016)	Clause
52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND	Clause

	CERTIFICATIONS (DEC 2014)	
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)	Clause
52.204-7	SYSTEM FOR AWARD MANAGEMENT (OCT 2016)	Clause
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)	Clause
52.207-5	OPTION TO PURCHASE EQUIPMENT (FEB 1995)	Clause
52.209-10	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (NOV 2015)	Clause
52.211-16	VARIATION IN QUANTITY (APR 1984)	Clause
52.215-21	REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA--MODIFICATIONS (OCT 2010) (ALTERNATE IV - OCT 2010)	Clause
52.216-19	ORDER LIMITATIONS (OCT 1995) (DEVIATED II - FEB 2007)	Clause
52.216-22	INDEFINITE QUANTITY (OCT 1995)	Clause
52.217-8	OPTION TO EXTEND SERVICES (NOV 1999)	Clause
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)	Clause
52.222-29	NOTIFICATION OF VISA DENIAL (APR 2015)	Clause
52.223-10	WASTE REDUCTION PROGRAM (MAY 2011)	Clause
52.223-17	AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)	Clause
52.223-19	COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)	Clause
52.223-2	AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEP 2013)	Clause
52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)	Clause
52.224-1	PRIVACY ACT NOTIFICATION (APR 1984)	Clause

52.224-2	PRIVACY ACT (APR 1984)	Clause
52.227-14	RIGHTS IN DATA--GENERAL (MAY 2014)	Clause
52.228-5	INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)	Clause
52.229-1	STATE AND LOCAL TAXES (APR 1984) (DEVIATION I - MAY 2003)	Clause
52.229-3	FEDERAL, STATE, AND LOCAL TAXES (FEB 2013) (DEVIATION I - FEB 2007)	Clause
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN SYSTEM FOR AWARD MANAGEMENT (JUL 2013) (DEVIATION I - FEB 2007)	Clause
52.232-36	PAYMENT BY THIRD PARTY (MAY 2014) (DEVIATION I - MAY 2003)	Clause
52.232-37	MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)	Clause
52.233-1	DISPUTES (MAY 2014)	Clause
52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)	Clause
52.237-3	CONTINUITY OF SERVICES (JAN 1991) (DEVIATION I - MAY 2003)	Clause
52.242-13	BANKRUPTCY (JUL 1995)	Clause
52.242-15	STOP-WORK ORDER (AUG 1989)	Clause
52.242-5	PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)	Clause
52.246-4	INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996) (DEVIATION I - MAY 2003)	Clause
52.247-34	F.O.B. DESTINATION (NOV 1991) (DEVIATION I - MAY 2003)	Clause
52.247-38	F.O.B. INLAND CARRIER, POINT OF EXPORTATION (FEB 2006) (DEVIATION I - FEB 2007)	Clause
52.247-39	F.O.B. INLAND POINT, COUNTRY OF IMPORTATION (APR 1984)	Clause
52.251-1	GOVERNMENT SUPPLY SOURCES (APR 2012)	Clause
552.211-73	MARKING (FEB 1996)	Clause
552.211-75	PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.211-77	PACKING LIST (FEB 1996) (ALTERNATE I - MAY 2003)	Clause
552.212-70	PREPARATION OF OFFER (MULTIPLE	Clause

	AWARD SCHEDULE) (AUG 1997)	
552.229-71	FEDERAL EXCISE TAX--DC	Clause
	GOVERNMENT (SEP 1999)	
552.232-81	PAYMENTS BY NON-FEDERAL	Clause
	ORDERING ACTIVITIES (MAY 2003)	
552.232-83	CONTRACTOR'S BILLING	Clause
	RESPONSIBILITIES (MAY 2003)	
552.238-73	CANCELLATION (SEP 1999)	Clause
552.238-77	DEFINITION (FEDERAL SUPPLY	Clause
	SCHEDULES) - NON-FEDERAL ENTITY	
	(JUL 2016)	
552.238-79	USE OF FEDERAL SUPPLY	Clause
	SCHEDULE CONTRACTS BY	
	NON-FEDERAL ENTITIES (JUL 2016)	
552.252-6	AUTHORIZED DEVIATIONS IN	Clause
	CLAUSES (SEP 1999) (DEVIATION FAR	
	52.252-6)	
C-FSS-412	CHARACTERISTICS OF ELECTRIC	Clause
	CURRENT (MAY 2000)	
D-FSS-471	MARKING AND DOCUMENTATION	Clause
	REQUIREMENTS PER SHIPMENT	
	(APR 1984)	
D-FSS-477	TRANSSHIPMENTS (APR 1984)	Clause
I-FSS-314	FOREIGN TAXES AND DUTIES (DEC	Clause
	1990)	
I-FSS-594	PARTS AND SERVICE (OCT 1988)	Clause

552.203-71 RESTRICTION ON ADVERTISING (SEP 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: "This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government."

552.211-73 MARKING (FEB 1996)

(a) *General requirements.* Interior packages, if any, and exterior shipping containers shall be marked as specified elsewhere in the contract. Additional marking requirements may be specified on delivery orders issued under the contract. If not otherwise specified, interior packages and exterior shipping containers shall be marked in accordance with the following standards.

(1) *Deliveries to civilian activities.* Supplies shall be marked in accordance with Federal Standard 123, edition in effect on the date of issuance of the solicitation.

(2) *Deliveries to military activities.* Supplies shall be marked in accordance with Military Standard 129, edition in effect on the date of issuance of the solicitation.

(b) *Improperly marked material.* When Government inspection and acceptance are at destination, and delivered supplies are not marked in accordance with contract requirements, the Government has the

right, without prior notice to the Contractor to perform the required marking, by contract or otherwise, and charge the Contractor, therefor at the rate specified elsewhere in this contract. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

552.211-75 PRESERVATION, PACKAGING, AND PACKING (FEB 1996) (ALTERNATE I - MAY 2003)

Unless otherwise specified, all items shall be preserved, packaged, and packed in accordance with normal commercial practices, as defined in the applicable commodity specification. Packaging and packing shall comply with the requirements of the Uniform Freight Classification and the National Motor Freight Classification (issue in effect at time of shipment) and each shipping container of each item in a shipment shall be of uniform size and content, except for residual quantities. Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering activity and the Contractor.

552.211-77 PACKING LIST (FEB 1996) (ALTERNATE I – MAY 2003)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate: (1) Name and address of consignor; (2) Name and complete address of consignee; (3) Ordering activity order or requisition number; (4) Government bill of lading number covering the shipment (if any); and (5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Ordering activity commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include: (1) Cardholder name and telephone number; and (2) the term "Credit Card."

552.211-78 COMMERCIAL DELIVERY SCHEDULE (MULTIPLE AWARD SCHEDULE) (FEB 1996)

(a) Time of Delivery. The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO) in the case of F.O.B. Destination prices; or to place of shipment in transit in the case of F.O.B. Origin prices, as set forth below. Offerors shall insert in the "Time of Delivery (days ARO)" column in the schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the Contractor's normal commercial practice. The Government requires the Contractor's normal commercial delivery time, as long as it is less than the "stated" delivery time(s) shown below. If the Offeror does not insert a delivery time in the schedule of items, the Offeror will be deemed to offer delivery in accordance with the Government's stated delivery time, as stated below:

ITEMS OR GROUP OF ITEMS (Special item No. or nomenclature)	GOVERNMENT STATED DELIVERY TIME (Days ARO)	CONTRACTOR'S NORMAL COMMERCIAL DELIVERY TIME
.	.	_____
.	.	_____
.	.	_____

(b) Expedited Delivery Times. For those items that can be delivered quicker than the delivery times in paragraph (a), above, the Offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested.

ITEM OR GROUP OF ITEMS (Special Item No. of nomenclature)	Expedited Delivery Time (Hours/Days ARO)
_____	_____
_____	_____
_____	_____

(c) Overnight and 2-Day Delivery Times. Ordering activities may require overnight or 2—day delivery. The Offeror is requested to annotate its price list or by separate attachment identify the items that can be delivered overnight or within 2 days. Contractors offering such delivery services will be required to state in the cover sheet to its FSS price list details concerning this service.

**552.212-4 CONTRACT TERMS AND CONDITIONS –
COMMERCIAL ITEMS (JAN 2017) (DEVIATION – FEB 2007)
(DEVIATION - FEB 2018)**

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The ordering activity 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 ordering activity may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The ordering activity 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 credit 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 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 ordering activity 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 an ordering activity 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 ordering activity waived the requirement to pay by EFT.

(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after ordering activity acceptance of supplies delivered or services-performed by the Contractor.

(h) *Patent indemnity.* The Contractor shall indemnify the ordering activity 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 ordering activity that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The ordering activity 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 ordering activity 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 ordering activity 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 ordering activity 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 ordering activity 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 an ordering activity check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

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

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

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

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

(2) Delivery of the supplies to the ordering activity 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 ordering activity's convenience.* The ordering activity 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 ordering activity 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 ordering activity 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 ordering activity 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 ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity 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 ordering activity upon acceptance, regardless of when or where the ordering activity 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 ordering activity 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. 2409 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, Unauthorized Obligations, and Commercial Supplier Agreements – Unenforceable Clauses paragraphs of this clause.
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any commercial supplier agreements as amended by the Commercial Supplier Agreements – Unenforceable Clauses provision.

- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments.
- (9) The specification.
- (t) System for Award Management (SAM).

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

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

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

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

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

(u) *Unauthorized Obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the ordering activity to pay any future fees, penalties, interest, legal costs or 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 language, provision, or clause is unenforceable against the ordering activity.

(ii) Neither the ordering activity nor any ordering activity authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier 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 ordering activity or any ordering activity authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification or any other payment by the ordering activity 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.

(w) *Commercial supplier agreements – unenforceable clauses.* When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the ordering activity, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between the commercial supplier and the ordering activity for the acquisition of the supply or service that necessitates a license (including all contracts, task orders, and delivery orders under FAR Part 12).

(ii) *End user.* This agreement shall bind the ordering activity as end user but shall not operate to bind an ordering activity employee or person acting on behalf of the ordering activity in his or her personal capacity.

(iii) *Law and disputes.* This agreement is governed by Federal law.

(A) Any language purporting to subject the ordering activity to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) *Continued performance.* The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the ordering activity except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d) (Disputes).

(v) *Arbitration; equitable or injunctive relief.* In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the ordering activity

only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) *Updating terms.*

(A) After award, the contractor may unilaterally revise commercial supplier agreement terms if they are not material. A material change is defined as:

- (1) Terms that change the ordering activity's rights or obligations;
- (2) Terms that increase ordering activity prices;
- (3) Terms that decrease overall level of service; or
- (4) Terms that limit any other ordering activity right addressed elsewhere in this contract.

(B) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the ordering activity, and the ordering activity shall not be deemed to have consented to them.

(vii) *No automatic renewals.* If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized ordering activity representative.

(viii) *Indemnification.* Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) *Audits.* Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying ordering activity contract or order.

(B) This charge, if disputed by the ordering activity, will be resolved in accordance with subparagraph (d) (Disputes); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the ordering activity.

(x) *Taxes or surcharges.* Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the ordering activity as end user will be governed by the terms of the underlying contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the ordering activity contract.

(xi) *Non-assignment.* This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the ordering activity's prior approval, except as expressly permitted under subparagraph (b) of this clause.

(xii) *Confidential information.* If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price list, as applicable, shall be deemed “confidential information.” Issues regarding release of “unit pricing” will be resolved consistent with the Freedom of Information Act.
Notwithstanding anything in this agreement to the contrary, the ordering activity may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

Note: Regulation 552.212-4

This clause applies to orders that are NOT time-and-materials/labor hours.

**552.212-4 CONTRACT TERMS AND CONDITIONS -
COMMERCIAL ITEMS (JAN 2017) (DEVIATION - FEB 2018)
(ALTERNATE I - JAN 2017) (DEVIATION - FEB 2007)**

(a) *Inspection/Acceptance.*

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

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

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

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the ordering activity may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the “hourly rate” for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the “hourly rate” attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. [*Insert portion of labor rate attributable to profit.*]

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

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

(B) Terminate this contract for cause.

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

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

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

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

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

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

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

(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 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.

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

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

(ii) Hourly rate means the rate(s) prescribed in the contract for payment for labor that

meets the labor category qualifications of a labor category specified in the contract that are —

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

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

(iii) *Materials* means —

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

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

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

(D) The following subcontracts for services which are specifically excluded from the hourly rate: Each order must list separately subcontracts for services excluded from the FSS Hourly Rates; and

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

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

(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 ordering activity 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 ordering activity 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 ordering activity waived the requirement to pay by EFT.

(2) The due date for making invoice payments by the designated payment office is the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after ordering activity acceptance of supplies delivered or services performed by the Contractor.

(h) *Patent indemnity.* The Contractor shall indemnify the ordering activity 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) *Payments.*

(1) Work performed. The ordering activity will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:

(i) Hourly rate.

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

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

(C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

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

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

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

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

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

(ii) Materials.

(A) If the Contractor furnishes materials that meet the definition of a commercial item at 2.101, the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the —

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

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

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

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

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

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

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

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

(1) Other Direct Costs. The ordering activity will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause: **Each order must list separately the elements of other direct costs for that order.**

(2) Indirect Costs (Material Handling, Subcontract Administration, etc.). The ordering activity will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: **Each order must list separately the fixed amount for the indirect costs and payment schedule; if no indirect costs are approved, insert "None."**

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

(3) *Ceiling price.* The ordering activity will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

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

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

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

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

(B) The Contractor's timekeeping procedures;

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

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

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

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

(B) Any documents supporting payment of those invoices.

(5) *Overpayments/Underpayments.* Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The ordering activity within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor's payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the ordering activity has otherwise overpaid on an invoice payment, the Contractor shall —

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

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

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

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

(D) Contractor point of contact.

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

(6) (i) All amounts that become payable by the Contractor to the ordering activity 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, and then at the rate applicable for each six month period as established by the Secretary until the amount is paid.

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

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

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

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

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

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 ordering activity upon:

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

(2) Delivery of the supplies to the ordering activity 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 ordering activity's convenience.* The ordering activity reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the ordering activity using its standard record keeping system that have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the ordering activity any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) *Termination for cause.* The ordering activity 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 ordering activity, upon request, with adequate assurances of future performance. In the event of termination for cause, the ordering activity shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the ordering activity for any and all rights and remedies provided by law. If it is determined that the ordering activity 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 ordering activity upon acceptance, regardless of when or where the ordering activity 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 ordering activity 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. 2409 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, Unauthorized Obligations, and Commercial Supplier Agreements - Unenforceable Clauses paragraphs of this clause.
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any commercial supplier agreements as amended by the Commercial Supplier Agreements - Unenforceable Clauses provision.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The Standard Form 1449.
- (8) Other documents, exhibits, and attachments.
- (9) The specification.

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

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

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

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

contract.

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

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

(u) *Unauthorized Obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any commercial supplier agreement (as defined in 502.101) that includes any language, provision, or clause requiring the ordering activity to pay any future fees, penalties, interest, legal costs or 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 language, provision, or clause is unenforceable against the ordering activity.

(ii) Neither the ordering activity nor any ordering activity authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the commercial supplier agreement. If the commercial supplier 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 ordering activity or any ordering activity authorized end user to such clause.

(iii) Any such language, provision, or clause is deemed to be stricken from the commercial supplier agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification or any other payment by the ordering activity 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.

(w) *Commercial supplier agreements—unenforceable clauses.* When any supply or service acquired under this contract is subject to a commercial supplier agreement (as defined in 502.101), the following language shall be deemed incorporated into the commercial supplier agreement. As used herein, "this agreement" means the commercial supplier agreement:

(1) Notwithstanding any other provision of this agreement, when the end user is an agency or instrumentality of the ordering activity, the following shall apply:

(i) *Applicability.* This agreement is a part of a contract between the commercial supplier and the ordering activity for the acquisition of the supply or service that necessitates a license or other similar legal instrument (*including all contracts, task orders, and delivery orders under FAR Part 12*).

(ii) *End user.* This agreement shall bind the ordering activity as end user but shall not operate to bind an ordering activity employee or person acting on behalf of the ordering activity in his or her personal capacity.

(iii) Law and disputes. This agreement is governed by Federal law.

(A) Any language purporting to subject the ordering activity to the laws of a U.S. state, U.S. territory, district, or municipality, or a foreign nation, except where Federal law expressly provides for the application of such laws, is hereby deleted.

(B) Any language requiring dispute resolution in a specific forum or venue that is different from that prescribed by applicable Federal law is hereby deleted.

(C) Any language prescribing a different time period for bringing an action than that prescribed by applicable Federal law in relation to a dispute is hereby deleted.

(iv) Continued performance. The supplier or licensor shall not unilaterally revoke, terminate or suspend any rights granted to the ordering activity except as allowed by this contract. If the supplier or licensor believes the ordering activity to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal statute while continuing performance as set forth in subparagraph (d) (Disputes).

(v) Arbitration; equitable or injunctive relief. In the event of a claim or dispute arising under or relating to this agreement, a binding arbitration shall not be used unless specifically authorized by agency guidance, and equitable or injunctive relief, including the award of attorney fees, costs or interest, may be awarded against the ordering activity only when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act).

(vi) Updating terms.

(A) After award, the contractor may unilaterally revise commercial supplier agreement terms if they are not material. A material change is defined as:

- (1) Terms that change ordering activity rights or obligations;
- (2) Terms that increase ordering activity prices;
- (3) Terms that decrease overall level of service; or
- (4) Terms that limit any other ordering activity right addressed elsewhere in this contract.

(B) For revisions that will materially change the terms of the contract, the revised commercial supplier agreement must be incorporated into the contract using a bilateral modification.

(C) Any agreement terms or conditions unilaterally revised subsequent to award that are inconsistent with any material term or provision of this contract shall not be enforceable against the ordering activity, and the ordering activity shall not be deemed to have consented to them.

(vii) No automatic renewals. If any license or service tied to periodic payment is provided under this agreement (e.g., annual software maintenance or annual lease term), such license or service shall not renew automatically upon expiration of its current term without prior express consent by an authorized ordering activity representative.

(viii) Indemnification. Any clause of this agreement requiring the commercial supplier or licensor to defend or indemnify the end user is hereby amended to provide that the U.S. Department of Justice has the sole right to represent the United States in any such action, in accordance with 28 U.S.C. 516.

(ix) Audits. Any clause of this agreement permitting the commercial supplier or licensor to audit the end user's compliance with this agreement is hereby amended as follows:

(A) Discrepancies found in an audit may result in a charge by the commercial supplier or licensor to the ordering activity. Any resulting invoice must comply with the proper invoicing requirements specified in the underlying ordering activity contract or order.

(B) This charge, if disputed by the ordering activity, will be resolved in accordance with subparagraph (d) (Disputes); no payment obligation shall arise on the part of the ordering activity until the conclusion of the dispute process.

(C) Any audit requested by the contractor will be performed at the contractor's expense, without reimbursement by the ordering activity.

(x) Taxes or surcharges. Any taxes or surcharges which the commercial supplier or licensor seeks to pass along to the ordering activity as end user will be governed by the terms of the underlying ordering activity contract or order and, in any event, must be submitted to the Contracting Officer for a determination of applicability prior to invoicing unless specifically agreed to otherwise in the ordering activity contract.

(xi) Non-assignment. This agreement may not be assigned, nor may any rights or obligations thereunder be delegated, without the ordering activity's prior approval, except as expressly permitted under subparagraph (b) of this clause.

(xii) Confidential information. If this agreement includes a confidentiality clause, such clause is hereby amended to state that neither the agreement nor the contract price list, as applicable, shall be deemed "confidential information." Issues regarding release of "unit pricing" will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the ordering activity may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

(2) If any language, provision, or clause of this agreement conflicts or is inconsistent with the preceding paragraph (w)(1), the language, provisions, or clause of paragraph (w)(1) shall prevail to the extent of such inconsistency.

Note: Regulation 552.212-4

This clause only applies to time-and-materials/labor hours orders.

552.212-70 PREPARATION OF OFFER (MULTIPLE AWARD SCHEDULE) (AUG 1997)

(a) Definitions. *Concession*, as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to freight allowance, extended warranty, extended price guarantees, free installation and bonus goods.

Discount, as used in this solicitation, means a reduction to catalog prices (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions other than concessions) which reduce the amount of money a customer ultimately pays for goods or services ordered or received. Any net price lower than the list price is considered a "discount" by the percentage difference from the list price to the net price.

(b) For each Special Item Number (SIN) included in an offer, the Offeror shall provide the information outlined in paragraph (c). Offerors may provide a single response covering more than one SIN, if the

information disclosed is the same for all products under each SIN. If discounts and concessions vary by model or product line, offerors shall ensure that information is clearly annotated as to item or items referenced.

(c) Provide information described below for each SIN:

(1) Two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price list(s) from which discounts are offered. If special catalogs or price lists are printed for the purpose of this offer, such descriptive catalogs or price lists shall include a statement indicating the special catalog or price list represent a verbatim extract from the Offeror's commercial catalog and/or price list and identify the descriptive catalog and/or price list from which the information has been extracted.

(2) Next to each offered item in the commercial catalog and/or price list, the Offeror shall write the special item number (SIN) under which the item is being offered. Unless a special catalog or price list is submitted, all other items shall be marked "excluded," lined out, and initialed by the offeror.

(3) The discount(s) offered under this solicitation. The description of discounts offered shall include all discounts, such as prompt payment discounts, quantity/dollar volume discounts (indicate whether models/products can be combined within the SIN or whether SINs can be combined to earn discounts), blanket purchase agreement discounts, or purchase option credits. If the terms of sale appearing in the commercial catalogs or price list on which an offer is based are in conflict with the terms of this solicitation, the latter shall govern.

(4) A description of concessions offered under this solicitation which are not granted to other customers. Such concessions may include, but are not limited to, an extended warranty, a return/exchange goods policy, or enhanced or additional services.

(5) If the Offeror is a dealer/reseller or the Offeror will use dealers to perform any aspect of contract awarded under this solicitation, describe the functions, if any, that the dealer/reseller will perform.

Note: Regulation 552.212-70

This clause DOES NOT apply to offerors elect to participate in the TDR Pilot.

552.212-71 CONTRACT TERMS AND CONDITIONS APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS (JUN 2016)

(a) The Contractor agrees to comply with any clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The clauses in paragraph (b) of this section are incorporated by reference:

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

(b) Clauses.

Yes 552.203-71 Restriction on Advertising

No 552.211-73 Marking

Yes 552.215-70 Examination of Records by GSA

Yes 552.215-71 Examination of Records by GSA (Multiple Award Schedule)

Yes 552.215-72 Price Adjustment —Failure to Provide Accurate Information

Yes 552.219-70 Allocation of Orders—Partially Set-Aside Items

Yes 552.228-70 Workers' Compensation Laws

Yes 552.229-70 Federal, State, and Local Taxes

Yes 552.232-8 Discounts for Prompt Payment

Yes 552.232-23 Assignment of Claims

Yes 552.232-71 Adjusting Payments

Yes 552.232-72 Final Payment

Yes 552.232-73 Availability of Funds

Yes 552.232-78 Payment Information

Yes 552.237-71 Qualifications of Employees

Yes 552.238-71 Submission and Distribution of Authorized FSS Schedule Price List

Yes 552.238-74 Industrial Funding Fee and Sales Reporting

Yes 552.238-75 Price Reductions

Yes 552.238-81 Modifications (Multiple Award Schedule)

Yes 552.242-70 Status Report of Orders and Shipments

Yes 552.246-73 Warranty—Multiple Award Schedule

No 552.246-76 Warranty of Pesticides

**552.212-72 CONTRACT TERMS AND CONDITIONS REQUIRED
TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS
APPLICABLE TO GSA ACQUISITION OF COMMERCIAL ITEMS
(JUN 2015)**

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

(a) Provisions.

* _____ * 552.223-72 Hazardous Material Information

(b) Clauses.

* _____ * 552.223-70 Hazardous Substances.

* _____ * 552.223-71 Nonconforming Hazardous Material.

* _____ * 552.223-73 Preservation, Packaging, Packing, Marking and Labeling of Hazardous Materials (HAZMAT) for Shipments.

* _____ * 552.238-70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

* _____ * 552.238-72 Identification of Products That Have Environmental Attributes.

552.215-71 EXAMINATION OF RECORDS BY GSA (MULTIPLE AWARD SCHEDULE) (JUL 2003)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall have access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee and Sales Reporting clause of this contract. This authority shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of applying this clause.

552.215-72 PRICE ADJUSTMENT—FAILURE TO PROVIDE ACCURATE INFORMATION (AUG 1997)

(a) The Government, at its election, may reduce the price of this contract or contract modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

- (1) provide information required by this solicitation/contract or otherwise requested by the Government; or
- (2) submit information that was current, accurate, and complete; or
- (3) disclose changes in the Contractor's commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

- (1) The amount of the overpayment; and
- (2) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective each quarter prescribed by the Secretary of Treasury under 26 U.S.C. 6621(a)(2).

(d) Failure to agree on the amount of the decrease shall be resolved as a dispute.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and

are in addition to any other rights and remedies provided by law or under this contract.

Note: Regulation 552.215-72

This clause DOES NOT apply to offerors electing to participate in the TDR Pilot.

552.215-73 NOTICE (JUL 2016)

(a) The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090-0163.

(b) GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Requests for pre-award debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for post-award debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.

552.216-70 ECONOMIC PRICE ADJUSTMENT-FSS MULTIPLEAWARD SCHEDULE CONTRACTS (SEP 1999) (ALTERNATE I - SEP 1999) (DEVIATION - APR 2007)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.

(b) Contractors may request price increases providing all of the following conditions are met:

(1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/pricelist that was used as the basis for the contract award.

(2) Increases are requested before the last 60 days of the contract period.

(3) At least 30 days elapse between requested increases.

(c) The following material shall be submitted with the request for a price increase:

(1) A copy of the commercial catalog/pricelist showing the price increase and the effective date for commercial customers.

(2) Commercial Sales Practice format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/pricelist, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Documentation supporting the reasonableness of the price increase.

(d) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;

(2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,

(3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.

(e) The contract modification reflecting the price adjustment shall be made effective upon signature of the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

Note: Regulation 552.216-70

This clause DOES NOT apply to offerors elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause 552.216-70 ECONOMIC PRICE ADJUSTMENT - FSS MULTIPLE AWARD SCHEDULE CONTRACTS (DEVIATION IV - JUL 2016) applies.

552.216-70 ECONOMIC PRICE ADJUSTMENT–FSS MULTIPLE AWARD SCHEDULE CONTRACTS (DEVIATION IV – JUL 2016)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors may submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.

(b) Contractors may request price increases providing all of the following conditions are met:

(1) Increases are requested before the last 60 days of the contract period.

(2) At least 30 days elapse between requested increases.

(c) Documentation supporting the reasonableness of the price increase shall be submitted with the request for a price increase.

(d) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of paragraphs (b) and (c) of this clause are satisfied;

(2) Negotiate smaller increases when the total increase requested is not supported; or,

(3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.

(e) The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification

Note: Regulation 552.216-70

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause ECONOMIC PRICE ADJUSTMENT - FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999)

(ALTERNATE I - SEP 1999) (DEVIATION - APR 2007) applies.

552.223-73 PRESERVATION, PACKAGING, PACKING, MARKING AND LABELING OF HAZARDOUS MATERIALS (HAZMAT) FOR SHIPMENTS (JUN 2015)

(a) *Definition. United States*, as used in this clause, means the 48 adjoining U.S. States, Alaska, Hawaii, and U.S. territories and possessions, such as Puerto Rico.

(b) Preservation, packaging, packing, marking and labeling of hazardous materials for export shipment outside the United States in all transport modes shall comply with the following, as applicable:

- (1) International Maritime Dangerous Goods (IMDG) Code as established by the International Maritime Organization (IMO).
- (2) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180. (Note: Classifications permitted by the HMR, but not permitted by the IMDG code, such as Consumer Commodities classed as ORM-D, shall be packaged in accordance with the IMDG Code and dual-marked with both Consumer Commodity and IMDG marking and labeling.)
- (3) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.
- (4) International Air Transport Association (IATA), Dangerous Goods Regulation and/or International Civil Aviation Organization (ICAO), Technical Instructions.
- (5) AFMAN 24-204, Air Force Inter- Service Manual, Preparing Hazardous Materials For Military Air Shipments.
- (6) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(c) Preservation, packaging, packing, marking and labeling of hazardous materials for domestic shipments within the United States in all transport modes shall comply with the following; as applicable:

- (1) U.S. Department of Transportation (DOT) Hazardous Material Regulation (HMR) 49 CFR parts 171 through 180.
- (2) Occupational Safety and Health Administration (OSHA) Regulation 29 CFR part 1910.1200.
- (3) Any preservation, packaging, packing, marking and labeling requirements contained elsewhere in this solicitation and contract.

(d) Hazardous Material Packages designated for outside the United States destinations through Forwarding Points, Distribution Centers, or Container Consolidation Points (CCPs) shall comply with the IMDG, IATA, ICAO or AFMAN 24-204 codes, as applicable.

(e) The test certification data showing compliance with performance-oriented packaging or UN-approved packaging requirements shall be made available to GSA contract administration/management representatives or regulatory inspectors upon request.

552.229-70 FEDERAL, STATE, AND LOCAL TAXES (APR 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover

taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

**552.229-71 FEDERAL EXCISE TAX—DC GOVERNMENT
(SEP 1999)**

If the District of Columbia cites an Internal Revenue Tax Exempt Certificate Number on orders placed under this contract, the Contractor shall bill shipments to the District of Columbia at prices exclusive of Federal excise tax and show the amount of such tax on the invoice.

552.232-23 ASSIGNMENT OF CLAIMS (SEP 1999)

Because this is a requirements or indefinite quantity contract under which more than one agency may place orders, paragraph (a) of the Assignment of Claims clause (FAR 52.232-23) is inapplicable and the following is substituted therefor:

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as "the Act"), all amounts due or to become due under any order amounting to \$1,000 or more issued by any Government agency under this contract. Any such assignment takes effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the finance office designated in the order to make payment. Unless otherwise stated in the order, payments to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

**552.232-8 DISCOUNTS FOR PROMPT PAYMENT (APR 1989)
(DEVIATION FAR 52.232-8) (ALTERNATE I — MAY 2003)**

- (a) Discounts for early payment (hereinafter referred to as "discounts" or "the discount") will be considered in evaluating the relationship of the offeror's concessions to the Government vis-a-vis the offeror's concessions to its commercial customers, but only to the extent indicated in this clause.
- (b) Discounts will not be considered to determine the low offeror in the situation described in the "Offers on Identical Products" provision of this solicitation.
- (c) Uneconomical discounts will not be considered as meeting the criteria for award established by the Government. In this connection, a discount will be considered uneconomical if the annualized rate of return for earning the discount is lower than the "value of funds" rate established by the Department of the Treasury and published quarterly in the Federal Register. The "value of funds" rate applied will be the rate in effect on the date specified for the receipt of offers.
- (d) Discounts for early payment may be offered either in the original offer or on individual invoices submitted under the resulting contract. Discounts offered will be taken by the Government if payment is made within the discount period specified.
- (e) Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.
- (f) In connection with any discount offered for prompt 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 date on which an electronic funds

transfer was made.

**552.232-81 PAYMENTS BY NON-FEDERAL ORDERING
ACTIVITIES (MAY 2003)**

If eligible non-federal ordering activities are subject to a State prompt payment law, the terms and conditions of the applicable State law apply to the orders placed under this contract by such activities. If eligible non-federal ordering activities are not subject to a State prompt payment law, the terms and conditions of the Federal Prompt Payment Act as reflected in Federal Acquisition Regulation clause 52.232-25, Prompt Payment, or 52.212-4, Contract Terms and Conditions—Commercial Items, apply to such activities in the same manner as to Federal ordering activities.

**552.232-83 CONTRACTOR'S BILLING RESPONSIBILITIES (MAY
2003)**

The Contractor is required to perform all billings made pursuant to this contract. However, if the Contractor has dealers that participate on the contract and the billing/payment process by the Contractor for sales made by the dealer is a significant administrative burden, the following alternative procedures may be used. Where dealers are allowed by the Contractor to bill ordering activities and accept payment in the Contractor's name, the Contractor agrees to obtain from all dealers participating in the performance of the contract a written agreement, which will require dealers to—

- (1) Comply with the same terms and conditions regarding prices as the Contractor for sales made under the contract;
- (2) Maintain a system of reporting sales under the contract to the manufacturer, which includes—
 - (i) The date of sale;
 - (ii) The ordering activity to which the sale was made;
 - (iii) The service or product/model sold;
 - (iv) The quantity of each service or product/model sold;
 - (v) The price at which it was sold, including discounts; and
 - (vi) All other significant sales data.
- (3) Be subject to audit by the Government, with respect to sales made under the contract; and
- (4) Place orders and accept payments in the name of the Contractor in care of the dealer.

An agreement between a Contractor and its dealers pursuant to this procedure will not establish privity of contract between dealers and the Government.

**552.238-70 IDENTIFICATION OF ELECTRONIC OFFICE
EQUIPMENT PROVIDING ACCESSIBILITY FOR THE
HANDICAPPED (SEP 1991)**

(a) Definitions. "Electronic office equipment accessibility" means the application/configuration of electronic office equipment (includes hardware, software, and firmware) in a manner that accommodates the functional limitations of individuals with disabilities (i.e., handicapped individuals) so as to promote productivity and provide access to work related and/or public information resources.

"Handicapped individuals" mean qualified individuals with impairments as cited in 29 CFR 1613.702(f)

who can benefit from electronic office equipment accessibility.

"Special peripheral" means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.

(b) The offeror is encouraged to identify in its offer, and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for handicapped individuals. Identification should include the type of disability accommodated and how the users with that disability would be helped.

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552.238-71 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICE LISTS (SEP 1999) (DEVIATION - JUN 2016)

(a) At the time of offer submission, an electronic version of proposed prices, including terms and conditions, will be submitted utilizing the templates in eOffer. If necessary, eOffer will facilitate the revision of proposed pricing or price-related terms and conditions during the evaluation process. Upon award of a contract, eOffer will use the submitted pricing information to create the Contractor's Authorized Federal Supply Schedule Price List and post it to GSA Advantage!.

(b) During the period of the contract, the Contractor shall provide its Authorized Federal Supply Schedule Price List to eligible ordering activities upon request.

Note: Regulation 552.238-71

The requirements regarding FSS Schedule price lists provided in Clause 552.238-71 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FSS SCHEDULE PRICE LISTS (SEP 1999) (DEVIATION - JUN 2016) are applicable to contracts under Formatted Product Tool (FPT) Schedules/SINs only. The following requirements are applicable to contracts under non-FPT Schedules/SINs:

(a) The Contracting Officer will return one copy of the Authorized FSS Schedule Pricelist to the Contractor with the notification of contract award.

(b) The Contractor shall provide to the GSA Contracting Officer the completed Authorized FSS Schedule Pricelist on a common-use electronic medium.

(c) The Contracting Officer will provide detailed instructions for the electronic submission with the award notification. Some structured data entry in a prescribed format may be required.

(d) During the period of the contract, the Contractor shall provide one copy of its Authorized FSS Schedule Pricelist to any authorized Schedule user, upon request.

552.238-72 IDENTIFICATION OF PRODUCTS THAT HAVE ENVIRONMENTAL ATTRIBUTES (SEP 2003)

(a) Several laws, Executive orders and Agency directives require Federal buyers to purchase products that are less harmful to the environment, when they are life cycle cost-effective (see FAR Subpart 23.7). The U.S. General Services Administration (GSA) requires contractors to highlight environmental products under Federal Supply Service schedule contracts in various communications media (e.g., publications and electronic formats).

(b) Definitions. As used in this clause —

Energy-efficient product means a product that—

- (1) Meets Department of Energy and Environmental Protection Agency criteria for use of the ENERGY STAR [reg] trademark label; or
- (2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

GSA Advantage![®] is an on-line shopping mall and ordering system that provides customers with access to products and services under GSA contracts.

Other environmental attributes refers to product characteristics that provide environmental benefits, excluding recovered materials and energy and water efficiency. Several examples of these characteristics are biodegradable, recyclable, reduced pollutants, ozone safe, and low volatile organic compounds (VOCs).

Post-consumer material means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Post-consumer material is part of the broader category of "recovered material." The Environmental Protection Agency (EPA) has developed a list of EPA-designated products in their Comprehensive Procurement Guidelines (CPGs) to provide Federal agencies with purchasing recommendations on specific products in a Recovered Materials Advisory Notice (RMAN). The RMAN contains recommended recovered and post-consumer material content levels for the specific products designated by EPA (40 CFR part 247 and <http://www.epa.gov/cpg/>).

Recovered materials means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (Executive Order 13101 and 42 U.S.C. 6903 (19) and <http://www.epa.gov/cpg/>). For paper and paper products, see the definition at FAR 11.301 (42 U.S.C. 6962 (h)).

Remanufactured means factory rebuilt to original specifications.

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

- (1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or
 - (2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.
- (c) (1) The offeror must identify products that—
- (i) Are compliant with the recovered and post-consumer material content levels recommended in the Recovered Materials Advisory Notices (RMANs) for EPA-designated products in the CPG program (<http://www.epa.gov/cpg/>);
 - (ii) Contain recovered materials that either do not meet the recommended levels in the RMANs or are not EPA-designated products in the CPG program (see FAR 23.401 and <http://www.epa.gov/cpg/>);
 - (iii) Are energy-efficient, as defined by either ENERGY STAR [reg] and/or FEMP's designated top 25th percentile levels (see ENERGY STAR [reg] at <http://www.energystar.gov/> and FEMP at <http://www.eere.energy.gov/>);

- (iv) Are water-efficient;
- (v) Use renewable energy technology;
- (vi) Are remanufactured; and
- (vii) Have other environmental attributes.

(2) These identifications must be made in each of the offeror's following mediums:

- (i) The offer itself.
- (ii) Printed commercial catalogs, brochures, and pricelists.
- (iii) Online product website.
- (iv) Electronic data submission for GSA *Advantage!*[®] submitted via GSA's Schedules Input Program (SIP) software or the Electronic Data Inter-change (EDI). Offerors can use the SIP or EDI methods to indicate environmental and other attributes for each product that is translated into respective icons in GSA *Advantage!*[®].

(d) An offeror, in identifying an item with an environmental attribute, must possess evidence or rely on a reasonable basis to substantiate the claim (see 16 CFR part 260, Guides for the Use of Environmental Marketing Claims). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

- (1) Participation in a Federal agency-sponsored program (e.g., the EPA and DOE ENERGY STAR [reg] product labeling program);
- (2) Verification by an independent organization that specializes in certifying such claims; or
- (3) Possession of competent and reliable evidence. For any test, analysis, research, study, or other evidence to be "competent and reliable," it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

552.238-73 CANCELLATION (SEP 1999)

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 calendar days after the other party receives the notice of cancellation. If the Contractor elects to cancel this contract, the Government will not reimburse the minimum guarantee.

552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014)

(a) Reporting of Federal Supply Schedule Sales. The Contractor shall report all contract sales under this contract as follows:

- (1) The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1-March 31, April 1-June 30, July 1-September 30, and October 1-December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The acceptable points at which sales may be reported include —

- (i) Receipt of order;
- (ii) Shipment or delivery, as applicable;
- (iii) Issuance of an invoice; or
- (iv) Payment.

(2) Contract sales shall be reported to Federal Acquisition Services (FAS) within 30 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including "zero" sales, through physical completion of the last outstanding task order or delivery order of the contract.

(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4) The Contractor shall electronically report the quarterly dollar value of sales, including "zero" sales, by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA)'s Federal Acquisition Service (FAS). Prior to using this automated system, the Contractor shall complete contract registration with the FAS Vendor Support Center (VSC). The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5) The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the "Treasury Reporting Rates of Exchange" issued by the U.S. Department of Treasury, Financial Management Service. The Contractor shall use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from Financial Management Service, International Funds Branch, Telephone: (202) 874-7994, Internet: http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch_home.htm

(b) The Contractor shall remit the IFF at the rate set by GSA's FAS.

(1) The Contractor shall remit the IFF to FAS in U.S. dollars within 30 calendar days after the end of the reporting quarter; final payment shall be remitted within 30 days after physical completion of the last outstanding task order or delivery order of the contract.

(2) The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of GSA's FAS. GSA's FAS has the unilateral right to change the percentage at any time, but not more than once per year. FAS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FAS for the costs of operating the Federal Supply Schedules Program. FAS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FAS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FAS will post notice of the current IFF at <https://72a.gsa.gov/> or successor website as appropriate.

(c) Within 60 days of award, an FAS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FAS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(d) Failure to remit the full amount of the IFF within 30 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 52.232-17, Interest). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, this is sufficient cause for the Government to terminate the contract for cause.

Note: Regulation 552.238-74

This clause DOES NOT apply to offerors that elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause 552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014) (ALTERNATE I - JUN 2016) applies.

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**552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING
(MAY 2014) (ALTERNATE I – JUN 2016)**

(a) Definition. *Transactional data* encompasses the historical details of the products or services delivered by the Contractor during the performance of task or delivery orders issued against this contract.

(b) Reporting of Transactional Data. The Contractor must report all transactional data under this contract as follows:

(1) The Contractor must electronically report transactional data by utilizing the automated reporting system at an Internet website designated by the General Services Administration (GSA) or by uploading the data according to GSA instructions. GSA will post registration instructions and reporting procedures on the Vendor Support Center website, <https://vsc.gsa.gov>. The reporting system website address, as well as registration instructions and reporting procedures, will be provided at the time of award or inclusion of this clause in the contract.

(2) The Contractor must provide, at no additional cost to the Government, the following transactional data elements, as applicable:

- (i) Contract or Blanket Purchase Agreement (BPA) Number.
- (ii) Delivery/Task Order Number/Procurement Instrument Identifier (PIID).
- (iii) Non-Federal Entity.
- (iv) Description of Deliverable.
- (v) Manufacturer Name.
- (vi) Manufacturer Part Number.
- (vii) Unit Measure (each, hour, case, lot).
- (viii) Quantity of Item Sold.
- (ix) Universal Product Code.
- (x) Price Paid per Unit.
- (xi) Total Price.

Note to paragraph (b)(2): The Contracting Officer may add data elements to the standard elements listed in paragraph (b)(2) of this section with the approvals listed in GSAM 507.105(c)(3).

(3) The contractor must report transactional data within 30 calendar days from the last calendar day of the month. If there was no contract activity during the month, the Contractor must submit a confirmation of no reportable transactional data within 30 calendar days of the last calendar day of the month.

(4) The Contractor must report the price paid per unit, total price, or any other data elements with an associated monetary value listed in (b)(2) of this section, in U.S. dollars.

(5) The reported price paid per unit and total price must include the Industrial Funding Fee (IFF).

(6) The Contractor must maintain a consistent accounting method of transactional data reporting, based on the Contractor's established commercial accounting practice.

(7) Reporting Points.

(i) The acceptable points at which transactional data may be reported include —

(A) Issuance of an invoice; or

(B) Receipt of payment.

(ii) The Contractor must determine whether to report transactional data on the basis of invoices issued or payments received.

(8) The Contractor must continue to furnish reports, including confirmation of no transactional data, through physical completion of the last outstanding task or delivery order of the contract.

(9) Unless otherwise expressly stated by the ordering activity, orders that contain classified information or other information that would compromise national security are exempt from this reporting requirement.

(10) This clause does not exempt the Contractor from fulfilling existing reporting requirements contained elsewhere in the contract.

(11) GSA reserves the unilateral right to change reporting instructions following 60 calendar days' advance notification to the Contractor.

(c) Industrial Funding Fee (IFF).

(1) This contract includes an IFF charged on orders placed against this contract. The IFF is paid by the authorized ordering activity but remitted to GSA by the Contractor. The IFF reimburses GSA for the costs of operating the Federal Supply Schedule program, as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized GSA programs, in accordance with 40 U.S.C. 321.

(2) GSA has the unilateral right to change the fee amount at any time, but not more than once per year; GSA will provide reasonable notice prior to the effective date of any change. GSA will post notice of the current IFF on the Vendor Support Center website at <https://vsc.gsa.gov>.

(3) Offerors must include the IFF in their prices. The fee is included in the awarded price(s) and reflected in the total amount charged to ordering activities. The fee will not be included in the price of non-contract items purchased pursuant to a separate contracting authority, such as a Governmentwide Acquisition Contract (GWAC); a separately awarded Federal Acquisition Regulation (FAR) Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract.

(4) The Contractor must remit the IFF to GSA in U.S. dollars within 30 calendar days after the last calendar day of the reporting quarter; final payment must be remitted within 30 calendar days

after physical completion of the last outstanding task order or delivery order issued against the contract.

(5) GSA reserves the unilateral right to change remittance instructions following 60 calendar days' advance notification to the Contractor.

(d) The Contractor's failure to remit the full amount of the IFF within 30 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 offsetting payments and interest on the debt (see FAR clause 52.232-17, Interest). If the Contractor fails to submit the required transactional data reports, falsifies them, or fails to timely pay the IFF, these reasons constitute sufficient cause for the Government to terminate the contract for cause.

Note: Regulation 552.238-74

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause 552.238-74 INDUSTRIAL FUNDING FEE AND SALES REPORTING (MAY 2014) applies.

552.238-75 PRICE REDUCTIONS (JUL 2016)

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained throughout the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c) (1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor —

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales —

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies;

(3) Made to Eligible Ordering Activities identified in GSAR Clause 552.238-78 when the order is placed under this contract (and the Eligible Ordering Activities identified in GSAR Clause 552.238-78 is the agreed upon customer or category of customer that is the basis of award); or

(4) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contract will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

Note: Regulation 552.238-75

This clause DOES NOT apply to offerors that elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause 552.238-75 PRICE REDUCTIONS (JUL 2016) (ALTERNATE I - JUL 2016) applies.

Note: In accordance with GSAR clause 552.238-78 Scope of Contract (Eligible Ordering Activities)(Alternate I)(a)(2) and GSAR clause 552.238-75 Price Reductions(d)(2), there shall be no price reduction for sales made under the authority of the Federal Acquisition Regulation (FAR) Part 51 class deviation. With written authorization by a Federal Government contracting officer, a GSA contractor may place an order as an eligible ordering activity with a Schedule contractor. In this case, the Schedule contract sale shall not trigger a price reduction.

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552.238-75 PRICE REDUCTIONS (JUL 2016) (ALTERNATE I – JUL 2016)

(a) The Government may request from the Contractor, and the Contractor may provide to the Government, a temporary or permanent price reduction at any time during the contract period.

(b) The Contractor may offer the Contracting Officer a voluntary price reduction at any time during the contract period.

Note: Regulation 552.238-75

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause 552.238-75 PRICE REDUCTIONS (JUL 2016) applies.

**552.238-77 DEFINITION (FEDERAL SUPPLY SCHEDULES)
–NON-FEDERAL ENTITY (JUL 2016)**

Ordering activity (also called “ordering agency” and “ordering office”) means an eligible ordering activity (see 552.238-78), authorized to place orders under Federal Supply Schedule contracts.

**552.238-78 SCOPE OF CONTRACT (ELIGIBLE ORDERING
ACTIVITIES) (JUL 2016)**

(a) This solicitation is issued to establish contracts which may be used on a nonmandatory basis by the agencies and activities named below, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. For Special Item Number 132-53, Wireless Services ONLY, limited geographic coverage (consistent with the Offeror’s commercial practice) may be proposed.

- (1) Executive agencies (as defined in FAR Subpart 2.1) including nonappropriated fund activities as prescribed in 41 CFR 101-26.000);
- (2) Government contractors authorized in writing by a Federal agency pursuant to FAR 51.1;
- (3) Mixed ownership Government corporations (as defined in the Government Corporation Control Act);
- (4) Federal Agencies, including establishments in the legislative or judicial branch of government (except the Senate, the House of Representatives and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol);
- (5) The Government of the District of Columbia;
- (6) Tribal governments when authorized under 25 U.S.C. 450j(k);
- (7) Tribes or tribally designated housing entities pursuant to 25 U.S.C. 4111(j);
- (8) Qualified Nonprofit Agencies as authorized under 40 U.S.C. 502(b); and
- (9) Organizations, other than those identified in paragraph (d) below, authorized by GSA pursuant to statute or regulation to use GSA as a source of supply.

(b) Definitions —

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. territories.

(c) Offerors are requested to check one of the following boxes:

- Contractor will provide domestic and overseas delivery.
- Contractor will provide overseas delivery only.
- Contractor will provide domestic delivery only.

(d) The following activities may place orders against Schedule contracts:

(1) State and local government may place orders against Schedule 70 contracts, and Consolidated Schedule contracts containing information technology Special Item Numbers, and Schedule 84 contracts, on an optional basis; PROVIDED, the Contractor accepts order(s) from such activities;

(2) The American National Red Cross may place orders against Federal Supply Schedules for products and services in furtherance of the purposes set forth in its Federal charter (36 U.S.C. § 300102); PROVIDED, the Contractor accepts order(s) from the American National Red Cross; and

(3) Other qualified organizations, as defined in section 309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5152), may place orders against Federal Supply Schedules for products and services determined to be appropriate to facilitate emergency preparedness and disaster relief and set forth in guidance by the Administrator of General Services, in consultation with the Administrator of the Federal Emergency Management Agency; PROVIDED, the Contractor accepts order(s) from such activities.

(4) State and local governments may place orders against Federal Supply Schedules for good or services determined by the Secretary of Homeland Security to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.) to facilitate disaster preparedness or response, or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack; PROVIDED, the Contractor accepts order(s) from such activities.

(e) Articles or services may be ordered from time to time in such quantities as may be needed to fill any requirement, subject to the Order Limitations thresholds which will be specified in resultant contracts. Overseas activities may place orders directly with schedule contractors for delivery to CONUS port or consolidation point.

(f) (1) The Contractor is obligated to accept orders received from activities within the Executive Branch

of the Federal Government.

(2) The Contractor is not obligated to accept orders received from activities outside the Executive Branch; however, the Contractor is encouraged to accept such orders. If the Contractor elects to accept such orders, all provisions of the contract shall apply, including clause 552.232-79, Payments by Credit Card. If the Contractor is unwilling to accept such orders, and the proposed method of payment is not through the Credit Card, the Contractor shall return the order by mail or other means of delivery within 5 workdays from receipt. If the Contractor is unwilling to accept such orders, and the proposed method of payment is through the Credit Card, the Contractor must so advise the ordering activity within 24 hours of receipt of order. (Reference clause 552.232-79, Payment by Credit Card.) Failure to return an order or advise the ordering activity within the time frames of this paragraph shall constitute acceptance whereupon all provisions of the contract shall apply.

(g) The Government is obligated to purchase under each resultant contract a guaranteed minimum of \$2,500 (two thousand, five hundred dollars) during the contract term.

(h) All users of GSA's Federal Supply Schedules, including non-Federal users, shall use the schedules in accordance with the ordering guidance provided by the Administrator of General Services. GSA encourages non-Federal users to follow the Schedule Ordering Procedures set forth in the Federal Acquisition Regulation (FAR) 8.4, but they may use different established competitive ordering procedures if such procedures are needed to satisfy their state and local acquisition regulations and/or organizational policies.

**552.238-79 USE OF FEDERAL SUPPLY SCHEDULE CONTRACTS
BY NON-FEDERAL ENTITIES (JUL 2016)**

(a) If an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), elects to place an order under this contract, the entity agrees that the order shall be subject to the following conditions:

(1) When the Contractor accepts an order from such an entity, a separate contract is formed which incorporates by reference all the terms and conditions of the Schedule contract except the Disputes clause, the patent indemnity clause, and the portion of the Commercial Item Contract Terms and Conditions that specifies "Compliance with laws unique to Government contracts" (which applies only to contracts with entities of the Executive branch of the U.S. Government). The parties to this new contract which incorporates the terms and conditions of the Schedule contract are the individual ordering activity and the Contractor. The U.S. Government shall not be liable for the performance or nonperformance of the new contract. Disputes which cannot be resolved by the parties to the new contract may be litigated in any State or Federal court with jurisdiction over the parties, applying Federal procurement law, including statutes, regulations and case law, and, if pertinent, the Uniform Commercial Code. To the extent authorized by law, parties to this new contract are encouraged to resolve disputes through Alternative Dispute Resolution. Likewise, a Blanket Purchase Agreement (BPA), although not a contract, is an agreement that may be entered into by the Contractor with such an entity and the Federal Government is not a party.

(2) Where contract clauses refer to action by a Contracting Officer or a Contracting Officer of GSA, that shall mean the individual responsible for placing the order for the ordering activity (e.g., FAR 52.212-4 at paragraph (f) and FSS clause I-FSS-249 B.)

(3) As a condition of using this contract, eligible ordering activities agree to abide by all terms and conditions of the Schedule contract, except for those deleted clauses or portions of clauses mentioned in paragraph (a)(1) of this clause. Ordering activities may include terms and conditions required by statute, ordinance, regulation, order, or as otherwise allowed by State and local government entities as a part of a statement of work (SOW) or statement of objective (SOO) to the extent that these terms and conditions do not conflict with the terms and conditions of the Schedule contract. The ordering activity and the Contractor expressly acknowledge that, in entering into an agreement for the ordering activity to purchase goods or services from the Contractor, neither the ordering activity nor the Contractor will look to, primarily or in any secondary capacity, or file any claim against the United States or any of its agencies with respect to any failure of performance by the other party.

(4) The ordering activity is responsible for all payments due the Contractor under the contract formed by acceptance of the ordering activity's order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(5) The Contractor is encouraged, but not obligated, to accept orders from such entities. The Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(6) The supplies or services purchased will be used for governmental purposes only and will not be resold for personal use. Disposal of property acquired will be in accordance with the established procedures of the ordering activity for the disposal of personal property.

(b) If the Schedule Contractor accepts an order from an entity identified in paragraph (d) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), the Contractor agrees to the following conditions:

(1) The ordering activity is responsible for all payments due the Contractor for the contract formed by acceptance of the order, without recourse to the agency of the U.S. Government, which awarded the Schedule contract.

(2) The Contractor is encouraged, but not obligated, to accept orders from such entities. The

Contractor may, within 5 days of receipt of the order, decline to accept any order, for any reason. The Contractor shall decline the order using the same means as those used to place the order. The Contractor shall fulfill orders placed by such entities, which are not declined within the 5-day period.

(c) In accordance with clause 552.238-74, Industrial Funding Fee and Sales Reporting, the Contractor must report the quarterly dollar value of all sales under this contract. When submitting sales reports, the Contractor must report two dollar values for each Special Item Number:

- (1) The dollar value for sales to entities identified in paragraph (a) of the clause at 552.238-78, Scope of Contract (Eligible Ordering Activities), and
- (2) The dollar value for sales to entities identified in paragraph (d) of clause 552.238-78.

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95) (BACK)

**552.238-81 MODIFICATION (FEDERAL SUPPLY SCHEDULE)
(APR 2014) (ALTERNATE II – JUN 2016)**

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) Types of Modifications.

(1) Additional items/additional SINS. When requesting additions, the Contractor must submit the following information:

- (i) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the instructions in the solicitation.
- (ii) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.
- (iii) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by FAR 52.215-6, Place of Performance.
- (iv) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.
- (v) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items, that may be necessary to assure compliance with FAR 52.225-1, Buy American Act-Balance of Payments Programs-Supplies.

(2) Deletions. The Contractor must provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the Contracting Officer determines that the higher price is unreasonable compared to the price of the deleted item.

(c) *Effective dates.* The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates.* The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINS, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting

Officer as set forth in the Price Reductions clause at 552.238-75.

(e) Amendments to Paper Federal Supply Schedule Price Lists.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February-April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

Note: Regulation 552.238-81

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause 552.238-81 - MODIFICATION (FEDERAL SUPPLY SCHEDULE) (APR 2014) (ALTERNATE I - JUN 2016) applies.

**552.238-81 MODIFICATIONS (FEDERAL SUPPLY SCHEDULE)
(APR 2014) (ALTERNATE I – JUN 2016)**

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications.*

(1) Additional items/additional SINS. When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINS.

(ii) Discount information for the new item(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv) Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215-6, *Place of Performance*.

(vi) Hazardous Material information (if applicable) must be submitted as required by 52.223-3 (ALT I), *Hazardous Material Identification and Material Safety Data*.

(vii) Any information requested by 52.212-3(f), *Offeror Representations and Certifications—Commercial Items*, that may be necessary to assure compliance with FAR 52.225-1, *Buy American Act—Balance of Payments Programs—Supplies*.

(2) Deletions. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) Price Reduction. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238-75. If the Price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective dates*. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238-75.

(d) *Electronic File Updates*. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at 552.238-75.

(e) *Amendments to Paper Federal Supply Schedule Price Lists*.

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February—April, and every three month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the Contracting Officer and one copy to the FSS Schedule Information Center.

(f) Electronic submission of modification requests is mandatory via eMod (<http://eOffer.gsa.gov>), unless otherwise stated in the electronic submission standards and requirements at the Vendor Support Center website (<http://vsc.gsa.gov>). If the electronic submissions standards and requirements information is updated at the Vendor Support Center website, Contractors will be notified prior to the effective date of the change.

Note: Regulation 552.238-81

This clause DOES NOT apply to offerors participating in the TDR Pilot.

If elect to participate in the TDR pilot, then clause 552.238-81 - MODIFICATION (FEDERAL SUPPLY SCHEDULE) (APR 2014) (ALTERNATE II - JUN 2016) applies.

552.238-82 SPECIAL ORDERING PROCEDURES FOR THE ACQUISITION OF ORDER-LEVEL MATERIALS (JAN 2018)

(a) *Definitions.*

Order-level materials means supplies and/ or services acquired in direct support of an individual task or delivery order placed against a Federal Supply Schedule (FSS) contract or FSS blanket purchase agreement (BPA), when the supplies and/or services are not known at the time of Schedule contract or FSS BPA award. The prices of order-level materials are not established in the FSS contract or FSS BPA. Order-level materials acquired following the procedures in paragraph (d) are done so under the authority of the FSS program, pursuant to 41 U.S.C. 152(3), and are not open market items, which are discussed in FAR 8.402(f).

(b) FAR 8.403(b) provides that GSA may establish special ordering procedures for a particular FSS.

(c) The procedures in FAR subpart 8.4 apply to this contract, with the exceptions listed in this clause. If a requirement in this clause is inconsistent with FAR subpart 8.4, this clause takes precedence pursuant to FAR 8.403(b).

(d) Procedures for including order-level materials when placing an individual task or delivery order against an FSS contract or FSS BPA.

(1) The procedures discussed in FAR 8.402(f) do not apply when placing task and delivery orders that include order-level materials.

(2) Order-level materials are included in the definition of the term "materials" in [FAR] clause 52.212-4 Alternate I, and therefore all provisions of FAR clause 52.212-4 Alternate I that apply to "materials" also apply to order-level materials.

(3) Order-level materials shall only be acquired in direct support of an individual task or delivery order and not as the primary basis or purpose of the order.

(4) The cumulative value of order-level materials in an individual task or delivery order awarded under a FSS contract or FSS BPA shall not exceed 33.33 percent of the total value of the individual task or delivery order.

(5) All order-level materials shall be placed under the Order-Level Materials SIN.

(6) Prior to the placement of an order that includes order-level materials, the Ordering Activity shall follow procedures in FAR 8.404(h).

(7) To support the price reasonableness of order-level materials,

(i) The contractor proposing order-level materials as part of a solution shall obtain a minimum of three quotes for each order-level material above the simplified acquisition threshold.

(A) One of these three quotes may include materials furnished by the contractor

under FAR 52.212-4 Alt I (i)(1)(ii)(A).

(B) If the contractor cannot obtain three quotes, the contractor shall maintain its documentation of why three quotes could not be obtained to support their determination.

(C) A contractor with an approved purchasing system per FAR 44.3 shall instead follow its purchasing system requirement and is exempt from the requirements in 552.238-82(d)(7)(i)(A)-(B).

(ii) The Ordering Activity Contracting Officer must make a determination that prices for all order-level materials are fair and reasonable. The Ordering Activity Contracting Officer may base this determination on a comparison of the quotes received in response to the task or delivery order solicitation or other relevant pricing information available.

(iii) If indirect costs are approved per [FAR 52.212-4(i)(1)(ii)(D)(2) Alternate I], the Ordering Activity Contracting Officer must make a determination that all indirect costs approved for payment are fair and reasonable. Supporting data shall be submitted in a form acceptable to the Ordering Activity Contracting Officer.

(8) Prior to an increase in the ceiling price of order-level materials, the Ordering Activity Contracting Officer shall follow the procedures at FAR 8.404(h)(3)(iv).

(9) In accordance with GSAR clause 552.215-71 Examination of Records by GSA, GSA has the authority to examine the Contractor's records for compliance with the pricing provisions in FAR clause 52.212-4 Alternate I, to include examination of any books, documents, papers, and records involving transactions related to the contract for overbillings, billing errors, and compliance with the IFF and the Sales Reporting clauses of the contract.

(10) OLMs are exempt from the following clauses:

(i) 552.216-70 *Economic Price Adjustment-FSS Multiple Award Schedule Contracts*.

(ii) 552.238-71 *Submission and Distribution of Authorized FSS Schedule Pricelists*.

(iii) 552.238-75 *Price Reductions*.

(11) Exceptions for travel.

(i) Travel costs are governed by FAR 31.205-46 and therefore the requirements in paragraph (d)(7) do not apply to travel costs.

(ii) Travel costs do not count towards the 33.33% limitation described in paragraph (d)(4).

(iii) Travel costs are exempt from clause 552.238-74 *Industrial Funding Fee and Sales Reporting*.

**552.246-73 WARRANTY—MULTIPLE AWARD SCHEDULE
(MAR 2000) (ALTERNATE I—MAY 2003)**

(a) Applicable to domestic locations. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the Contractor's commercial price list applies to this contract.

(b) Applicable to overseas destinations. Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the commercial price list applies to this contract, except as follows:

- (1) The Contractor must provide, at a minimum, a warranty on all non-consumable parts for a period of 90 days from the date that the ordering activity accepts the product.
- (2) The Contractor must supply parts and labor required under the warranty provisions free of charge.
- (3) The Contractor must bear the transportation costs of returning the products to and from the repair facility, or the costs involved with Contractor personnel traveling to the ordering activity facility for the purpose of repairing the product onsite, during the 90 day warranty period.

**552.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (SEP 1999)
(DEVIATION FAR 52.252-6)**

(a) Deviations to FAR clauses.

- (1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of "(DEVIATION)" after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).
- (2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of "(DEVIATION (FAR clause no.))" after the date of the clause.

(b) Deviations to GSAR clauses. This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of "(DEVIATION)" after the date of the clause.

(c) "Substantially the same as" clauses. Changes in wording of clauses prescribed for use on a "substantially the same as" basis are not considered deviations.

**C-FSS-370 CONTRACTOR TASKS / SPECIAL REQUIREMENTS
(NOV 2003)**

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.

(e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.

(f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.

(g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.

(h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.

(i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.

(j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.

(k) Overtime: For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

C-FSS-412 CHARACTERISTICS OF ELECTRIC CURRENT (MAY 2000)

Contractors supplying equipment which uses electrical current are required to supply equipment suitable for the electrical system at the location at which the equipment is to be used as specified on the order.

C-FSS-425 WORKMANSHIP (OCT 1988)

Any item contracted for must be new, current model at the time of offer, unless otherwise specified. Each article must perform the functions for its intended use.

C-FSS-427 ANSI STANDARDS (JUL 1991)

ANSI Standards cited in this solicitation may be obtained from the American National Standards Institute, Inc., 11 West 42nd Street, 13th Floor, New York, NY 10036 (Tel: (212) 642-4900).

CI-FSS-002 SUBMISSION OF OFFERS—ADDITIONAL INSTRUCTIONS (MAR 1996)

Offerors are requested to submit a signed original and 2 copies of SF-1449 together with all addenda and attachments complete in every respect with the exception of oversized blueprints, drawings, or similar documents attached to the solicitation. Oversized blueprints, drawings, or similar documents are not required to be duplicated for the purpose of submitting a duplicate copy of the offer to GSA.

CI-FSS-052 AUTHENTICATION PRODUCTS AND SERVICES (JAN 2010)

(a) General Background.

(1) The General Services Administration (GSA) originally established the Access Certificates for Electronic Services (ACES) Program to provide digital certificates and PKI services for enabling e-Government applications that require logical access control, digital signature and/or electronic authentication. The ACES Program provided for the issuance of electronic credentials to individuals and entities external to the Federal Government. The Federal PKI Policy Authority approved the policies and requirements of the ACES Program to satisfy the Federal requirements for cross-certification with the Federal Bridge Certification Authority (FBCA) and participation in the Federal e-Authentication initiative. The term "Identity and Access Management" (IAM) is now being used to clearly define the kinds of services that meet the requirements for service providers and products that support FISMA-compliant IAM systems deployed by federal agencies. In addition, many states have adopted corresponding standards for IAM.

(2) Homeland Security Presidential Directive 12 (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors" establishes the requirement for a mandatory Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractor employees assigned to Government contracts in order to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy. Further, the Directive requires the Department of Commerce to promulgate a Federal standard for secure and reliable forms of identification within six months of the date of the Directive. As a result, the National Institute of Standards and Technology (NIST) released Federal Information Processing Standard (FIPS) 201: Personal Identity Verification of Federal Employees and Contractors on February 25, 2005. FIPS 201 requires that the digital certificates incorporated into the Personal Identity Verification (PIV) identity credentials comply with the X.509 Certificate Policy for the U.S. Federal PKI Common Policy Framework. In addition, FIPS 201 requires that Federal identity badges referred to as PIV credentials, issued to Federal employees and contractors comply with the Standard and associated NIST Special Publications 800-73, 800-76, 800-78, and 800-79.

(b) Special Item Numbers.

The General Services Administration has established the e-Authentication Initiative (see URL: <http://www.idmanagement.gov>) to provide common infrastructure for the authentication of the public and internal federal users for logical access to Federal e-Government applications and electronic services. To support the government-wide implementation of HSPD-12 and the Federal e-Authentication Initiative, GSA has established Special Item Numbers (SINs) pertaining to Authentication Products and Services, including Electronic Credentials, Digital Certificates, e-Authentication, Identify and Access Management, PKI Shared Service Providers, and HSPD-12 Product and Service Components.

(c) Qualification Information.

(1) All Authentication Products and Services must be qualified as being compliant with Government-wide requirements before they will be included on a GSA Information Technology (IT) Schedule contract. The Qualification Requirements and associated evaluation procedures against the Qualification Requirements for each SIN and the specific Qualification Requirements for HSPD-12 implementation components are presented at the following URL: <http://www.idmanagement.gov>.

(2) In addition, the National Institute of Standards and Technology (NIST) has established the NIST Personal Identity Verification Program (NPIVP) to evaluate integrated circuit chip cards and products against conformance requirements contained in FIPS 201. GSA has established the FIPS 201 Evaluation Program to evaluate other products needed for agency implementation of HSPD-12 requirements where normative requirements are specified in FIPS 201 and to perform

card and reader interface testing for interoperability. Products that are approved as FIPS-201 compliant through these evaluation and testing programs may be offered directly through the HSPD-12 Product and Services Components SIN, under the category "Approved FIPS 201-Compliant Products and services".

(d) Qualification Requirements.

(1) Offerors proposing Authentication products and services under the established Special Item Numbers (SINs) are required to provide the following:

(i) Proposed items must be determined to be compliant with Federal requirements for that Special Item Number. Qualification Requirements and procedures for the evaluation of products and services are posted at the URL: <http://www.idmanagement.gov>. GSA will follow these procedures in qualifying offeror's products and services against the Qualification Requirements for applicable to SIN. Offerors must submit all documentation certification letter(s) for Authentication Products and Services offerings at the same time as the submission of proposal. Award will be dependent upon receipt of official documentation from the Acquisition Program Management Office (APMO) listed below verifying satisfactory qualification against the Qualification Requirements of the proposed SIN(s).

(ii) After award, Contractor agrees that certified products and services will not be offered under any other SIN on any GSA Multiple Award Schedule.

(iii) (A) If the Contractor changes the products or services previously qualified, GSA may require the contractor to resubmit the products or services for re-qualification.

(B) If the Federal Government changes the qualification requirements or standards, Contractor must resubmit the products and services for re-qualification.

(2) Immediately prior to making an award, Contracting Officers MUST consult the following website to ensure that the supplies and/or services recommended for award under any Authentication Products and Services SINs are in compliance with the latest APL qualification standards: www.idmanagement.gov. A dated copy of the applicable page should be made and included with award documents.

(e) Demonstrating Conformance.

(1) The Federal Government has established Qualification Requirements for demonstrating conformance with the Standards. The following websites provide additional information regarding the evaluation and qualification processes:

(i) For Access Certificates for Electronic Services (ACES) and PKI Shared Service Provider (SSP) Qualification Requirements and evaluation procedures: <http://www.idmanagement.gov>;

(ii) For HSPD-12 Product and Service Components Qualification Requirements and evaluation procedures: <http://www.idmanagement.gov>;

(iii) For FIPS 201 compliant products and services qualification and approval procedures: <http://www.csrc.nist.gov/piv-project/> and <http://www.smart.gov>.

(f) Acquisition Program Management Office (APMO).

GSA has established the APMO to provide centralized technical oversight and management regarding the qualification process to industry partners and Federal agencies. Contact the following APMO for information on the e-Authentication Qualification process. Technical,

APMO, FIPS 201 and HSPD-12 Points of Contacts can be found below, or in an additional attachment to the Solicitation.

See Attachment

CI-FSS-055 COMMERCIAL SATELLITE COMMUNICATION (COMSATCOM) SERVICES (DEC 2014)

To ensure the protection of controlled unclassified information (CUI) as required by Federal Information Security Management Act of 2002 and DoDM 5200.01-V4 (DoD Information Security Program: Controlled Unclassified Information (CUI) the following shall be implemented.

(a) *General Background.*

Special Item Numbers (SINs) have been established for Commercial Satellite Communications (COMSATCOM) services, focused on transponder capacity (SIN 132-54) and fixed and mobile subscription services (SIN 132-55), to make available common COMSATCOM services to all Ordering Activities.

(b) *Information Assurance.*

(1) The Contractor shall demonstrate, to the maximum extent practicable, the ability to meet:

(i) The Committee on National Security Systems Policy (CNSSP) 12, "National Information Assurance Policy for Space Systems used to Support National Security Missions," or

(ii) Department of Defense Directive (DoDI) 8581.1, "Information Assurance (IA) Policy for Space Systems Used by the Department of Defense."

(2) The Contractor shall demonstrate the ability to comply with the Federal Information Security Management Act of 2002 as implemented by Federal Information Processing Standards Publication 200 (FIPS 200), "Minimum Security Requirements for Federal Information and Information Systems." In response to Ordering Activity requirements, at a minimum, all services shall meet the requirements assigned against:

(i) A low-impact information system (per FIPS 200) that is described in the current revision of National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, "Recommended Security Controls for Federal Information Systems and Organizations,"

(3) The Contractor's information assurance boundary is where the Contractor's services connect to the user terminals/equipment (i.e., includes satellite command encryption (ground and space); systems used in the Satellite Operations Centers (SOCs), Network Operations Centers (NOCs) and teleport; and terrestrial infrastructure required for service delivery).

(c) *Delivery Schedule.*

The Contractor shall deliver COMSATCOM services in accordance with 552.211-78.

(d) *Portability.*

The Contractor shall have the capability to redeploy COMSATCOM services, subject to availability. Portability shall be provided within the COMSATCOM Contractor's resources at any time as requested by the Ordering Activity. When portability is exercised, evidence of equivalent net present value (NPV) shall be provided by the Contractor.

(e) *Flexibility/Optimization.*

The Contractor shall have the capability to re-groom resources for spectral, operational, or price efficiencies. Flexibility/optimization shall be provided within the COMSATCOM Contractor's resources at any time as requested by the Ordering Activity. When flexibility/optimization is exercised, evidence of equivalent net present value (NPV) shall be provided by the contractor. The Contractor is encouraged to submit re-grooming approaches for Ordering Activity consideration that may increase efficiencies for existing COMSATCOM services.

(f) *Net Ready (Interoperability).*

COMSATCOM services shall be consistent with commercial standards and practices. Services shall have the capability to access and/or interoperate with Government or other Commercial teleports/gateways and provide enterprise service access to or among networks or enclaves. Interfaces may be identified as interoperable on the basis of participation in a sponsored interoperability program.

(g) *Network Monitoring (Net OPS).*

The Contractor shall have the capability to electronically collect and deliver near real-time monitoring, fault/incident/outage reporting, and information access to ensure effective and efficient operations, performance, and availability, consistent with commercial practices. Consistent with the Contractor's standard management practices, the Net Ops information will be provided on a frequency (example: every 6 hours, daily) and format (example: SNMP, XML) as defined in a requirement to a location/entity/electronic interface defined by the Ordering Activity. Specific reporting requirements will be defined by the Ordering Activity.

(h) *EMI/RFI Identification, Characterization, and Geo-location.*

The Contractor shall have the capability to collect and electronically report in near real-time Electro Magnetic Interference (EMI) / Radio Frequency Interference (RFI) identification, characterization, and geo-location, including the ability to identify and characterize sub-carrier EMI/RFI being transmitted underneath an authorized carrier, and the ability to geo-locate the source of any and all EMI/RFI. The Contractor shall establish and use with the Ordering Activity a mutually agreed upon media and voice communications capability capable of protecting "Sensitive, but Unclassified" data.

(i) *Security.*

(1) The contractor may be required to obtain/possess varying levels of personnel and facility security clearances up to U.S. Government TOP SECRET/Sensitive Compartmented Information (TS/SCI) or equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally.

(2) For incident resolution involving classified matters, the Contractor shall provide appropriately cleared staff who can affect COMSATCOM services operations (example: satellite payload operations, network operations). The Contractor shall provide a minimum of one operations staff member AND a minimum of one person with the authority to commit the company if resolution requires business impacting decisions (example: Chief Executive Officer, Chief Operations Officer, etc.).

(3) When Communications Security or Transmission Security equipment or keying material is placed in the equipment/terminal shelter, the Contractor shall ensure compliance with applicable physical security directives/guidelines and that all deployed equipment/terminal operations and maintenance personnel shall possess the appropriate clearances, equal to or higher than the classification level of the data being transmitted. Where local regulations require use of foreign personnel for terminal operations and maintenance, then the Contractor shall ensure compliance with applicable security directives/guidelines and document to the U.S. Government's satisfaction that protective measures are in place and such individuals have equivalent clearances granted by the local host nation.

(4) For classified operations security (OPSEC), the Contractor shall ensure that all personnel in direct contact with classified OPSEC indicators (example: the unit, location, and time of operations) have U.S. SECRET or higher personnel security clearances, or, as appropriate, equivalent clearances assigned by the National Security Authority of a NATO Member State or Major Non-NATO Ally, in accordance with applicable security directives and guidelines.

(5) To ensure the capability of communicating classified intelligence information to satellite vendors cleared satellite vendor/staff must have access to secure voice communications for emergency purposes. Communications security equipment (COMSEC) certified by the National Security Agency (NSA) to secure critical unclassified and up to and including SECRET communication transmissions at their operating locations is required.

(6) The Contractor shall have the capability to “mask” or “protect” users against unauthorized release of identifying information to any entity that could compromise operations security. Identifying information includes but is not limited to personal user and/or unit information including tail numbers, unit names, unit numbers, individual names, individual contact numbers, street addresses, etc.

(j) *Third party billing for COMSATCOM subscription services.*

The Contractor shall identify authorized network infrastructure for the Ordering Activity. In some cases, the user of the terminal may access network infrastructure owned or operated by a third party. In the event a terminal is used on a third party’s network infrastructure, the Contractor shall provide to the Ordering Activity, invoices and documentation reflecting actual usage amount and third party charges incurred. The Ordering Activity shall be billed the actual third party charges incurred, or the contract third party billing price, whichever is less.

(k) *DoD Solicitation Pre and Post Award Requirement for Communications and Data Protection Using External Certificate Authority Public Key Infrastructure (ECA PKI).*

To ensure the protection of controlled unclassified information (CUI) as required by Federal Information Security Management Act of 2002 and DoDM 5200.01-V4 (DoD Information Security Program: Controlled Unclassified Information (CUI) the following shall be implemented.

(1) Vendors shall digitally sign and encrypt all DoD RFQ and task order related documents, to include contract deliverables, emailed to government agents. Government agents include, but are not limited to, DISA (COMSATCOM Center), DITCO, the Regional SATCOM Support Centers, General Services Administration, users of contractor-provided services, and government-contracted support. Digital signatures and encryption shall be provided through the use of Medium Hardware Assurance Public Key Infrastructures certificates, and associated hardware, issued by one of the approved External Certificate Authority (ECA) vendors. Contractors that desire to respond to DoD task order solicitations, receive and perform DoD task orders shall obtain this capability within 10 days after award of Schedule 70 Contract SINs 135-54 & 132-55 or BPAs for satellite services. Existing Schedule 70 Contractor holders of SINs 132-54 & 132-55 interested in bidding on DoD Task Orders shall obtain this capability prior to bidding on any DoD solicitations.

(2) The following DISA web page (<http://iase.disa.mil/pki/eca/>) provides links to approved ECAs. To obtain a certificate, select one of the approved ECA vendors and complete the registration. Each individual registering for a PKI certificate must verify their identity during the registration process. ECA vendors charge a fee for each registration.

Note: Regulation CI-FSS-055

For additional Modification guidelines and instructions, specifically pertaining to COMSATCOM, please review the documentation published to <http://www.gsa.gov/schedule70>, and <http://www.gsa.gov/fcsa>.

**CI-FSS-056 FEDERAL ACQUISITION REGULATION (FAR) PART
51 DEVIATION AUTHORITY (FEDERAL SUPPLY SCHEDULES)
(JAN 2010)**

(a) *General Background.*

On October 8, 2009, a class deviation to FAR Part 51 was granted by GSA's Senior Procurement Executive in accordance with FAR Subpart 1.404, Class deviations. The deviation permits federal contracting officers to authorize GSA contractors, who are performing an order on a time-and-material or labor-hour basis, to purchase supplies and services from schedule contractors or to process requisitions through the Global Supply Program.

(b) *Orders.*

Orders placed using the FAR Part 51 deviation shall be:

- (1) Placed on a time-and-materials (T&M)/labor-hour (LH) basis—an order placed by the Federal Government to the buying contractor can be partially fixed price, but the portion of the order for the items to be procured using the FAR Part 51 deviation shall be T&M/LH;
- (2) For ancillary supplies/services that are in support of the overall order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;
- (3) Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies, and services not requiring a statement of work;
- (4) Placed by the Federal Government. The authorization is **NOT** available to state and local governments.

(c) For comprehensive guidance on the proper use the FAR Part 51 authority granted by the deviation, please refer to the Ordering Guide at www.gsa.gov/far51deviation.

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**CI-FSS-151-N ADDITIONAL EVALUATION FACTORS FOR
AWARD TO NEW OFFERORS (OCT 2015)**

(a) The Government will consider award to a responsible offeror, whose offer conforms to all solicitation requirements, is determined technically acceptable, has acceptable past performance, and whose prices are determined fair and reasonable.

(1) Section I - Administrative/Contract Data:

Section I - Administrative/Contract Data will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-N *Instructions Applicable to New Offerors* and, as applicable, provisions SCP-FSS-002 *Specific Proposal Instructions for Services*, SCP-FSS-003 *Specific Proposal Instructions for Products*, SCP-FSS-004 *Specific Proposal Instructions for Schedule 70*, SCP-FSS-005 *Special Proposal Instructions for Products for Schedule 751*, and

SCP-FSS-006 *Special Proposal Instructions for Products and Services for Schedule 23V.*

(2) Section II - Technical Proposal:

(i.) Section II - Technical Proposal will be reviewed, evaluated and rated acceptable or unacceptable based on the technical evaluation factors described in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any evaluation factor will result in an "unacceptable" rating overall for that SIN. Offers determined technically unacceptable for all proposed SINs will be rejected.

(ii.) Factor One - Corporate Experience: Failure to provide the information as described in provision SCP-FSS-001-N for Factor One will result in an "unacceptable" rating for that SIN. The offeror shall have demonstrated that the firm can successfully perform, administer, and complete ordering activity tasks that may be awarded against a contract awarded under this solicitation. It must also demonstrate that the services proposed for each SIN are within the Scope of Work in Part I of this solicitation.

(iii.) Factor Two - Past Performance: Failure to provide information as described in Factor Two of provision SCP-FSS-001-N may result in an "unacceptable" rating for the Technical Proposal. The results of the Open Ratings Past Performance Evaluation will be considered, along with other information available to the contracting officer in determining the past performance rating of the offeror. The Government reserves the right to consider any other pertinent information that comes to the attention of the Government regarding the offeror's past performance. The Government will consider the offeror's performance in the following key areas: Overall Performance, Reliability, Cost, Order Accuracy, Delivery/Timeliness, Quality, Business Relations, Personnel, Customer Support, and Responsiveness. Those offerors demonstrating a pattern of consistent acceptable performance will receive an acceptable rating.

(iv.) Factor Three - Quality Control: Failure to provide the required information as described in Factor Three of provision SCP-FSS-001-N may result in an "unacceptable" rating for the Technical Proposal.

(v.) Factor Four - Relevant Project Experience: The offeror must submit the information described in Factor Four of provision SCP-FSS-002 and/or SCP-FSS-003 of the solicitation. For SCP-FSS-002, the offeror must also demonstrate the successful completion of orders that are of a similar or greater complexity to the orders described in the statement of work in Part I of the solicitation.

(vi.) Technical proposals that are unrealistic in terms of technical commitment, lack technical competence, or are indicative of failure to comprehend the complexities and risks of solicitation requirements will be rejected.

(3) Section III - Price Proposal:

(i.) Section III - Price Proposal will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the Solicitation document. In order for the Section III - Pricing Proposal to be rated acceptable, the contracting officer must determine that the proposed pricing is fair, reasonable, and supportable, based on the submission of sufficient pricing information as outlined in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006.

(ii.) The proposed pricing must be advantageous to the Government. If a price offered to GSA is not equal to or better than the price offered to the offeror's designated Most Favored Customer, the offeror must explain the rationale for proposing such a price in a

manner sufficient to enable the contracting officer to determine that the rate is fair and reasonable. If the rates offered are not "equal to or lower than" the MFC, an acceptable justification must be provided.

(b) The Government reserves the right to award or reject without discussions. Therefore, the offeror's initial proposal should contain the best terms from a price and technical standpoint.

Note: Regulation CI-FSS-151-N

This clause DOES NOT apply to offerors that elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause CI-FSS-151-N ADDITIONAL EVALUATION FACTORS FOR AWARD TO NEW OFFERORS (OCT 2015) (ALTERNATE I - JUL 2016) applies.

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**CI-FSS-151-N ADDITIONAL EVALUATION FACTORS FOR
AWARD TO NEW OFFERORS (OCT 2015) (ALTERNATE I –
JUL 2016)**

(a) The Government will consider award to a responsible offeror, whose offer conforms to all solicitation requirements, is determined technically acceptable, has acceptable past performance, and whose prices are determined fair and reasonable.

(1) Section I - Administrative/Contract Data:

Section I - Administrative/Contract Data will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-N *Instructions Applicable to New Offerors* and, as applicable, provisions SCP-FSS-002 *Specific Proposal Instructions for Services*, SCP-FSS-003 *Specific Proposal Instructions for Products*, SCP-FSS-004 *Specific Proposal Instructions for Schedule 70*, SCP-FSS-005 *Special Proposal Instructions for Products for Schedule 751*, and SCP-FSS-006 *Special Proposal Instructions for Products and Services for Schedule 23V*.

(2) Section II - Technical Proposal:

(i.) Section II - Technical Proposal will be reviewed, evaluated and rated acceptable or unacceptable based on the technical evaluation factors described in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any evaluation factor will result in an "unacceptable" rating overall for that SIN. Offers determined technically unacceptable for all proposed SINs will be rejected.

(ii.) Factor One - Corporate Experience: Failure to provide the information as described in provision SCP-FSS-001-N for Factor One will result in an "unacceptable" rating for that SIN. The offeror shall have demonstrated that the firm can successfully perform, administer, and complete ordering activity tasks that may be awarded against a contract awarded under this solicitation. It must also demonstrate that the services proposed for each SIN are within the Scope of Work in Part I of this solicitation.

(iii.) Factor Two - Past Performance: Failure to provide information as described in Factor Two of provision SCP-FSS-001-N may result in an "unacceptable" rating for the Technical Proposal. The results of the Open Ratings Past Performance Evaluation will be considered, along with other information available to the contracting officer in

determining the past performance rating of the offeror. The Government reserves the right to consider any other pertinent information that comes to the attention of the Government regarding the offeror's past performance. The Government will consider the offeror's performance in the following key areas: Overall Performance, Reliability, Cost, Order Accuracy, Delivery/Timeliness, Quality, Business Relations, Personnel, Customer Support, and Responsiveness. Those offerors demonstrating a pattern of consistent acceptable performance will receive an acceptable rating.

(iv.) Factor Three - Quality Control: Failure to provide the required information as described in Factor Three of provision SCP-FSS-001-N may result in an "unacceptable" rating for the Technical Proposal.

(v.) Factor Four - Relevant Project Experience: The offeror must submit the information described in Factor Four of provision SCP-FSS-002 and/or SCP-FSS-003 of the solicitation. For SCP-FSS-002, the offeror must also demonstrate the successful completion of orders that are of a similar or greater complexity to the orders described in the statement of work in Part I of the solicitation.

(vi.) Technical proposals that are unrealistic in terms of technical commitment, lack technical competence, or are indicative of failure to comprehend the complexities and risks of solicitation requirements will be rejected.

(3) Section III - Price Proposal:

(i.) Section III - Price Proposal will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the Solicitation document. In order for the Section III - Pricing Proposal to be rated acceptable, the contracting officer must determine that the proposed pricing is fair, reasonable, and supportable, based on the submission of sufficient pricing information as outlined in provision SCP-FSS-001-N and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006.

(ii.) The proposed pricing must be advantageous to the Government.

(b) The Government reserves the right to award or reject without discussions. Therefore, the offeror's initial proposal should contain the best terms from a price and technical standpoint.

Note: Regulation CI-FSS-151-N

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause CI-FSS-151-N ADDITIONAL EVALUATION FACTORS FOR AWARD TO NEW OFFERORS (OCT 2015) applies.

(a) The Government will consider award to a responsible offeror, whose offer conforms to all solicitation requirements, is determined technically acceptable, has acceptable past performance, and whose prices are determined fair and reasonable.

(1) Section I - Administrative/Contract Data:

Section I - Administrative/Contract Data will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-S *Instructions Applicable to Successful FSS Program Contractors* and, as applicable, provisions SCP-FSS-002 *Specific Proposal Instructions for Services*, SCP-FSS-003 *Specific Proposal Instructions for Products*, SCP-FSS-004 *Specific Proposal Instructions for Schedule 70*, SCP-FSS-005 *Special Proposal Instructions for Products for Schedule 751*, and SCP-FSS-006 *Special Proposal Instructions for Products and Services for Schedule 23V*.

(2) Section II - Technical Proposal:

(i.) Section II - Technical Proposal will be reviewed, evaluated and rated acceptable or unacceptable based on the two technical evaluation factors described in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any evaluation factor will result in an "unacceptable" rating overall for that SIN. Offers determined technically unacceptable for all proposed SINs will be rejected.

(ii.) Quality Control: Failure to provide the required information as described in Quality Control under provision SCP-FSS-001-S may result in an "unacceptable" rating for the Technical Proposal.

(iii.) Past Performance: The contracting officer will use the results of a search of known past performance information regarding the existing FSS contract, including but not limited to information in PPIRS along with any relevant past performance information provided by the offeror, to determine the past performance rating of the offeror. The Government reserves the right to consider any other pertinent information that comes to the attention of the Government regarding the offeror's past performance. Those offerors demonstrating a pattern of satisfactory performance will receive an acceptable rating.

(iv.) Technical proposals that are unrealistic in terms of technical commitment, lack technical competence, or are indicative of failure to comprehend the complexities and risks of solicitation requirements will be rejected.

(3) Section III - Price Proposal:

(i.) Section III - Price Proposal will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. In order for the Section III - Pricing Proposal to be rated acceptable, the contracting officer must determine that the proposed pricing is fair, reasonable, and supportable, based on the submission of sufficient pricing information as outlined in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006.

(ii.) The proposed pricing must be advantageous to the Government. If a price offered to GSA is not equal to or better than the price offered to the offeror's designated Most Favored Customer, the offeror must explain the rationale for proposing such a price in a manner sufficient to enable the contracting officer to determine that the rate is fair and reasonable. If the rates offered are not "equal to or lower than" the MFC, an acceptable justification must be provided.

(b) The Government reserves the right to award or reject without discussions. Therefore, the offeror's

initial proposal should contain the best terms from a price and technical standpoint.

Note: Regulation CI-FSS-151-S

This clause DOES NOT apply to offerors that elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause CI-FSS-151-S ADDITIONAL EVALUATION FACTORS FOR AWARD TO SUCCESSFUL FSS PROGRAM CONTRACTORS (OCT 2015) (ALTERNATE I - JUL 2016) applies.

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**CI-FSS-151-S ADDITIONAL EVALUATION FACTORS FOR
AWARD TO SUCCESSFUL FSS PROGRAM CONTRACTORS
(OCT 2015) (ALTERNATE I – JUL 2016)**

(a) The Government will consider award to a responsible offeror, whose offer conforms to all solicitation requirements, is determined technically acceptable, has acceptable past performance, and whose prices are determined fair and reasonable.

(1) Section I - Administrative/Contract Data:

Section I - Administrative/Contract Data will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-S *Instructions Applicable to Successful FSS Program Contractors* and, as applicable, provisions SCP-FSS-002 *Specific Proposal Instructions for Services*, SCP-FSS-003 *Specific Proposal Instructions for Products*, SCP-FSS-004 *Specific Proposal Instructions for Schedule 70*, SCP-FSS-005 *Special Proposal Instructions for Products for Schedule 751*, and SCP-FSS-006 *Special Proposal Instructions for Products and Services for Schedule 23V*.

(2) Section II - Technical Proposal:

(i.) Section II - Technical Proposal will be reviewed, evaluated and rated acceptable or unacceptable based on the two technical evaluation factors described in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. Award will be made on a SIN-by-SIN basis. A rating of “unacceptable” under any evaluation factor will result in an “unacceptable” rating overall for that SIN. Offers determined technically unacceptable for all proposed SINs will be rejected.

(ii.) Quality Control: Failure to provide the required information as described in Quality Control under provision SCP-FSS-001-S may result in an “unacceptable” rating for the Technical Proposal.

(iii.) Past Performance: The contracting officer will use the results of a search of known past performance information regarding the existing FSS contract, including but not limited to information in PPIRS along with any relevant past performance information provided by the offeror, to determine the past performance rating of the offeror. The Government reserves the right to consider any other pertinent information that comes to the attention of the Government regarding the offeror’s past performance. Those offerors demonstrating a pattern of satisfactory performance will receive an acceptable rating.

(iv.) Technical proposals that are unrealistic in terms of technical commitment, lack technical competence, or are indicative of failure to comprehend the complexities and risks of solicitation requirements will be rejected.

(3) Section III - Price Proposal:

(i.) Section III - Price Proposal will be evaluated for successful completion of all requirements outlined in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006 of the solicitation document. In order for the Section III - Pricing Proposal to be rated acceptable, the contracting officer must determine that the proposed pricing is fair, reasonable, and supportable, based on the submission of sufficient pricing information as outlined in provision SCP-FSS-001-S and, as applicable, provisions SCP-FSS-002, 003, 004, 005, and 006.

(ii.) The proposed pricing must be advantageous to the Government.

(b) The Government reserves the right to award or reject without discussions. Therefore, the offeror's initial proposal should contain the best terms from a price and technical standpoint.

Note: Regulation CI-FSS-151-S

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause FSS-151-S ADDITIONAL EVALUATION FACTORS FOR AWARD TO SUCCESSFUL FSS PROGRAM CONTRACTORS (OCT 2015) applies.

CI-FSS-152-N ADDITIONAL EVALUATION FACTORS FOR NEW OFFERORS UNDER SCHEDULE 70 (OCT 2018)

(a) The Government will consider award to an offeror who has been determined to be responsible, whose offer conforms to all solicitation requirements, who is determined technically acceptable, who has acceptable past performance, and whose prices are determined fair and reasonable.

(b) All technical evaluation factors will be reviewed, evaluated, and rated acceptable or unacceptable based on the criteria listed below. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any technical evaluation factor, by SIN, will result in an "unacceptable" rating overall for that SIN, and that SIN will be rejected. Offers determined unacceptable for all proposed SIN(s) will be rejected.

I. TECHNICAL EVALUATION FACTORS:

(1) FACTOR 1: Corporate Experience: See SCP-FSS-001-N

(2) FACTOR 2: Past Performance: See SCP-FSS-001-N

(3) FACTOR 3: Quality Control: See SCP-FSS-001-N

(4) FACTOR 4: Relevant Project Experience: See SCP-FSS-004. Additional requirements are:

(i.) SIN 132-41 Earth Observation Solutions, SIN 132-45A Penetration Testing, SIN 132-45B Incident Response, SIN 132-45C Cyber Hunt, SIN 132-45D Risk and Vulnerability Assessment, SIN 132-51 IT Professional Services, SIN 132-60f Identity Access Management (IAM) Professional Services and SIN 132-20 Automated Contact

Center Solutions only.

(A) Provide a description of the offeror's experience in the professional information technology services offered under SIN 132-20, SIN 132-41, SIN 132-45A, SIN 132-45B, SIN 132-45C, SIN 132-45D, SIN 132-51 and/or SIN 132-60f. Describe three completed or on-going project(s), similar in size and complexity to the effort contemplated herein and in sufficient detail for the Government to perform an evaluation. For SIN 132-60f, two of the three projects described must be prior Federal Government application deployment projects for public-facing IT systems. Each completed example shall have been completed within the last two years.

For SIN 132-20, narratives must include the following, where applicable: Descriptions of types of channels used in contact centers, annual volume of contacts by channel, Customer Relationship Management tools, speech and text analytics tools used, summary of employee engagement/retention practices used, multilingual services, summary of any efforts or practices used to support surge volume, list of accomplishments to include improvements in service, numbers of agents (including actual, virtual/home-based or Artificial Intelligence/Natural Language/Intelligence Language) used in the project, security considerations, summary of PII handling practices, and types of reporting/data analytics provided on the project.

For 132-41, the offeror shall provide a narrative of services provided or a project where products were provided.

All examples of completed services shall have been found to be acceptable by the ordering activity. If the offeror cannot provide three examples of past experience, they may provide additional documentation to substantiate project experience to be evaluated by the contracting officer.

(B) Within the four-page limitation for each project narrative, offerors shall outline the following for proposed SINs: SIN 132-20, SIN 132-41, SIN 132-45A, SIN 132-45B, SIN 132-45C, SIN 132-45D, 132-51 and 132-60f:

- 1) Provide background information on the project or projects presented to demonstrate expertise.
- 2) Outline how the project or projects are related to the proposed SIN(s).
- 3) Submit summary of the final deliverables for the noted project or projects.
- 4) Offerors shall demonstrate that the tasks performed are of a similar complexity to the work solicited under this solicitation.
- 5) Provide the following information for each project submitted:
 - i) Project/Contract Name;
 - ii) Project Description;
 - iii) Dollar Amount of Contract;
 - iv) Project Duration, which includes the original estimated completion date and the actual completion date; and
 - v) Point of Contact and Telephone Number.

(ii.) SIN 132-54, Commercial Satellite Communications (COMSATCOM) Transponded Capacity and/or SIN 132-55, COMSATCOM Subscription Services

(A) Provide a description of the offeror's experience delivering COMSATCOM services as described in CI-FSS-055 *Commercial Satellite Communication (COMSATCOM) Services*. For each COMSATCOM Services SIN proposed, describe three completed or ongoing projects, similar in size and complexity to the services the vendor is proposing to offer and in sufficient detail for the Government to perform an evaluation. (NOTE: If applying for both SIN 132-54 and 132-55, describe three projects related to SIN 132-54, and another three projects related to SIN 132-55.) All completed projects shall have been completed within the last three years prior to submission of the vendor's COMSATCOM Services SIN proposal. Performance of all completed projects shall have been found acceptable by the ordering activity. If the offeror cannot provide three projects, it may provide additional documentation to substantiate project experience to be evaluated by the contracting officer.

(B) Within the four-page limitation for each project narrative, the offeror shall include the following information:

- 1) Provide background information on the project presented to demonstrate familiarity and expertise servicing COMSATCOM requirements.
- 2) Outline how the project is related to the proposed COMSATCOM Services SIN.
- 3) Demonstrate that the tasks performed are of a similar size, scope, and complexity to the work solicited under this solicitation.
- 4) Provide the following information for each project submitted:
 - i) Project/Contract Name;
 - ii) Project Description;
 - iii) Dollar Amount of Contract;
 - iv) Project Duration, which includes the original estimated completion date and the actual completion date; and
 - v) Point of Contact and Telephone Number.

(iii.) Information Assurance Minimum Security Controls Compliance for SIN 132-54, Commercial Satellite Communications (COMSATCOM) Transponded Capacity Services and SIN 132-55, COMSATCOM Subscription Services only.

(A) Federal policy specifies Government customer compliance with the Federal Information Security Management Act of 2002 as implemented by Federal Information Processing Standards Publication 200 (FIPS 200), "Minimum Security Requirements for Federal Information and Information Systems." This standard specifies minimum security requirements Federal agencies must meet, defined through the use of security controls described in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53, "Recommended Security Controls for Federal Information Systems and Organizations," DoD Instruction (DoDI) 8500.2, "Information Assurance Implementation," and associated documents.

(B) Complete the Information Assurance Checklist found on the GSA

SATCOM Services Program Management Office website
(<http://www.gsa.gov/portal/content/122627>).

(C) The Government will evaluate the Information Assurance Checklist submitted as part of offeror's proposal to determine whether the offeror understands the minimum security controls, and has processes, personnel, and infrastructure that currently complies or demonstrates a reasonable approach to becoming compliant with all the minimum security controls for at least a low-impact information system or MAC III system.

(iv.) SIN 132-56 Health Information Technology Services

(A) Provide a description of the offeror's experience in the Health information technology services offered under SIN 132-56. Describe three completed or on-going project(s), similar in size and complexity to the effort contemplated herein and in sufficient detail for the Government to perform an evaluation. Each completed example shall have been completed within the last three years. All examples of completed services shall have been found to be acceptable by the ordering activity.

(B) Within the four-page limitation for each project narrative, offerors shall outline the following for proposed SIN 132-56:

- 1) Provide background information on the project or projects presented to demonstrate Health IT expertise.
- 2) Outline how the project or projects are related to the proposed Health IT SIN.
- 3) Submit summary of the final deliverables for the noted project or projects.
- 4) Offerors shall demonstrate that the tasks performed are of a similar complexity to the work solicited under this solicitation.
- 5) Provide the following information for each project submitted:
 - i) Project/Contract Name;
 - ii) Project Description;
 - iii) Dollar Amount of Contract;
 - iv) Project Duration, which includes the original estimated completion date and the actual completion date; and
 - v) Point of Contact and Telephone Number.

(v.) Project Experience for Authentication Products and Services (Homeland Security Presidential Directive 12 (HSPD-12) Only): All offers must be in compliance with guidance in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-63, OMB Memorandum 04-04:

(A) SIN 132-60a: Offerings must include policy-compliant agency setup, testing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 1 Credential Assessment - Include Assessment Report

- 2) Successful completion of applicable interoperability testing - Include Test Report

(B) SIN 132-60b: Offerings must include policy-compliant agency setup, testing, identity proofing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 2 Credential Assessment - Include Assessment Report

- 2) Successful completion of applicable interoperability testing - Include Test Report

(C) SIN 132-60c: Offerings must include policy compliant ID proofing, Credential issuance, continued account management, revocation, and certificate validation as part of the basic service. Technical evaluation criteria are -

- 1) Successful completion of Level 3 and 4 Credential Assessment - Include Assessment Report

- 2) Access Certificates for Electronic Services (ACES) Security Certification and Accreditation (C&A) as a condition of obtaining and retaining approval to operate as a Certification Authority (CA) under the ACES Certificate policy and the GSA ACES Program. – Include Authorization to Operate (ATO) letter.

- 3) Common criteria for other Certification Authorities cross-certified by the Federal Bridge

(D) SIN 132-60d: Offerings must be -

- 1) Listed on GSA's Federal Information Processing Standards (FIPS) 201 Approved Products List.

- 2) Crypto Modules must be FIPS 140-2 validated.

(E) SIN 132-60e: Offerings must include precursor services such as bulk load, testing, identity proofing, credential issuance, subscriber customer service account management, revocation, and credential validation as part of the basic service. Also includes translation and validation services, and partial services such as 3rd-party identity proofing or secure hosting. Technical evaluation criteria are -

- 1) Demonstrated compliance with NIST SP 800-63, as applicable to the technologies being utilized by the offeror.

- 2) Compliance with published E-Authentication architecture, verified by a clearance letter from GSA's Office of Governmentwide Policy.

(F) SIN 132-60f: Technical evaluation criteria are -

- 1) Documented experience with deployment of policy-compliant Identity and Access Management (IAM) projects in Government agencies. This

includes IAM technologies and standards, including Security Assertion Markup Language (SAML), Public Key Infrastructure (PKI) and the Web Services (WS)-Federation specification. Offerors should describe in detail their competencies when proposing under this SIN.

(5) Factor 5 - ORAL TECHNICAL EVALUATION: See SCP-FSS-004. Offerors proposing services under SIN 132-45A Penetration Testing, SIN 132-45B Incident Response, SIN 132-45C Cyber Hunt, and/or SIN 132-45D Risk and Vulnerability Assessments additional requirements are:

ORAL TECHNICAL EVALUATION OVERVIEW: Offeror shall participate in an oral technical evaluation that will be conducted by a Technical Evaluation Board (TEB). The oral technical evaluation will be held at the unclassified level and will be scheduled by the TEB. The oral technical evaluation will be used to assess the offeror's capability to successfully perform the services within the scope of each SIN as set forth in this solicitation.

Offeror/Contractor shall review Factor 5 Oral Technical Evaluation Criteria in SCP-FSS-004 section (d)(II)(5)(iii) to this solicitation for details on the knowledge areas to be assessed in the evaluation and the criteria for a 'Acceptable' or 'Unacceptable' rating under this factor.

(i) ORAL TECHNICAL EVALUATION CONSTRAINTS: The offeror shall identify up to five key personnel, by name and association with the offeror, who will field questions during the oral technical evaluation. After opening remarks by the TEB, the offeror will respond to a series of questions and scenarios in 40 minutes per SIN. The evaluation will be stopped precisely after 40 minutes. The total evaluation session is expected to up to three (3) hours, depending on the number of SINs the offeror is proposing. The TEB Chairperson will be responsible for ensuring the schedule is met and that all offerors are given the same opportunity to present and answer questions.

(ii) ORAL TECHNICAL EVALUATION SCHEDULING: The TEB will contact the offeror's authorized negotiator or the signatory of the SF 1449 via email to schedule the oral technical evaluation. Evaluation time slots will be assigned on a first-come-first-served basis. The Government reserves the right to reschedule any offeror's oral technical evaluation at its sole discretion. The oral technical evaluation will be held at facilities designated by the TEB. The exact location, seating capacity, and any other relevant information will be provided when the evaluations are scheduled. The government may make accommodations for vendors to participate in the oral evaluations virtually, if they are unable to participate in-person.

(iii) PROHIBITION OF ELECTRONIC RECORDING OF THE ORAL TECHNICAL EVALUATION: The offeror may not record or transmit any of the oral evaluation process. All offeror's electronic devices shall be removed from the room during the evaluation. The offeror is permitted to have a timer in the room during the evaluation, provided by the TEB.

(iv) RESUBMISSION RESTRICTIONS FOR UNSUCCESSFUL VENDORS UNDER THIS EVALUATION FACTOR: Offeror, whom the TEB has found to have not met the "acceptable" criteria under this evaluation factor shall be given one (1) opportunity to provide clarifications to the TEB. The offeror will have 24 hours from the time of the notice from the TEB to provide clarifications. Offerors, who have provided clarifications and still have not met the "acceptable" criteria, shall be rejected and shall be ineligible to re-submit proposals to participate in the SIN for which they were rejected for a period of six (6) months following the date of rejection.

(6) FACTOR 6: Product Qualification Requirements for SIN 132-44. See SCP-FSS-004.

**CI-FSS-152-S ADDITIONAL EVALUATION FACTORS FOR
SUCCESSFUL FSS PROGRAM CONTRACTORS UNDER
SCHEDULE 70 (OCT 2015)**

(a) The Government will consider award to an offeror who has been determined to be responsible, whose offer conforms to all solicitation requirements, who is determined technically acceptable, who has acceptable past performance, and whose prices are determined fair and reasonable.

(b) All technical evaluation factors will be reviewed, evaluated, and rated acceptable or unacceptable based on the criteria listed below. Award will be made on a SIN-by-SIN basis. A rating of "unacceptable" under any technical evaluation factor, by SIN, will result in an "unacceptable" rating overall for that SIN, and that SIN will be rejected. Offers determined unacceptable for all proposed SIN(s) will be rejected.

I. TECHNICAL EVALUATION FACTORS:

(1) Quality Control: See SCP-FSS-001-S

(2) Past Performance: See SCP-FSS-001-S

II. PRICE PROPOSAL FACTOR: See SCP-FSS-001-S and SCP-FSS-004.

**D-FSS-471 MARKING AND DOCUMENTATION REQUIREMENTS
PER SHIPMENT (APR 1984)**

It shall be the responsibility of the Ordering Office to determine the full marking and documentation requirements necessary under the various methods of shipment authorized by the contract. Set forth below is the minimum information and documentation that will be required for shipment. In the event the Ordering Office fails to provide the essential information and documentation, the Contractor shall, within three days after receipt of order, contact the Ordering Office and advise them accordingly. The Contractor shall not proceed with any shipment requiring transshipment via U.S. Government facilities without the below stated prerequisites:

Direct Shipments. The Contractor shall mark all items ordered against this contract with indelible ink, paint or fluid, as follows:

- (1) Traffic Management or Transportation Officer at FINAL destination.
- (2) Ordering Supply Account Number.
- (3) Account number.
- (4) Delivery Order or Purchase Order Number.
- (5) National Stock Number, if applicable; or Contractor's item number.
- (6) Box _____ of _____ Boxes.
- (7) Nomenclature (brief description of items).

D-FSS-477 TRANSSHIPMENTS (APR 1984)

The Contractor shall complete TWO DD Forms 1387, Military Shipment Labels and, if applicable, four

copies of DD Form 1387-2, Special Handling/Data Certification—used when shipping chemicals, dangerous cargo, etc. Two copies of the DD Form 1387 will be attached to EACH shipping container delivered to the port Transportation Officer for subsequent transshipment by the Government as otherwise provided for under the terms of this contract. These forms will be attached to one end and one side (NOT on the top or bottom) of the container. The Contractor will complete the bottom line of these forms, which pertains to the number of pieces, weight and cube of each piece, using U.S. weight and cubic measures. Weights will be rounded off to the nearest pound. (One kg = 2.2 U.S. pounds; one cubic meter = 35.3156 cubic feet.) In addition, if the cargo consists of chemicals, or is dangerous, one copy of the DD Form 1387 2 will be attached to the container, and three copies will be furnished to the Transportation Officer with the Bill of Lading. DANGEROUS CARGO WILL NOT BE INTERMINGLED WITH NONDANGEROUS CARGO IN THE SAME CONTAINER. Copies of the above forms, and preparation instructions will be obtained from the Ordering Office issuing the Delivery Order. Reproduced copies of the forms are acceptable. FAILURE TO INCLUDE DD FORMS 1387 (AND DD FORM 1387-2, IF APPLICABLE) ON EACH SHIPPING CONTAINER WILL RESULT IN REJECTION OF SHIPMENT BY THE PORT TRANSPORTATION OFFICER.

F-FSS-230 DELIVERIES TO THE U.S. POSTAL SERVICE (JAN 1994)

- (a) Applicability. This clause applies to orders placed for the U.S. Postal Service (USPS) and accepted by the Contractor for the delivery of supplies to a USPS facility (consignee).
- (b) Mode/Method of Transportation. Unless the Contracting Officer grants a waiver of this requirement, any shipment that meets the USPS requirements for mailability (i.e., 70 pounds or less, combined length and girth not more than 108 inches, etc.) delivery shall be accomplished via the use of the USPS. Other commercial services shall not be used, but this does not preclude the Contractor from making delivery by the use of the Contractor's own vehicles.
- (c) Time of Delivery. Notwithstanding the required time for delivery to destination as may be specified elsewhere in this contract, if shipments under this clause are mailed not later than five (5) calendar days before the required delivery date, delivery shall be deemed to have been made timely.

F-FSS-736-A EXPORT TRAFFIC RELEASE (OCT 1988)

Supplies ordered by GSA for export will not be shipped by the Contractor until shipping instructions are received from GSA. To obtain shipping instructions, the Contractor shall forward completed copies of GSA Form 1611, Application for Shipping Instructions and Notice of Availability, to the GSA office designated on the purchase order at least 15 days prior to the anticipated shipping date. Copies of GSA Form 1611 will be furnished to the Contractor with the purchase order. Failure to comply with this requirement could result in nonacceptance of the material by authorities at the port of exportation. When supplies for export are ordered by other Government agencies the Contractor should obtain shipping instructions from the ordering agency.

G-FSS-900-C CONTACT FOR CONTRACT ADMINISTRATION (JUL 2003)

Offerors should complete paragraphs (a) and (b) if providing both domestic and overseas delivery. Complete paragraph (a) if providing domestic delivery only. Complete paragraph (b) if providing overseas delivery only.

The Contractor shall designate a person to serve as the contract administrator for the contract both domestically and overseas. The contract administrator is responsible for overall compliance with contract terms and conditions. The contract administrator is also the responsible official for issues concerning 552.238-74, Industrial Funding Fee and Sales Reporting (JUL 2003), including reviews of contractor records. The Contractor's designation of representatives to handle certain functions under this contract does not relieve the contract administrator of responsibility for contract compliance. Any changes to the designated individual must be provided to the Contracting Officer in writing, with the proposed effective date of the

change

(a) Domestic:

NAME _____

TITLE _____

ADDRESS _____

ZIP CODE _____

TELEPHONE NO. (_____) _____ FAX NO. _____

E-MAIL ADDRESS _____

(b) Overseas: Overseas contact points are mandatory for local assistance with the resolution of any delivery, performance, or quality complaint from customer agencies. (Also, see the requirement in I-FSS-594, Parts and Service.) At a minimum, a contact point must be furnished for each area in which deliveries are contemplated, e.g., Europe, South America, Far East, etc.

NAME _____

TITLE _____

ADDRESS _____

ZIP CODE _____

TELEPHONE NO. (_____) _____ FAX NO. _____

E-MAIL ADDRESS _____

G-FSS-906 VENDOR MANAGED INVENTORY (VMI) PROGRAM (MAS) (JAN 1999)

(a) The term "Vendor Managed Inventory" describes a system in which the Contractor monitors and maintains specified inventory levels for selected items at designated stocking points. VMI enables the Contractor to plan production and shipping more efficiently. Stocking points benefit from reduced inventory but steady stock levels.

(b) Contractors that commercially provide a VMI-type system may enter into similar partnerships with customers under a Blanket Purchase Agreement.

G-FSS-907 ORDER ACKNOWLEDGEMENT (APR 1984)

Contractors shall acknowledge only those orders which state "Order Acknowledgement Required." These orders shall be acknowledged within 10 days after receipt. Such acknowledgement shall be sent to the activity placing the order and contain information pertinent to the order, including the anticipated delivery date.

I-FSS-106 GUARANTEED MINIMUM (JUL 2003)

The minimum that the Government agrees to order during the period of this contract is \$2,500. If the Contractor receives total orders for less than \$2,500 during the term of the contract, the Government will pay the difference between the amount ordered and \$2,500.

(a) Payment of any amount due under this clause shall be contingent upon the Contractor's timely submission of GSA Form 72A reports (see GSAR 552.238-74 "Industrial Funding Fee and Sales Reporting") during the period of the contract and receipt of the close-out sales report pursuant to GSAR 552.238-74.

(b) The guaranteed minimum applies only if the contract expires or contract cancellation is initiated by the Government. The guaranteed minimum does not apply if the contract is terminated for cause or if the contract is canceled at the request of the Contractor.

I-FSS-108 CLAUSES FOR OVERSEAS COVERAGE (MAY 2000)

The following clauses apply to overseas coverage.

52.214-34 Submission of Offers in the English Language
52.214-35 Submission of Offers in U.S. Currency
52.247-34 FOB Destination
52.247-38 FOB Inland Carrier, Country of Exportation
52.247-39 FOB Inland Point, Country of Importation
C-FSS-412 Characteristics of Electric Current
D-FSS-471 Marking and Documentation Requirements Per Shipment
D-FSS-477 Transshipments
F-FSS-202-F Delivery Prices
I-FSS-314 Foreign Taxes and Duties
I-FSS-594 Parts and Service

I-FSS-109 ENGLISH LANGUAGE AND U.S. DOLLAR REQUIREMENTS (MAR 1998)

(a) All documents produced by the Contractor to fulfill requirements of this contract including, but not limited to, Federal Supply Schedule catalogs and pricelists, must reflect all terms and conditions in the English language.

(b) U.S. dollar equivalency, if applicable, will be based on the rates published in the "Treasury Reporting Rates of Exchange" in effect as of the date of the agency's purchase order or in effect during the time period specified elsewhere in this contract.

I-FSS-140-B URGENT REQUIREMENTS (JAN 1994)

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering agency, agencies are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering agency, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

I-FSS-163 OPTION TO EXTEND THE TERM OF THE CONTRACT (EVERGREEN) (APR 2000)

(a) The Government may require continued performance of this contract for an additional 5 year period when it is determined that exercising the option is advantageous to the Government considering price and other factors.. The option clause may not be exercised more than three times. When the option to extend the term of this contract is exercised the following conditions are applicable:

(1) It is determined that exercising the option is advantageous to the Government considering

price and the other factors covered in (2 through 4 below).

(2) The Contractor's electronic catalog/pricelist has been received, approved, posted, and kept current on GSA *Advantage!*[®] in accordance with clause I-FSS-600, Contract Price Lists.

(3) Performance has been acceptable under the contract.

(4) Subcontracting goals have been reviewed and approved.

(b) The Contracting Officer may exercise the option by providing a written notice to the Contractor within 30 days, unless otherwise noted, prior to the expiration of the contract or option.

(c) When the Government exercises its option to extend the term of this contract, prices in effect at the time the option is exercised will remain in effect during the option period, unless an adjustment is made in accordance with another contract clause (e.g., Economic Price Adjustment Clause or Price Reduction Clause).

I-FSS-314 FOREIGN TAXES AND DUTIES (DEC 1990)

Prices offered must be net, delivered, f.o.b. to the destinations accepted by the Government.

(a) The offeror warrants that such prices do not include any tax, duty, customs fees, or other foreign Governmental costs, assessments, or similar charges from which the U.S. Government is exempt. The offeror further warrants that any applicable taxes duties, customs fees, other Government costs, assessments or similar charges from which the U.S. Government is not exempt are included in the prices quoted and that such prices are not subject to increases for any such charges applicable at the time of acceptance of this offer by the Government.

(b) Standard commercial export packaging, including containerization, if necessary, packaging, preservation, marking are included in the pricing offered and accepted by the Government.

I-FSS-40 CONTRACTOR TEAM ARRANGEMENTS (JUL 2003)

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with contract clause 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor (team member) must report sales and remit the IFF for all products and services provided under its individual contract.

I-FSS-50 PERFORMANCE REPORTING REQUIREMENTS (FEB 1995)

(a) This clause applies to all contracts estimated to exceed \$100,000.

(b) Unless notified otherwise in writing by the Contracting Officer, the Contractor may assume contract performance is satisfactory.

(c) If negative performance information is submitted by customer agencies, the Contracting Officer will notify the Contractor in writing and provide copies of any complaints received. The Contractor will have 30 calendar days from receipt of this notification to submit a rebuttal and/or a report of corrective actions taken.

I-FSS-594 PARTS AND SERVICE (OCT 1988)

(1) For equipment under items listed in the schedule of items or services on which offers are submitted,

the offeror certifies by submission of this offer that parts and services (including the performing of warranty or guarantee service) are now available from dealers or distributors serving the areas of ultimate overseas destination or that such facilities will be established and will be maintained throughout the contract period. If a new servicing facility is to be established, the facility shall be established no later than the beginning of the contract period.

(2) Each Contractor shall be fully responsible for the services to be performed by the named servicing facilities, or by such facilities to be established, and fully guarantees performance of such services if the original service proves unsatisfactory.

(3) Offerors are requested to include in the pricelist, the names and addresses of all supply and service points maintained in the geographic area in which the Contractor will perform. Please indicate opposite each point whether or not a complete stock of repair parts for items offered is carried at that point, and whether or not mechanical service is available.

GEOGRAPHIC AREA	ADDRESS OF SUPPLY AND SERVICE POINT

It is desired to have available means for maintaining Government-owned items in satisfactory operating condition and to receive service at least as good as that extended to commercial customers.

I-FSS-597 GSA *ADVANTAGE!*[®] (OCT 2014)

(a) The Contractor must participate in the *GSA Advantage!*[®] online shopping service. Information and instructions regarding contractor participation are contained in clause I-FSS-599, Electronic Commerce.

(b) The Contractor also should refer to contract clauses 552.238-71, Submission and Distribution of Authorized GSA Schedule Pricelists (which provides for submission of pricelists on a common-use electronic medium), I-FSS-600, Contract Pricelists (which provides information on electronic contract data), and 552.238-81, Modifications (Federal Supply Schedule), (which addresses electronic file updates).

Note: Regulation I-FSS-597
 Universal Product Codes (UPCs)

The current requirement is for vendors to submit at least one UPC per qualifying SIN. A listing of which SINs require mandatory UPC submission by going to the Vendor Support Center at vsc.gsa.gov and following this path: Getting on Advantage >> Lookup Tables (under Documentation) >> Schedules SIN|MOL|Photo|UPC.

The direct link is: https://vsc.gsa.gov/lookup/sin_mol.cfm. The UPC will be a critical component of the upcoming Formatted Price List (FPL) portion of the EAS project. It will allow for easy product comparisons and validation.

UPCs are the most reliable way to group the same products together to facilitate

comparisons of best value. In addition, it will improve the quality of product data and the general system experience for all users. Any calls to the CO/CS, from vendors about UPC issues, should be referred to the Vendor Support Center at (877) 495-4849. The VSC will provide the vendor guidance on issues for submitting UPCs, what to do if you do not have a UPC, exclusions, troubleshooting etc.

I-FSS-599 ELECTRONIC COMMERCE—FACNET (FEB 2018)

(a) General Background.

The Federal Acquisition Streamlining Act (FASA) of 1994 establishes the Federal Acquisition Computer Network (FACNET) requiring the Government to evolve its acquisition process from one driven by paperwork into an expedited process based on electronic commerce/electronic data interchange (EC/EDI). EC/EDI means more than merely automating manual processes and eliminating paper transactions. It can and will help to move business processes (e.g., procurement, finance, logistics, etc.) into a fully electronic environment and fundamentally change the way organizations operate.

(b) Trading Partners and Value-Added Networks (VAN's).

Within the FACNET architecture, electronic documents (e.g., orders, invoices, etc.) are carried between the Federal Government's procuring office and contractors (now known as "trading partners"). These transactions are carried by commercial telecommunications companies called Value-Added Networks (VAN's).

EDI can be done using commercially available hardware, software, and telecommunications. The selection of a VAN is a business decision contractors must make. There are many different VAN's which provide a variety of electronic services and different pricing strategies. If your VAN only provides communications services, you may also need a software translation package.

(c) Registration Instructions.

DOD will require Contractors to register as trading partners to do business with the Government. This policy can be reviewed via the INTERNET at http://www.defenselink.mil/releases/1999/b03011999_bt079-99.html.

To do EDI with the Government, Contractors must register as a trading partner. Contractors will provide regular business information, banking information, and EDI capabilities to all agencies in this single registration. A central repository of all trading partners, called the Central Contractor Registration (CCR) <http://www.ccr.gov/>, has been developed. All Government procuring offices and other interested parties will have access to this central repository. The database is structured to identify the types of data elements which are public information and those which are confidential and not releasable.

To register, contractors must provide their Dun and Bradstreet (DUNS) number. The DUNS number is available by calling 1(800)333-0505. It is provided and maintained free of charge and only takes a few minutes to obtain. Contractors will need to provide their Tax Identification Number (TIN). The TIN is assigned by the Internal Revenue Service by calling 1(800)829-1040. Contractors will also be required to provide information about company bank or financial institution for electronic funds transfer (EFT).

Contractors may register through on-line at <http://www.ccr.gov/> or through their Value Added Network (VAN) using an American National Standards Institute (ANSI) ASC X12 838 transaction set, called a "Trading Partner Profile." A transaction set is a standard format for moving electronic data. VAN's will be able to assist contractors with registration.

(d) Implementation Conventions.

All EDI transactions must comply with the Federal Implementation Conventions (IC's). Many VAN's and software providers have already built the IC requirements into their products. If you need to see the IC's, they are available on a registry maintained by the National Institute of Standards and Technology (NIST). It is accessible via the INTERNET at <http://www.itl.nist.gov/lab/csl-pubs.htm>. IC's are available for common business documents such as Purchase Order, Price Sales Catalog, Invoice, Request for Quotes, etc.

(e) Additional Information.

GSA has additional information available for vendors who are interested in starting to use EC/EDI. Contact the Contracting Officer for a copy of the latest handbook. Several resources are available to vendors to assist in implementing EC/EDI; specific addresses are available in the handbook or from the Contracting Officer:

- (1) Electronic Commerce Resource Centers (ECRC's) are a network of U.S. Government-sponsored centers that provide EC/EDI training and support to the contractor community. They are found in over a dozen locations around the country.
- (2) Procurement Technical Assistance Centers (PTAC's) and Small Business Development Centers (SBDC's) provide management assistance to small business owners. Each state has several locations.
- (3) Most major US cities have an EDI user group of companies who meet periodically to share information on EDI-related subjects.

(f) GSA *Advantage!*[®]

(1) GSA *Advantage!*[®] will use this FACNET system to receive catalogs, invoices and text messages; and to send purchase orders, application advice, and functional acknowledgments. GSA *Advantage!*[®] enables customers to:

- (i) Perform database searches across all contracts by manufacturer; manufacturer's model/part number; vendor; and generic product categories.
- (ii) Generate their own EDI delivery orders to contractors, generate EDI delivery orders from the Federal Supply Service to contractors, or download files to create their own delivery orders.
- (iii) Use the Federal IMPAC VISA.

(2) GSA *Advantage!*[®] may be accessed via the GSA Home Page. The INTERNET address is: <http://www.gsa.gov>.

I-FSS-60 PERFORMANCE INCENTIVES (APR 2000)

- (a) Performance incentives may be agreed upon between the contractor and the ordering office on individual orders or Blanket Purchase Agreements under this contract in accordance with this clause.
- (b) The ordering office must establish a maximum performance incentive price for these services and/or total solutions, on individual orders or Blanket Purchase Agreements.
- (c) Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, ordering offices shall consider establishing incentives where performance is critical to the agency's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95) (BACK)

I-FSS-600 CONTRACT PRICE LISTS (OCT 2016)

(a) Electronic Contract Data.

(1) At the time of award, the Contractor will be provided instructions for submitting electronic contract data in a prescribed electronic format as required by clause 552.238-71, *Submission and Distribution of Authorized FSS Schedule Price Lists*.

(2) The Contractor will have a choice to transmit its file submissions electronically through Electronic Data Interchange (EDI) in accordance with the Federal Implementation Convention (IC) or use the application made available at the time of award. The Contractor's electronic files must be complete; correct; readable; virus-free; and contain only those supplies and services, prices, and terms and conditions that were accepted by the Government. They will be added to GSA's electronic ordering system known as *GSA Advantage!*[®], a menu-driven database system that provides on-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic order. The Contractor's electronic files must be received no later than 30 days after award. Contractors should refer to clause I-FSS-597, *GSA Advantage!*[®] for further information.

(3) Further details on EDI, ICs, and *GSA Advantage!*[®] can be found in clause I-FSS-599, *Electronic Commerce*.

(4) The Contractor is encouraged to place the GSA identifier (logo) on their web site for those supplies or services covered by this contract. The logo can link to the contractor's Federal Supply Schedule price list. The identifier URL is located at <http://www.gsa.gov/logos>. All resultant "web price lists" shown on the contractor's web site must be in accordance with section (b)(3)(ii) of this clause and nothing other than what was accepted /awarded by the Government) may be included. If the contractor elects to use contract identifiers on its website (either logos or contact number) the website must clearly distinguish between those items awarded on the contract and any other items offered by the contractor on an open market basis.

(5) The contractor is responsible for keeping all electronic catalogs data up to date; e.g., prices, product deletions and replacements, etc.

(b) Federal Supply Schedule Price Lists.

(1) The Contractor must also prepare and distribute a Federal Supply Schedule Price List as required by clause 552.238-71, *Submission and Distribution of Authorized FSS Schedule Price Lists*. This must be done as set forth in this paragraph (b).

(2) The Contractor must prepare a Federal Supply Schedule Price List by either:

(i) Using the commercial catalog, price list, schedule, or other document as accepted by the Government, showing accepted discounts, and obliterating all items, terms, and conditions not accepted by the Government by lining out those items or by a stamp across the face of the item stating "NOT UNDER CONTRACT" or "EXCLUDED"; or

(ii) Composing a price list in which only those items, terms, and conditions accepted by the Government are included, and which contain only net prices, based upon the commercial price list less discounts accepted by the Government. In this instance, the Contractor must show on the cover page the notation "Prices Shown Herein are Net (discount deducted)".

(3) The cover page of the Federal Supply Schedule Price List must include the following information prepared in the format set forth in this subparagraph (b)(3):

(i) GENERAL SERVICES ADMINISTRATION

Federal Supply Service
Authorized Federal Supply Schedule Price List
On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA *Advantage!*®, a menu-driven database system. The INTERNET address GSA *Advantage!*® is: GSAAdvantage.gov.

Schedule Title

FSC Group, Part, and Section or Standard Industrial Group (as applicable)

FSC Class(es)/Product code(s) and/or Service Codes (as applicable)

Contract number

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at fss.gsa.gov.

Contract period.

Contractor's name, address, and phone number (include toll-free WATS number and FAX number, if applicable)

Contractor's internet address/web site where schedule information can be found (as applicable). Contract administration source (if different from preceding entry).

Business size.

(ii) CUSTOMER INFORMATION: The following information should be placed under this heading in consecutively numbered paragraphs in the sequence set forth below. If this information is placed in another part of the Federal Supply Schedule Price List, a table of contents must be shown on the cover page that refers to the exact location of the information.

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate "Not applicable" for this item.

2. Maximum order.

3. Minimum order.

4. Geographic coverage (delivery area).

5. Point(s) of production (city, county, and State or foreign country).

6. Discount from list prices or statement of net price.

7. Quantity discounts.

8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

9a. Notification that Government purchase cards are accepted at or below the

micro-purchase threshold.

9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

10. Foreign items (list items by country of origin).

11a. Time of delivery. (Contractor insert number of days.)

11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to effect a faster delivery.

12. F.O.B. point(s).

13a. Ordering address(es).

13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. Payment address(es).

15. Warranty provision.

16. Export packing charges, if applicable.

17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

18. Terms and conditions of rental, maintenance, and repair (if applicable).

19. Terms and conditions of installation (if applicable).

20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

20a. Terms and conditions for any other services (if applicable).

21. List of service and distribution points (if applicable).

22. List of participating dealers (if applicable).

23. Preventive maintenance (if applicable).

24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at: www.Section508.gov/.

25. Data Universal Number System (DUNS) number.

26. Notification regarding registration in System for Award Management (SAM) database.

(4) Amendments to Federal Supply Schedule Price Lists must include on the cover page the same information as the basic document plus the title "Supplement No. (sequentially numbered)" and the effective date(s) of such supplements.

(5) Accuracy of information and computation of prices is the responsibility of the Contractor. NOTE: The obliteration discussed in subdivision (b)(2)(i) of this clause must be accomplished prior to the printing and distribution of the Federal Supply Schedule Price Lists.

(6) Inclusion of incorrect information will cause the Contractor to resubmit/correct and redistribute the Federal Supply Schedule Price List, and may constitute sufficient cause for Cancellation, applying the provisions of 552.212-4 , *Contract Terms and Conditions* (paragraph (m), Termination for Cause), and application of any other remedies as provided by law—including monetary recovery.

(7) In addition, one copy of the Federal Supply Schedule Price List must be submitted to the National Customer Service Center at: Email: schedules.infocenter@gsa.gov
Telephone: 1 (800) 488-3111

Note: Regulation I-FSS-600

Note in paragraph (b)(3)(i) the url fss.gsa.gov is a non-functioning. Please replace fss.gsa.gov with the following updated url on your cover page:

<https://www.gsa.gov/acquisition/purchasing-programs/gsa-schedules/for-federal-agency-customers-ordering-from-schedules>

In lieu of paragraph (b)(7) of I-FSS-600, one copy of the Federal Supply Schedule Price List must be submitted electronically to:

NCSCCustomer.Service@gsa.gov

In the event that vendor elect to submit an electronic copy, then send Federal Supply Schedule Price List to the following correct physical address:

U.S. General Services Administration
The Heartland Region, Region 6
2300 Main St.
Kansas City, MO 64108

I-FSS-639 CONTRACT SALES CRITERIA (MAR 2002)

(a) A contract will not be awarded unless anticipated sales are expected to exceed \$25,000 within the first 24 months following contract award, and are expected to exceed \$25,000 in sales each 12-month period thereafter.

(b) The Government may cancel the contract in accordance with clause 552.238-73, Cancellation, unless reported sales are at the levels specified in paragraph (a) above.

I-FSS-644 DEALERS AND SUPPLIERS (OCT 1988)

When requested by the Contracting Officer, if other than the manufacturer, the offeror must submit prior to award of a contract, either (1) a letter of commitment from the manufacturer which will assure the offeror of a source of supply sufficient to satisfy the Government's requirements for the contract period, OR (2) evidence that the offeror will have an uninterrupted source of supply from which to satisfy the Government's requirements for the contract period.

I-FSS-646 BLANKET PURCHASE AGREEMENTS (MAY 2000)

Blanket Purchase Agreements (BPA's) can reduce costs and save time because individual orders and invoices are not required for each procurement but can instead be documented on a consolidated basis. The Contractor agrees to enter into BPA's with ordering activities provided that:

- (a) The period of time covered by such agreements shall not exceed the period of the contract including option year period(s);
- (b) Orders placed under such agreements shall be issued in accordance with all applicable regulations and the terms and conditions of the contract; and
- (c) BPAs may be established to obtain the maximum discount (lowest net price) available in those schedule contracts containing volume or quantity discount arrangements.

I-FSS-680 DISSEMINATION OF INFORMATION BY CONTRACTOR (APR 1984)

The Government will provide the Contractor with a single copy of the resulting Federal Supply Schedule. However, it is the responsibility of the Contractor to furnish all sales outlets authorized to participate in the performance of the contract with the terms, conditions, pricing schedule, and other appropriate information.

I-FSS-969 ECONOMIC PRICE ADJUSTMENT—FSS MULTIPLE AWARD SCHEDULE (OCT 2014)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

- (a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.
- (b) There are two types of economic price adjustments (EPAs) possible under the Multiple Award Schedules (MAS) program for contracts not based on commercial catalogs or price lists as described below. Price adjustments may be effective on or after the first 12 months of the contract period on the following basis:
 - (1) Adjustments based on escalation rates negotiated prior to contract award. Normally, when escalation rates are negotiated, they result in a fixed price for the term of the contract. No separate contract modification will be provided when increases are based on negotiated escalation rates. Price increases will be effective on the 12-month anniversary date of the contract effective date, subject to paragraph (f), below.
 - (2) Adjustments based on an agreed-upon market indicator prior to award. The market indicator, as used in this clause, means the originally released public index, public survey or other public,

based market indicator. The market indicator shall be the originally released index, survey or market indicator, not seasonally adjusted, published by the [to be negotiated], and made available at [to be identified]. Any price adjustment shall be based on the percentage change in the designated (i.e. indicator identification and date) market indicator from the initial award to the latest available as of the anniversary date of the contract effective date, subject to paragraph (e), below. If the market indicator is discontinued or deemed no longer available or reliable by the Government, the Government and the Contractor will mutually agree to a substitute. The contract modification reflecting the price adjustment will be effective upon approval by the Contracting Officer, subject to paragraph (g), below. The adjusted prices shall apply to orders issued to the Contractor on or after the effective date of the contract modification.

(c) Notwithstanding the two economic price adjustments discussed above, the Government recognizes the potential impact of unforeseeable major changes in market conditions. For those cases where such changes do occur, the contracting officer will review requests to make adjustments, subject to the Government's examination of industry-wide market conditions and the conditions in paragraph (d) and (e), below. If adjustments are accepted, the contract will be modified accordingly. The determination of whether or not extra-ordinary circumstances exist rests with the contracting officer. The determination of an appropriate mechanism of adjustment will be subject to negotiations.

(d) Conditions of Price change requests under paragraphs b(2) and c above.:

(1) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of subparagraph (b)).

(2) Increases are requested before the last 60 days of the contract period, including options.

(3) At least 30 days elapse between requested increases.

(4) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed 10 percent (10%) of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(e) The following material shall be submitted with request for a price increase under paragraphs b(2) and c above:

(1) A copy of the index, survey or pricing indicator showing the price increase and the effective date.

(2) Commercial Sales Practice format, per contract clause 52.215-21 Alternate IV, demonstrating the relationship of the Contractor's commercial pricing practice to the adjusted pricing proposed or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Any other documentation requested by the Contracting Officer to support the reasonableness of the price increase.

(f) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), (d), and (e) of this clause are satisfied;

(2) Negotiate more favorable prices when the total increase requested is not supported; or,

(3) Decline the price increase when the request is not supported. The Contractor may remove the item(s) from contract involved pursuant to the Cancellation Clause of this contract.

(g) Effective Date of Increases: No price increase shall be effective until the Government receives the electronic file updates pursuant to GSAR 552.238-81, Modifications (Federal Supply Schedule).

(h) All MAS contracts remain subject to contract clauses GSAR 552.238-75, "Price Reductions"; and 552.215-72, "Price Adjustment -- Failure to Provide Accurate Information." In the event the application of an economic price adjustment results in a price less favorable to the Government than the price relationship established during negotiation between the MAS price and the price to the designated customer, the Government will maintain the price relationship to the designated customer.

Note: Regulation I-FSS-969

This clause does NOT apply to vendors that elect to participate in the TDR Pilot.

If elect to participate in the TDR pilot, then clause I-FSS-969 ECONOMIC PRICE ADJUSTMENT-FSS MULTIPLE AWARD SCHEDULE (OCT 2014) (ALTERNATE II - JUL 2016) applies.

NOTE: THIS REGULATION FOR ECONOMIC PRICE ADJUSTMENT (EPA) IS FOR PRODUCTS AND /OR SERVICES THAT WERE AWARDED, BUT NOT BASED ON A COMMERCIAL CATALOG PRICE.

(Note: This is an FSS reproduction using word processing software) **STANDARD FORM 1449** (10-95) (BACK)

I-FSS-969 ECONOMIC PRICE ADJUSTMENT – FSS MULTIPLE AWARD SCHEDULE (OCT 2014) (ALTERNATE II – JUL 2016)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reductions clause.

(b) There are two types of economic price adjustments (EPAs) possible under the Multiple Award Schedules (MAS) program for contracts not based on commercial catalogs or price lists as described below. Price adjustments may be effective on or after the first 12 months of the contract period on the following basis:

(1) **Adjustments based on escalation rates negotiated prior to contract award.** Normally, when escalation rates are negotiated, they result in a fixed price for the term of the contract. No separate contract modification will be provided when increases are based on negotiated escalation rates. Price increases will be effective on the 12-month anniversary date of the contract effective date, subject to paragraph (f), below.

(2) **Adjustments based on an agreed-upon market indicator prior to award.** The market indicator, as used in this clause, means the originally released public index, public survey or other public-based market indicator. The market indicator shall be the originally released index, survey or market indicator, not seasonally adjusted, published by the [to be negotiated], and made available at [to be identified]. Any price adjustment shall be based on the percentage change in the designated (i.e. indicator identification and date) market indicator from the initial award to the latest available as of the anniversary date of the contract effective date, subject to paragraph (e), below. If the market indicator is discontinued or deemed no longer available or reliable by the Government, the Government and the Contractor will mutually agree to a substitute. The contract modification reflecting the price adjustment will be effective upon approval by the Contracting Officer, subject to paragraph (g), below.

(c) Notwithstanding the two economic price adjustments discussed above, the Government recognizes the potential impact of unforeseeable major changes in market conditions. For those cases where such changes do occur, the contracting officer will review requests to make adjustments, subject to the Government's examination of industry-wide market conditions and the conditions in paragraph (d) and (e), below. If adjustments are accepted, the contract will be modified accordingly. The determination of whether or not extra-ordinary circumstances exist rests with the contracting officer. The determination of an appropriate mechanism of adjustment will be subject to negotiations.

(d) Conditions of Price change requests under paragraphs b(2) and c above:

(1) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of subparagraph (b)).

(2) Increases are requested before the last 60 days of the contract period, including options.

(3) At least 30 days elapse between requested increases.

(4) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed 10 percent (10%) of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(e) The following material shall be submitted with request for a price increase under paragraphs b(2) and c above:

(1) A copy of the index, survey or pricing indicator showing the price increase and the effective date.

(2) Any other documentation requested by the Contracting Officer to support the reasonableness of the price increase.

(f) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), (d), and (e) of this clause are satisfied;

(2) Negotiate more favorable prices when the total increase requested is not supported; or,

(3) Decline the price increase when the request is not supported. The Contractor may remove the item(s) from contract involved pursuant to the Cancellation Clause of this contract.

(g) Effective Date of Increases: The increased contract prices shall apply to orders issued to the Contractor on or after the effective date of the contract modification.

Note: Regulation I-FSS-969

This clause APPLIES to offerors that elect to participate in the TDR pilot.

If elect to NOT participate in the TDR pilot, then clause I-FSS-969 ECONOMIC PRICE ADJUSTMENT- FSS MULTIPLE AWARD SCHEDULE (OCT 2014) applies.

NOTE: THIS REGULATION FOR ECONOMIC PRICE ADJUSTMENT (EPA) IS FOR PRODUCTS AND /OR SERVICES THAT WERE AWARDED, BUT NOT BASED ON A COMMERCIAL CATALOG PRICE.

Schedule # 70- Information Technology, Software Services
Solicitation FCIS-JB-90001B (Refresh # 42)

SIN	MFR PART NO	PRODUCT NAME	PRODUCT DESCRIPTION	UOI	COMMERCIAL LIST PRICE	MOST FAVORED CUSTOMER (MFC)	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA (%) DISCOUNT (exclusive of the .75% IFF)	GSA OFFER PRICE (exclusive of the .75% IFF)	GSA OFFER PRICE (inclusive of the .75% IFF)	QUANTITY/ OLU ME DISCOUNT	WARRAN TY	CO O
132-33	AW-SFM-1	Pillar - AIM Operations and Maintenance (O&M) Server License	AIM's operations and maintenance solution cuts through the complexity of the modern workplace. With AIM, your organization can reduce inventory carrying costs, improve asset availability, limit equipment downtime, and reduce facilities maintenance costs enterprise-wide.		\$60,000.00	Commercial Entities	20.00%	\$48,000.00	40.00%	\$36,000.00	\$36,272.04		SCW	US
132-33	AW-SFM-2	AIM O&M Named User License, 1-50 Users, price per user	AIM O&M Named User License		\$2,500.00	Commercial Entities	20.00%	\$2,000.00	40.00%	\$1,500.00	\$1,511.34		SCW	US
132-33	AW-SFM-3	AIM O&M Named User License, 51-100 Users, price per user	AIM O&M Named User License		\$2,250.00	Commercial Entities	20.00%	\$1,800.00	40.00%	\$1,350.00	\$1,360.20		SCW	US
132-33	AW-SFM-4	AIM O&M Named User License, 101-200 Users, price per user	AIM O&M Named User License		\$2,000.00	Commercial Entities	20.00%	\$1,600.00	40.00%	\$1,200.00	\$1,209.07		SCW	US
132-33	AW-SFM-5	AIM O&M Named User License, 201-500 Users, price per user	AIM O&M Named User License		\$1,750.00	Commercial Entities	20.00%	\$1,400.00	40.00%	\$1,050.00	\$1,057.93		SCW	US
132-33	AW-SFM-6	AIM O&M Named User License, 501 or more Users, price per user	AIM O&M Named User License		\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80		SCW	US
132-33	AW-SFM-7	Pillar - AIM Capital Planning and Project Management (CPPM) Server License	AIM Capital Planning and Project Management helps organizations increase fiscal controls and improve financial accountability for capital projects, reduce their risk profile through improved regulatory compliance, and streamline capital planning and management processes to reduce CAPEX and improve rates of return from capital investments. AIM tightly aligns capital planning and facilities maintenance, improving access to shared data, reducing costs, and promoting greater transparency across the organization.		\$60,000.00	Commercial Entities	20.00%	\$48,000.00	40.00%	\$36,000.00	\$36,272.04		SCW	US
132-33	AW-SFM-8	AIM CPPM Named User License, 1-50 Users, price per user	AIM CPPM Named User License		\$2,500.00	Commercial Entities	20.00%	\$2,000.00	40.00%	\$1,500.00	\$1,511.34		SCW	US
132-33	AW-SFM-9	AIM CPPM Named User License, 51-100 Users, price per user	AIM CPPM Named User License		\$2,250.00	Commercial Entities	20.00%	\$1,800.00	40.00%	\$1,350.00	\$1,360.20		SCW	US
132-33	AW-SFM-10	AIM CPPM Named User License, 101-200 Users, price per user	AIM CPPM Named User License		\$2,000.00	Commercial Entities	20.00%	\$1,600.00	40.00%	\$1,200.00	\$1,209.07		SCW	US
132-33	AW-SFM-11	AIM CPPM Named User License, 201-500 Users, price per user	AIM CPPM Named User License		\$1,750.00	Commercial Entities	20.00%	\$1,400.00	40.00%	\$1,050.00	\$1,057.93		SCW	US
132-33	AW-SFM-12	AIM CPPM Named User License, 501 or more Users, price per user	AIM CPPM Named User License		\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80		SCW	US
132-33	AW-SFM-13	Pillar - AIM Energy Management (EMS) Server License	AIM Energy Management leverages a unique feature set that enables organizations to identify energy inefficiencies and squeeze greater savings from their current energy management program by blending energy management and feature-rich business intelligence in a single, fully-integrated package.		\$60,000.00	Commercial Entities	20.00%	\$48,000.00	40.00%	\$36,000.00	\$36,272.04		SCW	US
132-33	AW-SFM-14	AIM EMS Named User License, 1-50 Users, price per user	AIM EMS Named User License		\$2,500.00	Commercial Entities	20.00%	\$2,000.00	40.00%	\$1,500.00	\$1,511.34		SCW	US
132-33	AW-SFM-15	AIM EMS Named User License, 51-100 Users, price per user	AIM EMS Named User License		\$2,250.00	Commercial Entities	20.00%	\$1,800.00	40.00%	\$1,350.00	\$1,360.20		SCW	US
132-33	AW-SFM-16	AIM EMS Named User License, 101-200 Users, price per user	AIM EMS Named User License		\$2,000.00	Commercial Entities	20.00%	\$1,600.00	40.00%	\$1,200.00	\$1,209.07		SCW	US
132-33	AW-SFM-17	AIM EMS Named User License, 201-500 Users, price per user	AIM EMS Named User License		\$1,750.00	Commercial Entities	20.00%	\$1,400.00	40.00%	\$1,050.00	\$1,057.93		SCW	US
132-33	AW-SFM-18	AIM EMS Named User License, 501 or more Users, price per user	AIM EMS Named User License		\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80		SCW	US
132-33	AW-SFM-19	Pillar - AIM Space Management (Space) Server License	AIM Space Management software provides accurate data to pinpoint the total cost of owned and leased space across an organization. AIM supports metrics that enable you to compare your organization to similar institutions based on established standards, and you can accurately measure space and accurately track utilization enterprise-wide.		\$60,000.00	Commercial Entities	20.00%	\$48,000.00	40.00%	\$36,000.00	\$36,272.04		SCW	US
132-33	AW-SFM-20	AIM Space Named User License, 1-50 Users, price per user	AIM Space Named User License		\$2,500.00	Commercial Entities	20.00%	\$2,000.00	40.00%	\$1,500.00	\$1,511.34		SCW	US
132-33	AW-SFM-21	AIM Space Named User License, 51-100 Users, price per user	AIM Space Named User License		\$2,250.00	Commercial Entities	20.00%	\$1,800.00	40.00%	\$1,350.00	\$1,360.20		SCW	US
132-33	AW-SFM-22	AIM Space Named User License, 101-200 Users, price per user	AIM Space Named User License		\$2,000.00	Commercial Entities	20.00%	\$1,600.00	40.00%	\$1,200.00	\$1,209.07		SCW	US
132-33	AW-SFM-23	AIM Space Named User License, 201-500 Users, price per user	AIM Space Named User License		\$1,750.00	Commercial Entities	20.00%	\$1,400.00	40.00%	\$1,050.00	\$1,057.93		SCW	US
132-33	AW-SFM-24	AIM Space Named User License, 501 or more Users, price per user	AIM Space Named User License		\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80		SCW	US
132-33	AW-SFM-25	Add-on Modules, Key And Access Control, percentage of base pricing (License)	Facilities Managers focused on Access Controls should consider using AIM's Key and Access Control module. AIM helps shop personnel track access locations, cores, locks and keys (to include key copies and rings) and helps reduce the fear of rouge keys by taking control of the release/return process. Campus Security officials concerned with the over authorization of access would benefit from AIM's Key and Access Control software. Knowing exactly what space is opened before keys are released is essential for effective control. Integration with our Space Management system allows graphical, floor-plan style reports that can quickly allow the proper decisions to be made. Add-on Modules (percentage of total of server and named user licenses)	10% of List Price		Commercial Entities	20.00%	10% of MFC Price	40.00%	\$0.10			SCW	US
132-33	AW-SFM-26	Add-on Modules, Assessment and Needs Analysis, percentage of base pricing (License)	Facilities Managers looking for more credible assessment data can use AIM's Assessment and Needs Analysis software which allows them to store both asset lifecycle and deficiency data within our industry-leading IWMS platform. Quality control of their information increases, benchmarking of the information becomes possible, and the access to credible data for long-range strategic planning and budgeting becomes a reality. Add-on Modules (percentage of total of server and named user licenses)	25% of List Price		Commercial Entities	20.00%	25% of MFC Price	40.00%	\$0.25			SCW	US
132-33	AW-SFM-27	Add-on Modules, Estimating, percentage of base pricing (License)	With AIM's Estimating module, Estimators can be automatically tied to the projects and job they are providing estimates for, eliminating the need to transcribe or export completed estimates from a silo system. Multi-price book support provides the institution flexibility for emerging standards and historical price book usage. Add-on Modules (percentage of total of server and named user licenses)	10% of List Price		Commercial Entities	20.00%	10% of MFC Price	40.00%	\$0.10			SCW	US
132-33	AW-SFM-28	Add-on Modules, Lease Management, percentage of base pricing (License)	With AIM Lease Management module, Lease managers benefit by being integrated to the property and space mgmt system thereby staying current with the location changes and sqft data leading to more accurate sqft lease management and forecasting. Lease managers can automate the invoice/payment process removing the resource intensive manual paperwork or data entry that is fraught with errors and missing information. Add-on Modules (percentage of total of server and named user licenses)	15% of List Price		Commercial Entities	20.00%	15% of MFC Price	40.00%	\$0.15			SCW	US
132-33	AW-SFM-29	Add-on Modules, Environmental Health and Safety, percentage of base pricing (License)	With AIM EH&S, safety managers can be protected for unnecessary fines with accurate and accessible hazardous material data. Hazardous material disbursements, recovery and disposal are integrated to AIM to manage not only containerized transfers but also transfers in/out of building equipment and other hazardous material containing assets. Add-on Modules (percentage of total of server and named user licenses)	20% of List Price		Commercial Entities	20.00%	20% of MFC Price	40.00%	\$0.20			SCW	US
132-33	AW-SFM-30	Add-on Modules, Motor Pool, percentage of base pricing (License)	Motorpool provides visibility to accessible vehicles in a visual "gant-like" chart to quickly make decisions on reservations. Integrated O&M allows Motorpool managers ability to schedule vehicle maintenance or other assets without the need for another system. Integrated O&M allows Motorpool managers ability to easily associate costs to a job if needed. Add-on Modules (percentage of total of server and named user licenses)	15% of List Price		Commercial Entities	20.00%	15% of MFC Price	40.00%	\$0.15			SCW	US
132-33	AW-SFM-31	Add-on Modules, GIS, percentage of base pricing (License)	With AIM's GIS module, GIS managers no longer have to constantly export maps to non-GIS users. AIM GIS integration allows for easy access to maps for all AIM users without having to learn GIS. Non-GIS users struggling with visualizing data on a map that does not contain the proper data elements can add layers of data from AIM without affecting the original GIS maps or systems. Allowing work managers to geolocate jobs speeds the process of locating job sites especially for contractors and new employee unfamiliar with the institution or when the work takes place in a very specific location. Add-on Modules (percentage of total of server and named user licenses)	10% of List Price		Commercial Entities	20.00%	10% of MFC Price	40.00%	\$0.10			SCW	US
132-33	AW-SFM-32	Add-on Modules, Customer Service, percentage of base pricing (License)	AIM's Customer Service Module allows Non-AIM users to submit customer requests for service. Add-on Modules (percentage of total of server and named user licenses)	15% of List Price		Commercial Entities	20.00%	15% of MFC Price	40.00%	\$0.15			SCW	US
132-33	AW-SFM-33	Add-on Modules, Fixed Asset Accounting, percentage of base pricing (License)	Asset Rental managers have visibility to assets accessible in a visual "gant-like" chart to quickly make decisions on reservations. Integrated O&M allows Asset Rental managers ability to schedule asset maintenance or other assets without the need for another system. Integrated O&M allows Asset Rental managers ability to easily associate costs to a job if needed. Ability to package assets by type of job based on a work plan. Add-on Modules (percentage of total of server and named user licenses)	15% of List Price		Commercial Entities	20.00%	15% of MFC Price	40.00%	\$0.15			SCW	US

Schedule #70- Information Technology, Software Services
Solicitation FCIS-JB-980001B (Refresh # 42)

132-33	AW-SFM-34	Add-on Modules, BIM-COBIE Exchange, percentage of base pricing (License)	Construction managers struggling with tons of files full of project data during turnover to operations can automate the process of creating property and asset records using a widely accepting data standard. Critical documents needed for reference during the lifecycle of installed assets are easily linked and available. Add-on Modules (percentage of total of server and named user licenses)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%			\$0.10		SCW	US
132-33	AW-SFM-35	Add-on Modules, Green and Sustainability Module, percentage of base pricing (License)	With AIM's Green and Sustainability module, Sustainability managers struggling with websites to manage "green" projects and manually pulling and scoring green initiatives from soled systems can seamlessly track all requirements in the same system as Capital Projects, Purchasing, Materials mgmt, and Operations. Sustainability is no longer an "add-on" within AIM, it is integrated into the process of doing projects and jobs. Add-on Modules (percentage of total of server and named user licenses)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%			\$0.10		SCW	US
132-33	AW-SFM-36	AIM Mobile (Per FIRE Product) Server License	FIRE mobile solutions empower your field personnel and technicians to be right where the action is. Offering the right blend of functionality and usability, your organization will benefit from solutions that make your people more agile, flexible and productive, and that's good for your bottom line.	\$15,000.00	Commercial Entities	20.00%	\$12,000.00	40.00%	\$9,000.00	\$9,068.01			SCW	US
132-33	AW-SFM-37	AIM Mobile Per FIRE Product Client License, 1-50 Clients, price per client	AIM Mobile Per FIRE Product Client License	\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80			SCW	US
132-33	AW-SFM-38	AIM Mobile Per FIRE Product Client License, 51-100 Client, price per client	AIM Mobile Per FIRE Product Client License	\$1,250.00	Commercial Entities	20.00%	\$1,000.00	40.00%	\$750.00	\$755.67			SCW	US
132-33	AW-SFM-39	AIM Mobile Per FIRE Product Client License, 101 or more Clients, price per client	AIM Mobile Per FIRE Product Client License	\$1,000.00	Commercial Entities	20.00%	\$800.00	40.00%	\$600.00	\$604.53			SCW	US
132-33	AW-SFM-40	AssetMobile On-Site Inventory Software- AssetMobile Client License, 1-50 Clients, price per client	AssetMobile On-Site Inventory Software- AssetMobile Client License	\$2,000.00	Commercial Entities	20.00%	\$1,600.00	40.00%	\$1,200.00	\$1,209.07			SCW	US
132-33	AW-SFM-41	AssetMobile On-Site Inventory Software- AssetMobile Client License, 51-100 Client, price per client	AssetMobile On-Site Inventory Software- AssetMobile Client License	\$1,750.00	Commercial Entities	20.00%	\$1,400.00	40.00%	\$1,050.00	\$1,057.93			SCW	US
132-33	AW-SFM-42	AssetMobile On-Site Inventory Software- AssetMobile Client License, 101-200 Clients, price per client	AssetMobile On-Site Inventory Software- AssetMobile Client License	\$1,500.00	Commercial Entities	20.00%	\$1,200.00	40.00%	\$900.00	\$906.80			SCW	US
132-33	AW-SFM-43	AssetMobile On-Site Inventory Software- AssetMobile Client License, 201-500 Clients, price per client	AssetMobile On-Site Inventory Software- AssetMobile Client License	\$1,250.00	Commercial Entities	20.00%	\$1,000.00	40.00%	\$750.00	\$755.67			SCW	US
132-33	AW-SFM-44	AssetMobile On-Site Inventory Software- AssetMobile Client License, 501 or more Clients, price per client	AssetMobile On-Site Inventory Software- AssetMobile Client License	\$1,000.00	Commercial Entities	20.00%	\$800.00	40.00%	\$600.00	\$604.53			SCW	US
132-33	AW-SFM-45	ASP/Software As a Service (SaaS), Server Set-Up (one-time)	ASP/Software As a Service (SaaS) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$8,350.00	Commercial Entities	20.00%	\$6,680.00	40.00%	\$5,010.00	\$5,047.86			SCW	US
132-32	AW-SFM-46	1-25 Concurrent users, price per user per month	Per Concurrent User/Per Month	\$280.00	Commercial Entities	20.00%	\$224.00	40.00%	\$168.00	\$169.27			SCW	US
132-32	AW-SFM-47	26-50 Concurrent Users, price per user per month	Per Concurrent User/Per Month	\$270.00	Commercial Entities	20.00%	\$216.00	40.00%	\$162.00	\$163.22			SCW	US
132-32	AW-SFM-48	51-100 Concurrent Users, price per user per month	Per Concurrent User/Per Month	\$250.00	Commercial Entities	20.00%	\$200.00	40.00%	\$150.00	\$151.13			SCW	US
132-32	AW-SFM-49	101-200 Concurrent Users, price per user per month	Per Concurrent User/Per Month	\$240.00	Commercial Entities	20.00%	\$192.00	40.00%	\$144.00	\$145.09			SCW	US
132-32	AW-SFM-50	201+ Concurrent Users, price per user per month	Per Concurrent User/Per Month	\$230.00	Commercial Entities	20.00%	\$184.00	40.00%	\$138.00	\$139.04			SCW	US
132-32	AW-SFM-51	Add-on Modules, Key And Access Control (SaaS)	Facilities Managers focused on Access Controls should consider using AIM's Key and Access Control module. AIM helps shop personnel track access locations, cores, locks and keys (to include key copies and rings) and helps reduce the fear of rouge keys by taking control of the release/return process. Campus Security officials concerned with the over authorization of access would benefit from AIM's Key and Access Control software. Knowing exactly what space is opened before keys are released is essential for effective control. Integration with our Space Management system allows graphical, floor-plan style reports that can quickly allow the proper decisions to be made. Add-on Modules (percentage of total SaaS fees)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%		\$0.10			SCW	US
132-32	AW-SFM-52	Add-on Modules, Facility Condition Assessment (SaaS)	Facilities Managers looking for more credible assessment data can use AIM's Assessment and Needs Analysis software which allows them to store both asset lifecycle and deficiency data within our industry-leading IWMS platform. Quality control of their information increases, benchmarking of the information becomes possible, and the access to credible data for long-range strategic planning and budgeting becomes a reality. Add-on Modules (percentage of total SaaS fees)	25% of List Price	Commercial Entities	20.00%	25% of MFC Price	40.00%		\$0.25			SCW	US
132-32	AW-SFM-53	Add-on Modules, Estimating (SaaS)	With AIM's Estimating module, Estimators can be automatically tied to the projects and job they are providing estimates for, eliminating the need to transcribe or export completed estimates from a silo system. Multi-price book support provides the institution flexibility for emerging standards and historical price book usage. Add-on Modules (percentage of total SaaS fees)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%		\$0.10			SCW	US
132-32	AW-SFM-54	Add-on Modules, Lease Management (SaaS)	With AIM Lease Management module, Lease managers benefit by being integrated to the property and space mgmt system thereby staying current with the location changes and sqft data leading to more accurate sqft lease management and forecasting. Lease managers can automate the invoice/payment process removing the resource intensive manual paperwork or data entry that is fraught with errors and missing information. Add-on Modules (percentage of total SaaS fees)	15% of List Price	Commercial Entities	20.00%	15% of MFC Price	40.00%		\$0.15			SCW	US
132-32	AW-SFM-55	Add-on Modules, Environmental Health and Safety (SaaS)	With AIM EH&S, safety managers can be protected for unnecessary fines with accurate and accessible hazardous material data. Hazardous material disbursements, recovery and disposal are integrated to AIM to manage not only containerized transfers but also transfers in/out of building equipment and other hazardous material containing assets. Add-on Modules (percentage of total SaaS fees)	20% of List Price	Commercial Entities	20.00%	20% of MFC Price	40.00%		\$0.20			SCW	US
132-32	AW-SFM-56	Add-on Modules, Motor Pool (SaaS)	Motorpool provides visibility to accessible vehicles in a visual "gantt-like" chart to quickly make decisions on reservations. Integrated O&M allows Motorpool managers ability to schedule vehicle maintenance or other assets without the need for another system. Integrated O&M allows Motorpool managers ability to easily associate costs to a job if needed. Add-on Modules (percentage of total SaaS fees)	15% of List Price	Commercial Entities	20.00%	15% of MFC Price	40.00%		\$0.15			SCW	US
132-32	AW-SFM-57	Add-on Modules, GIS (SaaS)	With AIM's GIS module, GIS managers no longer have to constantly export maps to non-GIS users. AIM GIS integration allows for easy access to maps for all AIM users without having to learn GIS. Non-GIS users struggling with visualizing data on a map that does not contain the proper data elements can add layers of data from AIM without affecting the original GIS maps or systems. Allowing work managers to geolocate jobs speeds the process of locating job sites especially for contractors and new employee unfamiliar with the institution or when the work takes place in a very specific location. Add-on Modules (percentage of total SaaS fees)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%		\$0.10			SCW	US
132-32	AW-SFM-58	Add-on Modules, Customer Service (SaaS)	AIM's Customer Service Module allows Non-AIM users to submit customer requests for service. Add-on Modules (percentage of total SaaS fees)	15% of List Price	Commercial Entities	20.00%	15% of MFC Price	40.00%		\$0.15			SCW	US
132-32	AW-SFM-59	Add-on Modules, Fixed Asset Accounting (SaaS)	Asset Rental managers have visibility to assets accessible in a visual "gantt-like" chart to quickly make decisions on reservations. Integrated O&M allows Asset Rental managers ability to schedule asset maintenance or other assets without the need for another system. Integrated O&M allows Asset Rental managers ability to easily associate costs to a job if needed. Ability to package assets by type of job based on a work plan. Add-on Modules (percentage of total SaaS fees)	15% of List Price	Commercial Entities	20.00%	15% of MFC Price	40.00%		\$0.15			SCW	US
132-32	AW-SFM-60	Add-on Modules, BIM-COBIE Exchange (SaaS)	Construction managers struggling with tons of files full of project data during turnover to operations can automate the process of creating property and asset records using a widely accepting data standard. Critical documents needed for reference during the lifecycle of installed assets are easily linked and available. Add-on Modules (percentage of total SaaS fees)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%		\$0.10			SCW	US
132-32	AW-SFM-61	Add-on Modules, Green and Sustainability Module (SaaS)	With AIM's Green and Sustainability module, Sustainability managers struggling with websites to manage "green" projects and manually pulling and scoring green initiatives from soled systems can seamlessly track all requirements in the same system as Capital Projects, Purchasing, Materials mgmt, and Operations. Sustainability is no longer an "add-on" within AIM, it is integrated into the process of doing projects and jobs. Add-on Modules (percentage of total SaaS fees)	10% of List Price	Commercial Entities	20.00%	10% of MFC Price	40.00%		\$0.10			SCW	US

Schedule # 70- Information Technology, Software Services
Solicitation FCIS-JB-98001B (Refresh # 42)

132-32	AW-SFM-62	AIM Mobile Per FIRE Product Client License, 1-50 Clients, price per client per month	AIM Mobile Per FIRE Product Client License Rental Per Client Per Month - 12 month commitment required Minimum monthly fee of \$352.64 or per client amount, whichever is greater	\$50.00	Commercial Entities	20.00%	\$40.00	40.00%	\$30.00	\$30.23		SCW	US
132-32	AW-SFM-63	AIM Mobile Per FIRE Product Client License, 51-100 Clients, price per client per month	AIM Mobile Per FIRE Product Client License Rental Per Client Per Month - 12 month commitment required Minimum monthly fee of \$352.64 or per client amount, whichever is greater	\$48.00	Commercial Entities	20.00%	\$38.40	40.00%	\$28.80	\$29.02		SCW	US
132-32	AW-SFM-64	AIM Mobile Per FIRE Product Client License, 101 or more Clients, price per client per month	AIM Mobile Per FIRE Product Client License Rental Per Client Per Month - 12 month commitment required Minimum monthly fee of \$352.64 or per client amount, whichever is greater	\$45.00	Commercial Entities	20.00%	\$36.00	40.00%	\$27.00	\$27.20		SCW	US
132-33	AW-SFM-65	Hosting, Server Set-Up (one-time)	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$8,350.00	Commercial Entities	20.00%	\$6,680.00	40.00%	\$5,010.00	\$5,047.86		SCW	US
132-32	AW-SFM-66	Hosting, 1-25 Concurrent Users, price per user per month	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$150.00	Commercial Entities	20.00%	\$120.00	40.00%	\$90.00	\$90.68		SCW	US
132-32	AW-SFM-67	Hosting, 26-50 Concurrent Users, price per user per month	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$140.00	Commercial Entities	20.00%	\$112.00	40.00%	\$84.00	\$84.63		SCW	US
132-32	AW-SFM-68	Hosting, 51-100 Concurrent Users, price per user per month	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$130.00	Commercial Entities	20.00%	\$104.00	40.00%	\$78.00	\$78.59		SCW	US
132-32	AW-SFM-69	Hosting, 101-200 Concurrent Users, price per user per month	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$120.00	Commercial Entities	20.00%	\$96.00	40.00%	\$72.00	\$72.54		SCW	US
132-32	AW-SFM-70	Hosting, 201+ Concurrent Users, price per user per month	Hosting - (per Concurrent User per month purchases software) - 60 month commitment required Minimum monthly fee of \$1,964.74 or concurrent user amount, whichever is higher	\$115.00	Commercial Entities	20.00%	\$92.00	40.00%	\$69.00	\$69.52		SCW	US
132-32	AW-SFM-71	Support and Maintenance	Maintenance includes 3 planned releases/updates per year. Support includes telephone Hotline Assistance where AssetWorks shall make available technically qualified personnel to respond to all reasonable telephone requests or submitted tickets via the customer portal that may be made by the Customer relating to the application and operation of the Software. Telephone hotline hours are Monday through Friday, excluding State holidays, during normal business hours. Outside of normal business hours, AssetWorks personnel are available by beeper for emergencies. (percentage of Total License List price or Total SaaS List price including all Add-on Modules)	20% of List Price	Commercial Entities	0.00%	20% of MFC Price	40.00%		\$0.20		SCW	US

SIN	MFR PART NO	PRODUCT NAME	PRODUCT DESCRIPTION	UOI	COMMERCIAL LIST PRICE	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA (%) DISCOUNT (exclusive of the .75% IFF)	GSA OFFER PRICE (exclusive of the .75% IFF)	GSA OFFER PRICE (inclusive of the .75% IFF)	QUANTIT Y/VOLUM E DISCOU NT	WARRAN TY	COO
132-32	SMS100	SURPLUS BASE SOFTWARE (Year 1)	Managing surplus property from acquisition through redistribution, sale, or disposal can often be a very labor-intensive, time consuming process. However, the benefits associated with extending the useful life of assets, generating revenue, and diverting waste from landfills can be great. Whether you are tracking one facility or multiple distribution centers, AssetWorks' Surplus Management Software (SMS) is a scalable solution that is designed to help you automate and streamline processes, making it easier to achieve both environmental and fiscal sustainability goals. Includes: Assets, Contacts, Admin & Report Modules		\$12,915.00	Up to 25%	\$9,686.25	25.00%	\$9,686.25	\$9,759.45	None	SCW	US
132-32	SMS100R	SURPLUS BASE SOFTWARE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$7,749.00	Up to 25%	\$5,811.75	25.00%	\$5,811.75	\$5,855.67	None	SCW	US
132-32	SMS200	FEDERAL SURPLUS (SASP) BASE SOFTWARE (Year 1)	The Federal Surplus Module automates and tracks all aspects of the GSA Federal Surplus program. Transfers, warehouse, donations, utilization & compliance, account management, and comprehensive reporting combine seamlessly to allow you to maximize your returns with user-friendly workflow automation. The Federal Surplus Module includes integrated form 123 processing, inspection notifications, detailed eligibility and contact management, standard and custom invoice forms. Reporting includes over/short, Federal Form 3040, compliance, ad hoc, and user-defined reports. Includes: Assets, Contacts, Admin & Report Modules 123 Processing All Federal Reports Included Utilization and Compliance Automation		\$12,915.00	Up to 25%	\$9,686.25	25.00%	\$9,686.25	\$9,759.45	None	SCW	US
132-32	SMS200R	FEDERAL SURPLUS (SASP) BASE SOFTWARE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$7,749.00	Up to 25%	\$5,811.75	25.00%	\$5,811.75	\$5,855.67	None	SCW	US
132-32	SMS300	SYSTEM ADMINISTRATOR USER (Year 1)	Minimum One Per System Full Read/Write Access to Data		\$945.00	Up to 25%	\$708.75	25.00%	\$708.75	\$714.11	None	SCW	US
132-32	SMS300R	SYSTEM ADMINISTRATOR USER (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$567.00	Up to 25%	\$425.25	25.00%	\$425.25	\$428.46	None	SCW	US
132-32	SMS400	CONTROLLED ACCESS USER (Year 1)	Access as Configured by System Administrator Controlled Access to Module/Location Specific Data		\$420.00	Up to 25%	\$315.00	25.00%	\$315.00	\$317.38	None	SCW	US
132-32	SMS400R	CONTROLLED ACCESS USER (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$252.00	Up to 25%	\$189.00	25.00%	\$189.00	\$190.43	None	SCW	US
132-32	SMS500	AMS SITE LICENSE (Year 1)	Includes an Unlimited Number of Controlled Users Access as Configured by the System Administrator Restricted Access to Module/Location Specific Data		\$20,895.00	Up to 25%	\$15,671.25	25.00%	\$15,671.25	\$15,789.67	None	SCW	US
132-32	SMS500R	AMS SITE LICENSE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$12,537.00	Up to 25%	\$9,402.75	25.00%	\$9,402.75	\$9,473.80	None	SCW	US
132-32	SMS600	UNLIMITED SURPLUS TRANSFER USERS (Year 1)	Includes an Unlimited Number of Surplus Transfer Users		\$11,235.00	Up to 25%	\$8,426.25	25.00%	\$8,426.25	\$8,489.92	None	SCW	US
132-32	SMS600R	UNLIMITED SURPLUS TRANSFER USERS (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$6,741.00	Up to 25%	\$5,055.75	25.00%	\$5,055.75	\$5,093.95	None	SCW	US
132-32	SMS700	STATE SURPLUS ADD-ON MODULE (Year 1) , Add-on module when AssetWorks Federal Surplus (SASP) is installed as the base software	Managing surplus property from acquisition through redistribution, sale, or disposal can often be a very labor-intensive, time consuming process. However, the benefits associated with extending the useful life of assets, generating revenue, and diverting waste from landfills can be great. Whether you are tracking one facility or multiple distribution centers, AssetWorks' Surplus Management Software (SMS) is a scalable solution that is designed to help you automate and streamline processes, making it easier to achieve both environmental and fiscal sustainability goals. Includes: Assets, Contacts, Admin, Surplus Transfers & Report Modules		\$4,620.00	Up to 25%	\$3,465.00	25.00%	\$3,465.00	\$3,491.18	None	SCW	US
132-32	SMS700R	STATE SURPLUS ADD-ON MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$2,772.00	Up to 25%	\$2,079.00	25.00%	\$2,079.00	\$2,094.71	None	SCW	US
132-32	SMS800	FEDERAL SURPLUS (SASP) ADD-ON MODULE (Year 1) , Add-on module when AssetWorks Surplus is installed as the base software, 123 Processing, All Federal Reports Included, Utilization and Compliance Automation	The Federal Surplus Module automates and tracks all aspects of the GSA Federal Surplus program. Transfers, warehouse, donations, utilization & compliance, account management, and comprehensive reporting combine seamlessly to allow you to maximize your returns with user-friendly workflow automation. The Federal Surplus Module includes integrated form 123 processing, inspection notifications, detailed eligibility and contact management, standard and custom invoice forms. Reporting includes over/short, Federal Form 3040, compliance, ad hoc, and user-defined reports.		\$4,620.00	Up to 25%	\$3,465.00	25.00%	\$3,465.00	\$3,491.18	None	SCW	US
132-32	SMS800R	FEDERAL SURPLUS (SASP) ADD-ON MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$2,772.00	Up to 25%	\$2,079.00	25.00%	\$2,079.00	\$2,094.71	None	SCW	US
132-32	SMS900	WEB-SURPLUS MODULE (Year 1) , Surplus Reutilization Module	There is no better way to handle surplus than putting it back to work for the public. AssetWorks Web Surplus module does just that by publishing the contents of the surplus warehouse in a web storefront. State agencies, municipalities, schools and other eligible entities use this tool to give new life to property that would otherwise be sold for pennies on the dollar. Web Surplus is completely integrated into AssetWorks Surplus and Asset Management applications, so items are published automatically, often being re-allocated before they hit the warehouse.		\$6,510.00	Up to 25%	\$4,882.50	25.00%	\$4,882.50	\$4,919.40	None	SCW	US
132-32	SMS900R	WEB-SURPLUS MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,906.00	Up to 25%	\$2,929.50	25.00%	\$2,929.50	\$2,951.64	None	SCW	US
132-32	SMS1000	ENHANCED WEB-SURPLUS MODULE (Year 1) , Surplus Reutilization Module, Includes Asset Screening, Want List, and Asset Hold Functionality, Includes Unlimited User Site License and Email Routing	There is no better way to handle surplus than putting it back to work for the public. AssetWorks Web Surplus module does just that by publishing the contents of the surplus warehouse in a web storefront. State agencies, municipalities, schools and other eligible entities use this tool to give new life to property that would otherwise be sold for pennies on the dollar. Web Surplus is completely integrated into AssetWorks Surplus and Asset Management applications, so items are published automatically, often being re-allocated before they hit the warehouse. With automated wait list functionality, registered users place orders for property before it's sent to the surplus warehouse.		\$12,600.00	Up to 25%	\$9,450.00	25.00%	\$9,450.00	\$9,521.41	None	SCW	US
132-32	SMS1000R	ENHANCED WEB-SURPLUS MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$7,560.00	Up to 25%	\$5,670.00	25.00%	\$5,670.00	\$5,712.85	None	SCW	US
132-32	SMS1100	COUNTER SALES MODULE (Year 1) , Sales, Invoice, and Customer Purchase History, Expanded Contacts Module	Whether you are donating to pre-qualified buyers or selling to the general public, Counter Sales automates the process in a user-friendly, time-saving format. Complete integration with the warehouse and other disposal modules allows seamless communication, eliminating errors and minimizing administration. With Counter Sales, you can integrate retail functionality into the warehouse to boost productivity, maximize customer satisfaction and increase profits.		\$8,190.00	Up to 25%	\$6,142.50	25.00%	\$6,142.50	\$6,188.92	None	SCW	US
132-32	SMS1100R	COUNTER SALES MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$4,914.00	Up to 25%	\$3,685.50	25.00%	\$3,685.50	\$3,713.35	None	SCW	US
132-32	SMS1200	LIVE AUCTION MODULE (Year 1) , Live Auction Tracking, Lotting, and Bidder Registry	The Live Auction Module is comprehensive software to conduct and report traditional onsite auctions. The module is completely integrated into SMS, and includes field-proven functionality for every aspect of preparing, conducting and closing property auctions. Functionality includes scanner-based lotting, live checkout and invoice, customizable invoice forms, auction reports, and auction closing and reconciliation.		\$9,240.00	Up to 25%	\$6,930.00	25.00%	\$6,930.00	\$6,982.37	None	SCW	US
132-32	SMS1200R	LIVE AUCTION MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$5,544.00	Up to 25%	\$4,158.00	25.00%	\$4,158.00	\$4,189.42	None	SCW	US
132-32	SMS1300	ONLINE AUCTION GATEWAY MODULE (Year 1)	Provides the Ability to Export Designated Surplus Asset Data to a File for Interface with Online Auction Websites Includes the Export of Asset Images Includes One Online Auction Vendor Interface (Key)		\$6,562.50	Up to 25%	\$4,921.88	25.00%	\$4,921.88	\$4,959.07	None	SCW	US
132-32	SMS1300R	ONLINE AUCTION GATEWAY MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,937.50	Up to 25%	\$2,953.13	25.00%	\$2,953.13	\$2,975.44	None	SCW	US
132-32	SMS1400	ADDITIONAL ONLINE AUCTION VENDOR KEY (Year 1) , One Additional Online Auction Vendor Interface (Key)			\$2,625.00	Up to 25%	\$1,968.75	25.00%	\$1,968.75	\$1,983.63	None	SCW	US
132-32	SMS1400R	ADDITIONAL ONLINE AUCTION VENDOR KEY (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$1,575.00	Up to 25%	\$1,181.25	25.00%	\$1,181.25	\$1,190.18	None	SCW	US
132-32	SMS1500	MOBILE SURPLUS WAREHOUSE MODULE (Year 1)	Mobile scanner software for receiving, put-away, sales processing, and inventory. Does not include hardware or wireless infrastructure.		\$1,365.00	Up to 25%	\$1,023.75	25.00%	\$1,023.75	\$1,031.49	None	SCW	US
132-32	SMS1500R	MOBILE SURPLUS WAREHOUSE MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$819.00	Up to 25%	\$614.25	25.00%	\$614.25	\$618.89	None	SCW	US

132-32	SMS1600	ANDROID MOBILE IMAGE CAPTURE APPLICATION (Year 1)	The Mobile Transfer Module gives you the ability to initiate the asset transfer process via a mobile device. The application also enables the user to capture images and sync them directly to the asset within SMS.		\$1,365.00	Up to 25%	\$1,023.75	25.00%	\$1,023.75	\$1,031.49	None	SCW	US
132-32	SMS1600R	ANDROID MOBILE IMAGE CAPTURE APPLICATION (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$819.00	Up to 25%	\$614.25	25.00%	\$614.25	\$618.89	None	SCW	US
132-32	SMS1700	ACCOUNTING LEDGER MODULE (Year 1)	Track accounts, account types, invoices, reference numbers, dates, descriptions, and payment types.		\$6,615.00	Up to 25%	\$4,961.25	25.00%	\$4,961.25	\$4,998.74	None	SCW	US
132-32	SMS1700R	ACCOUNTING LEDGER MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,969.00	Up to 25%	\$2,976.75	25.00%	\$2,976.75	\$2,999.24	None	SCW	US
132-32	SMS1800	LOTING MODULE (Year 1)	Module for lotting items.		\$6,615.00	Up to 25%	\$4,961.25	25.00%	\$4,961.25	\$4,998.74	None	SCW	US
132-32	SMS1800R	LOTING MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,969.00	Up to 25%	\$2,976.75	25.00%	\$2,976.75	\$2,999.24	None	SCW	US

20.00%

\$0.00

\$0.00

SIN	MFR PART NO	PRODUCT NAME	PRODUCT DESCRIPTION	UOI	COMMERCIAL LIST PRICE	MOST FAVORED CUSTOMER (MFC)	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA (%) DISCOUNT (exclusive of the .75% IFF)	GSA OFFER PRICE (exclusive of the .75% IFF)	GSA OFFER PRICE (inclusive of the .75% IFF)	QUANTIT Y/VOLUM E DISCOU NT	WARRAN TY	COO
132-32	AMS100	ASSET BASE SOFTWARE (Year 1)	AssetWorks Asset Management Software conforms to the unique needs of today's property manager. Our applications are built to a "Best Practices" standard, but on an architecture that can be customized quickly and affordably. You can incorporate your policies, procedures, and unique data elements right into the software. Whether you're supplementing an existing system or creating a comprehensive, integrated solution, our modular approach lets you include what you need to get the job done. This means you now work smarter, maximizing efficiency and quality of information. Includes: Assets, Contacts, Admin, Report Modules, & Asset Types		\$6,615.00	Commercial Entities	Up to 25%	\$4,961.25	25.00%	\$4,961.25	\$4,998.74	None	SCW	US
132-32	AMS100R	ASSET BASE SOFTWARE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,969.00	Commercial Entities	Up to 25%	\$2,976.75	25.00%	\$2,976.75	\$2,999.24	None	SCW	US
132-32	AMS200	SYSTEM ADMINISTRATOR USER (Year 1)	Minimum One Per System Full Read/Write Access to Data		\$1,365.00	Commercial Entities	Up to 25%	\$1,023.75	25.00%	\$1,023.75	\$1,031.49	None	SCW	US
132-32	AMS200R	SYSTEM ADMINISTRATOR USER (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$819.00	Commercial Entities	Up to 25%	\$614.25	25.00%	\$614.25	\$618.89	None	SCW	US
132-32	AMS300	CONTROLLED ACCESS USER (Year 1)	Access as Configured by System Administrator Controlled Access to Module/Location Specific Data		\$735.00	Commercial Entities	Up to 25%	\$551.25	25.00%	\$551.25	\$555.42	None	SCW	US
132-32	AMS300R	CONTROLLED ACCESS USER (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$441.00	Commercial Entities	Up to 25%	\$330.75	25.00%	\$330.75	\$333.25	None	SCW	US
132-32	AMS400	AMS SITE LICENSE (Year 1)	Access as Configured by System Administrator Controlled Access to Module/Location Specific Data		\$20,895.00	Commercial Entities	Up to 25%	\$15,671.25	25.00%	\$15,671.25	\$15,789.67	None	SCW	US
132-32	AMS400R	AMS SITE LICENSE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$12,537.00	Commercial Entities	Up to 25%	\$9,402.75	25.00%	\$9,402.75	\$9,473.80	None	SCW	US
132-32	AMS500	READ ONLY USER (Year 1)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$420.00	Commercial Entities	Up to 25%	\$315.00	25.00%	\$315.00	\$317.38	None	SCW	US
132-32	AMS500R	READ ONLY USER (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$252.00	Commercial Entities	Up to 25%	\$189.00	25.00%	\$189.00	\$190.43	None	SCW	US
132-32	AMS600	UNLIMITED ASSET TRANSFER USERS (Year 1)	Create/Receive Asset Transfers Unlimited Number of Users Configured by System Administrator		\$11,865.00	Commercial Entities	Up to 25%	\$8,898.75	25.00%	\$8,898.75	\$9,965.99	None	SCW	US
132-32	AMS600R	UNLIMITED ASSET TRANSFER USERS (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$7,119.00	Commercial Entities	Up to 25%	\$5,339.25	25.00%	\$5,339.25	\$5,379.60	None	SCW	US
132-32	AMS700	TRANSFER MODULE (Year 1) , Create/Receive Internal Asset Transfers	A well planned transfer process plays a key role in effective property management. Complete with email notification, flexible approval routing, and system-monitored timers, AssetWorks Transfer Management Module completely automates the transfer process. You can even incorporate your business rules into the software to enforce compliance, increase efficiency, and eliminate errors and delays.		\$2,100.00	Commercial Entities	Up to 25%	\$1,575.00	25.00%	\$1,575.00	\$1,586.90	None	SCW	US
132-32	AMS700R	TRANSFER MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$1,260.00	Commercial Entities	Up to 25%	\$945.00	25.00%	\$945.00	\$952.14	None	SCW	US
132-32	AMS800	INTERNAL TRANSFER MODULE (Year 1) , Create/Receive Internal Asset Transfers	The Internal Transfer Module gives you the ability to transfer assets within an agency or department. Complete with email notification, flexible approval routing, and system-monitored timers, AssetWorks Transfer Management Module completely automates the transfer process. You can even incorporate your business rules into the software to enforce compliance, increase efficiency, and eliminate errors and delays.		\$2,100.00	Commercial Entities	Up to 25%	\$1,575.00	25.00%	\$1,575.00	\$1,586.90	None	SCW	US
132-32	AMS800R	INTERNAL TRANSFER MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$1,260.00	Commercial Entities	Up to 25%	\$945.00	25.00%	\$945.00	\$952.14	None	SCW	US
132-32	AMS900	DEPRECIATION MODULE (Year 1)	Standard Straight-Line Depreciation Depreciation of Betterments/Decreases All Required Reporting		\$2,625.00	Commercial Entities	Up to 25%	\$1,968.75	25.00%	\$1,968.75	\$1,983.63	None	SCW	US
132-32	AMS900R	DEPRECIATION MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$1,675.00	Commercial Entities	Up to 25%	\$1,181.25	25.00%	\$1,181.25	\$1,199.18	None	SCW	US
132-32	AMS1000	CHECK-IN / CHECK-OUT MODULE (Year 1)	The Check-In/Check-Out Module gives you the ability to check-in and check-out assets to personnel while the asset still remains in the custody of the department it is assigned to.		\$3,360.00	Commercial Entities	Up to 25%	\$2,520.00	25.00%	\$2,520.00	\$2,539.04	None	SCW	US
132-32	AMS1100R	CHECK-IN / CHECK-OUT MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$2,016.00	Commercial Entities	Up to 25%	\$1,512.00	25.00%	\$1,512.00	\$1,523.43	None	SCW	US
132-32	AMS1100	FLEET MANAGEMENT MODULE (Year 1) , Fleet and Equipment Tracking, Maintenance and Utilization Tracking	Fleet vehicles and equipment are a major component of any organization's asset investment. AssetWorks AMS Fleet Management Module includes comprehensive functionality for tracking vehicles and equipment. The Fleet Management functionality includes driver authorization and history, personnel assignment and approval, vehicle usage logs, preventative maintenance and much more. Online access makes submitting usage data easy and improves the quality and timeliness of information critical to fleet planning and reporting.		\$9,660.00	Commercial Entities	Up to 25%	\$7,245.00	25.00%	\$7,245.00	\$7,299.75	None	SCW	US
132-32	AMS1100R	FLEET MANAGEMENT MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$5,796.00	Commercial Entities	Up to 25%	\$4,347.00	25.00%	\$4,347.00	\$4,379.85	None	SCW	US
132-32	AMS1200	VIN DECODING MODULE (Year 1) , Auto Populates up to 45 Data Elements Based Upon National VIN Number	Fleet vehicles and equipment are a major component of any organization's asset investment. AssetWorks AMS Fleet Management Module includes comprehensive functionality for tracking vehicles and equipment. The Fleet Management functionality includes driver authorization and history, personnel assignment and approval, vehicle usage logs, preventative maintenance and much more. Online access makes submitting usage data easy and improves the quality and timeliness of information critical to fleet planning and reporting.		\$6,195.00	Commercial Entities	Up to 25%	\$4,646.25	25.00%	\$4,646.25	\$4,681.36	None	SCW	US
132-32	AMS1200R	VIN DECODING MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$3,717.00	Commercial Entities	Up to 25%	\$2,787.75	25.00%	\$2,787.75	\$2,808.82	None	SCW	US
132-32	AMS1300	WEB-SURPLUS MODULE (Year 1) , Surplus Reutilization Module	There is no better way to handle surplus than putting it back to work for the public. AssetWorks Web Surplus module does just that by publishing the contents of the surplus warehouse in a web storefront. State agencies, municipalities, schools and other eligible entities use this tool to give new life to property that would otherwise be sold for pennies on the dollar. Web Surplus is completely integrated into AssetWorks Surplus and Asset Management applications, so items are published automatically, often being re-allocated before they hit the warehouse.		\$4,725.00	Commercial Entities	Up to 25%	\$3,543.75	25.00%	\$3,543.75	\$3,570.53	None	SCW	US
132-32	AMS1300R	WEB-SURPLUS MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$2,835.00	Commercial Entities	Up to 25%	\$2,126.25	25.00%	\$2,126.25	\$2,142.32	None	SCW	US
132-32	AMS1400	EQUIPMENT MAINTENANCE MODULE (Year 1) , Create Maintenance Schedules Based on Asset Class	Provides the ability to individually track and manage Property-in-the-Open assets.		\$3,360.00	Commercial Entities	Up to 25%	\$2,520.00	25.00%	\$2,520.00	\$2,539.04	None	SCW	US
132-32	AMS1400R	EQUIPMENT MAINTENANCE MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$2,016.00	Commercial Entities	Up to 25%	\$1,512.00	25.00%	\$1,512.00	\$1,523.43	None	SCW	US
132-32	AMS1500	ANDROID MOBILE IMAGE CAPTURE APPLICATION (Year 1)	The Mobile Transfer Module gives you the ability add assets and capture images that are then synced directly to the asset database in AMS.		\$1,365.00	Commercial Entities	Up to 25%	\$1,023.75	25.00%	\$1,023.75	\$1,031.49	None	SCW	US
132-32	AMS1500R	ANDROID MOBILE IMAGE CAPTURE APPLICATION (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)		\$819.00	Commercial Entities	Up to 25%	\$614.25	25.00%	\$614.25	\$618.89	None	SCW	US
132-32	AMS1600	AMP RISK MODULE (Year 1) Fees are per asset.	The AMP Risk Module offers a convenient, efficient, and secure method of tracking and reporting data for loss control, proof-of-loss documentation, catastrophe modeling, annual updating of values, and property marketing and placement.	Each	\$5.35	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$4.01	\$4.04	None	SCW	US
132-32	AMS1600R	AMP RISK MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$3.20	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$2.40	\$2.42	None	SCW	US
132-32	AMS1700	AMP PITO MODULE (Year 1) Fees are per asset.	Provides the ability to individually track and manage Property-in-the-Open assets.	Each	\$1.10	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.83	\$0.83	None	SCW	US
132-32	AMS1700R	AMP PITO MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$0.65	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.49	\$0.49	None	SCW	US
132-32	AMS1800	AMP LICENSED VEHICLES MODULE (Year 1) Fees are per asset.	Provides the ability to individually track and manage Licensed Vehicles assets.	Each	\$1.10	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.83	\$0.83	None	SCW	US
132-32	AMS1800R	AMP LICENSED VEHICLES MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$0.65	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.49	\$0.49	None	SCW	US
132-32	AMS1900	AMP MOVABLE EQUIPMENT MODULE (Year 1) Fees are per asset.	Provides the ability to individually track and manage Movable Equipment assets.	Each	\$1.10	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.83	\$0.83	None	SCW	US
132-32	AMS1900R	AMP MOVABLE EQUIPMENT MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$0.65	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.49	\$0.49	None	SCW	US
132-32	AMS2000	AMP INSURANCE MODULE (Year 1) Fees are per asset.	Provides the ability to track insurance policies and assign property segments.	Each	\$1.10	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.83	\$0.83	None	SCW	US
132-32	AMS2000R	AMP INSURANCE MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$0.65	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.49	\$0.49	None	SCW	US
132-32	AMS2100	AMP VALUATION ESTIMATOR MODULE (Year 1) Fees are per asset.	Provides the ability to establish replacement cost values for properties within the database.	Each	\$2.70	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$2.03	\$2.04	None	SCW	US
132-32	AMS2100R	AMP VALUATION ESTIMATOR MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$1.60	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$1.20	\$1.21	None	SCW	US
132-32	AMS2200	ASSETMAXX K-12 MODULE (Year 1) Fees are per student enrollment.	Fixed asset management module designed for K-12 school districts. Provides the ability to track, manage, and depreciate fixed assets.	Each	\$2.00	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$1.50	\$1.51	None	SCW	US
132-32	AMS2200R	ASSETMAXX K-12 MODULE (Renewal)	60% of Year 1 Fee (Includes Hosting, Maintenance, & Support)	Each	\$1.20	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$0.90	\$0.91	None	SCW	US
132-32	AMS2300	MOBILE ASSETMAXX (Year 1) Fees are per mobile device license.	Provides physical barcode scanning inventory that is used directly with the AssetMAXX module.	Each	\$1,600.00	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$1,200.00	\$1,209.07	None	SCW	US
132-32	AMS2300R	MOBILE ASSETMAXX (Renewal)	Annual mobile software renewal.	Each	\$400.00	Not Applicable, TDR	Not Applicable, TDR	Not Applicable, TDR	25.00%	\$300.00	\$302.27	None	SCW	US

20.00%

\$0.00

\$0.00

SIN	MFR PART NO	PRODUCT NAME	PRODUCT DESCRIPTION	UOI	COMMERCIAL LIST PRICE	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA (%) DISCOUNT (exclusive of the .75% IFF)	GSA OFFER PRICE (exclusive of the .75% IFF)	GSA OFFER PRICE (inclusive of the .75% IFF)	QUANTIT Y/VOLUME DISCOUNT	WARRANTY	COO
132-34	SER100	SERVICE - PROFESSIONAL SERVICES/CUSTOMIZATION PER HOUR	Implementation Services Data Conversion User Setup and Configuration Table Structure Customizations Define Import/Export File Formats Assist in the Creation of Subsets and Distribution of Data Does not include related travel expenses		\$241.50	Up to 25%	\$181.13	25.00%	\$181.13	\$182.49		SCW	US
132-50	SER200	SERVICE - ON-SITE TRAINING PER DAY	In addition to the per day fees, Customer shall reimburse AssetWorks for air fare, meals, ground transportation, and other reasonable travel and living expenses incurred by AssetWorks in support of the Agreement during provision of support services at the Customer site. AssetWorks will adhere to the Customer's Travel Policies to the extent possible. Does not include related travel expenses		\$2,100.00	Up to 25%	\$1,575.00	25.00%	\$1,575.00	\$1,586.90		SCW	US
132-50	SER300	SERVICE - INTERNET TRAINING PER HOUR	Phone Assisted Internet Training on All Functional Operations Does not include related travel expenses		\$199.50	Up to 25%	\$149.63	25.00%	\$149.63	\$150.76		SCW	US
132-34	SER400	SERVICE - ASSETWORKS ON-SITE ASSET INVENTORY AND VALUATION SERVICES PER HOUR	Does not include related travel expenses		\$183.75	Up to 25%	\$137.81	25.00%	\$137.81	\$138.85		SCW	US

Schedule # 70- Information Technology, Software Services
Solicitation FCIS-JB-98001B (Refresh # 42)

SIN	MFR PART NO	PRODUCT NAME	PRODUCT DESCRIPTION	UOI	COMMERCIAL LIST PRICE	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA (%) DISCOUNT (exclusive of the .75% IFF)	GSA OFFER PRICE (exclusive of the .75% IFF)	GSA OFFER PRICE (inclusive of the .75% IFF)	QUANTIT Y/VOLU ME D ISCOU NT	WARRAN TY	CO O
132-33	FleetFocus Size (1-199)-1	FleetFocus Size (1-199 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$50.00	20.00%	\$40.00	21.00%	\$39.50	\$39.80		SCW	US
132-33	FleetFocus Size (200-749)	FleetFocus Size (200-749 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$48.00	20.00%	\$38.40	21.00%	\$37.92	\$38.21		SCW	US
132-33	FleetFocus Size (750-999)-1	FleetFocus Size (750- 999 Units)- per vehicle unit(non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$45.00	20.00%	\$36.00	21.00%	\$35.55	\$35.82		SCW	US
132-33	FleetFocus Size (1000-2499)	FleetFocus Size (1000 - 2499 Units)-per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$42.00	20.00%	\$33.60	21.00%	\$33.18	\$33.43		SCW	US
132-33	FleetFocus Size (2500-4999)	FleetFocus Size (2500-4999 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$40.00	20.00%	\$32.00	21.00%	\$31.60	\$31.80		SCW	US
132-33	FleetFocus Size (5000-7499)	FleetFocus Size (5000 - 7499 Units)-per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$38.00	20.00%	\$30.40	21.00%	\$30.02	\$30.25		SCW	US
132-33	FleetFocus Size (7500-9999)	FleetFocus Size (7500- 9999 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$35.00	20.00%	\$28.00	21.00%	\$27.65	\$27.86		SCW	US
132-33	FleetFocus Size (10000-12499)	FleetFocus Size (10000- 12499 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$30.00	20.00%	\$24.00	21.00%	\$23.70	\$23.88		SCW	US
132-33	FleetFocus Size (12500-14999)	FleetFocus Size (12500-14999 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$28.00	20.00%	\$22.40	21.00%	\$22.12	\$22.29		SCW	US
132-33	FleetFocus Size (15000-19999)	FleetFocus Size (15000-19999 Units)-per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$25.00	20.00%	\$20.00	21.00%	\$19.75	\$19.90		SCW	US
132-33	FleetFocus Size (20000-29999)	FleetFocus Size (20000- 29999 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$20.00	20.00%	\$16.00	21.00%	\$15.80	\$15.92		SCW	US
132-33	FleetFocus Size (30000-49999)	FleetFocus Size (30000- 49999 Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$15.00	20.00%	\$12.00	21.00%	\$11.85	\$11.94		SCW	US
132-33	FleetFocus Size (50000-99999)	FleetFocus Size (50000-99999- Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$10.00	20.00%	\$8.00	21.00%	\$7.90	\$7.96		SCW	US
132-33	FleetFocus Size (100000-299999)	FleetFocus Size (100000-299999- Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$7.50	20.00%	\$6.00	21.00%	\$5.93	\$5.97		SCW	US
132-33	FleetFocus Size (300000+)	FleetFocus Size (300000+Units)- per vehicle unit (non bus/ non transit)	Base System Charge, Non-transit vehicle assets		\$5.00	20.00%	\$4.00	21.00%	\$3.95	\$3.98		SCW	US
132-33	FleetFocus Size (0 - 49 Units)- per vehicle unit (bus/ transit vehicle unit)	RailFocus Size (25 - 49 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$475.00	20.00%	\$380.00	21.00%	\$375.25	\$378.09		SCW	US
132-33	FleetFocus Size (50-99)	FleetFocus Size (50 - 99 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$450.00	20.00%	\$360.00	21.00%	\$355.50	\$358.19		SCW	US
132-33	FleetFocus Size (100-199)	FleetFocus Size (100 - 199 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$425.00	20.00%	\$340.00	21.00%	\$335.75	\$338.29		SCW	US
132-33	FleetFocus Size (200-299)	FleetFocus Size (200 - 299 Units)-per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$400.00	20.00%	\$320.00	21.00%	\$316.00	\$318.39		SCW	US
132-33	FleetFocus Size (300-399)	FleetFocus Size (300-399 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$375.00	20.00%	\$300.00	21.00%	\$296.25	\$298.49		SCW	US
132-33	FleetFocus Size (400-499)	FleetFocus Size (400 - 499 Units)-per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$350.00	20.00%	\$280.00	21.00%	\$276.50	\$278.59		SCW	US
132-33	FleetFocus Size (500-759)	FleetFocus Size (500-759 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$325.00	20.00%	\$260.00	21.00%	\$256.75	\$258.69		SCW	US
132-33	FleetFocus Size (750-999)	FleetFocus Size (750- 999 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$300.00	20.00%	\$240.00	21.00%	\$237.00	\$238.79		SCW	US
132-33	FleetFocus Size (1000-1999)	FleetFocus Size (1000-1999 Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$275.00	20.00%	\$220.00	21.00%	\$217.25	\$218.89		SCW	US
132-33	FleetFocus Size (2000+)	FleetFocus Size (2000+ Units)- per vehicle unit (bus/ transit vehicle unit)	Base System Charge, transit vehicle assets		\$250.00	20.00%	\$200.00	21.00%	\$197.50	\$198.99		SCW	US
132-33	RailFocus Size (0-24)	RailFocus Size (0 - 24 Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$1,250.00	20.00%	\$1,000.00	21.00%	\$987.50	\$994.96		SCW	US
132-33	RailFocus Size (25-49 Units)- per vehicle unit (rail vehicle unit)	RailFocus Size (25 - 49 Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$1,000.00	20.00%	\$800.00	21.00%	\$787.50	\$794.97		SCW	US
132-33	RailFocus Size (50-99)	RailFocus Size (50 - 99 Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$950.00	20.00%	\$760.00	21.00%	\$750.50	\$756.17		SCW	US
132-33	RailFocus Size (100-249)	RailFocus Size (100- 249 Units)-per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$900.00	20.00%	\$720.00	21.00%	\$711.00	\$716.37		SCW	US
132-33	RailFocus Size (250-499)	RailFocus Size (250-499 Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$850.00	20.00%	\$680.00	21.00%	\$671.50	\$676.57		SCW	US
132-33	RailFocus Size (500-749)	RailFocus Size (500 - 749 Units)-per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$800.00	20.00%	\$640.00	21.00%	\$632.00	\$636.78		SCW	US
132-33	RailFocus Size (750-999)	RailFocus Size (750-999 Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$750.00	20.00%	\$600.00	21.00%	\$592.50	\$596.98		SCW	US
132-33	RailFocus Size (1000+)	RailFocus Size (1000+ Units)- per vehicle unit (rail vehicle unit)	Base System Charge, Rail vehicle assets		\$700.00	20.00%	\$560.00	21.00%	\$552.00	\$556.00		SCW	US
132-33	LinearFocus Size (1-24)	Linear Assets, LinearFocus Size (1 - 24 Units)- per mile	Base System Charge, Linear Assets		\$2,000.00	20.00%	\$1,600.00	21.00%	\$1,580.00	\$1,591.94		SCW	US
132-33	LinearFocus Size (25-49)	Linear Assets, LinearFocus Size (25 - 49 Units)- per mile	Base System Charge, Linear Assets		\$1,750.00	20.00%	\$1,400.00	21.00%	\$1,382.50	\$1,392.95		SCW	US
132-33	LinearFocus Size (50-249)	Linear Assets, LinearFocus Size (50 - 249 Units)- per mile	Base System Charge, Linear Assets		\$1,500.00	20.00%	\$1,200.00	21.00%	\$1,185.00	\$1,193.95		SCW	US
132-33	LinearFocus Size (250-499)	Linear Assets, LinearFocus Size (250- 499 Units)- per mile	Base System Charge, Linear Assets		\$1,250.00	20.00%	\$1,000.00	21.00%	\$987.50	\$994.96		SCW	US
132-33	LinearFocus Size (500-749)	Linear Assets, LinearFocus Size (500 - 749 Units)- per mile	Base System Charge, Linear Assets		\$1,000.00	20.00%	\$800.00	21.00%	\$787.50	\$794.97		SCW	US
132-33	LinearFocus Size (750-999)	Linear Assets, LinearFocus Size (750 - 999 Units)- per mile	Base System Charge, Linear Assets		\$900.00	20.00%	\$720.00	21.00%	\$711.00	\$716.37		SCW	US
132-33	LinearFocus Size (1000+)	Linear Assets, LinearFocus Size (1000+ plus Units)- per mile	Base System Charge, Linear Assets		\$850.00	20.00%	\$680.00	21.00%	\$671.50	\$676.57		SCW	US
132-33	EquipmentFocus (1-4999)	EquipmentFocus for Stationary Equipment, per asset (1-4999)	EquipmentFocus for Stationary Equipment		\$10.00	20.00%	\$8.00	21.00%	\$7.90	\$7.96		SCW	US
132-33	EquipmentFocus (5000-9999)	EquipmentFocus for Stationary Equipment, per asset (5000-9999)	EquipmentFocus for Stationary Equipment		\$8.00	20.00%	\$6.40	21.00%	\$6.32	\$6.37		SCW	US
132-33	EquipmentFocus (10,000-14999)	EquipmentFocus for Stationary Equipment, per asset (10,000-14999)	EquipmentFocus for Stationary Equipment		\$6.00	20.00%	\$4.80	21.00%	\$4.74	\$4.78		SCW	US
132-33	EquipmentFocus (15000-19999)	EquipmentFocus for Stationary Equipment, per asset (15000-19999)	EquipmentFocus for Stationary Equipment		\$5.00	20.00%	\$4.00	21.00%	\$3.95	\$3.98		SCW	US
132-33	EquipmentFocus (20000+)	EquipmentFocus for Stationary Equipment, per asset (20000+)	EquipmentFocus for Stationary Equipment		\$4.50	20.00%	\$3.60	21.00%	\$3.56	\$3.58		SCW	US
132-33	Component asset licenses (1-4999)	Component asset licenses, per asset (1-4999)	Component assets		\$5.00	20.00%	\$4.00	21.00%	\$3.95	\$3.98		SCW	US
132-33	Component asset licenses (5000-9999)	Component asset licenses, per asset (5000-9999)	Component assets		\$4.00	20.00%	\$3.20	21.00%	\$3.16	\$3.18		SCW	US
132-33	Component asset licenses (10,000-14999)	Component asset licenses, per asset (10,000-14999)	Component assets		\$3.00	20.00%	\$2.40	21.00%	\$2.37	\$2.39		SCW	US
132-33	Component asset licenses (15000-19999)	Component asset licenses, per asset (15000-19999)	Component assets		\$2.00	20.00%	\$1.60	21.00%	\$1.58	\$1.59		SCW	US
132-33	Component asset licenses (20000+)	Component asset licenses, per asset (20000+)	Component assets		\$2.00	20.00%	\$1.60	21.00%	\$1.58	\$1.59		SCW	US
132-33	asset management (1-199)	asset management only, FleetFocus Size (1-199 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$2.00	20.00%	\$1.60	21.00%	\$1.58	\$1.59		SCW	US
132-33	asset management (200-749)	asset management only, FleetFocus Size (200-749 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$19.20	20.00%	\$15.36	21.00%	\$15.17	\$15.28		SCW	US
132-33	asset management (750-999)	asset management only, FleetFocus Size (750 - 999 Units)- per vehicle unit(non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$18.00	20.00%	\$14.40	21.00%	\$14.22	\$14.33		SCW	US
132-33	asset management (1000-2499)	asset management only, FleetFocus Size (1000 - 2499 Units)-per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$16.80	20.00%	\$13.44	21.00%	\$13.27	\$13.37		SCW	US
132-33	asset management (2500-4999)	asset management only, FleetFocus Size (2500-4999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$16.00	20.00%	\$12.80	21.00%	\$12.64	\$12.74		SCW	US
132-33	asset management (5000-7499)	asset management only, FleetFocus Size (5000 - 7499 Units)-per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$15.20	20.00%	\$12.16	21.00%	\$12.01	\$12.10		SCW	US
132-33	asset management (7500-9999)	asset management only, FleetFocus Size (7500- 9999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$14.00	20.00%	\$11.20	21.00%	\$11.06	\$11.14		SCW	US
132-33	asset management (10000-12499)	asset management only, FleetFocus Size (10000- 12499 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$12.00	20.00%	\$9.60	21.00%	\$9.48	\$9.55		SCW	US
132-33	asset management (12500-14999)	asset management only, FleetFocus Size (12500-14999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$11.20	20.00%	\$8.96	21.00%	\$8.85	\$8.91		SCW	US
132-33	asset management (15000-19999)	asset management only, FleetFocus Size (15000-19999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$10.00	20.00%	\$8.00	21.00%	\$7.90	\$7.96		SCW	US
132-33	asset management (20000-29999)	asset management only, FleetFocus Size (20000- 29999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$8.00	20.00%	\$6.40	21.00%	\$6.32	\$6.37		SCW	US
132-33	asset management (30000-49999)	asset management only, FleetFocus Size (30000- 49999 Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$6.00	20.00%	\$4.80	21.00%	\$4.74	\$4.78		SCW	US
132-33	asset management (50000-99999)	asset management only, FleetFocus Size (50000-99999- Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$4.00	20.00%	\$3.20	21.00%	\$3.16	\$3.18		SCW	US
132-33	asset management (100000-299999)	asset management only, FleetFocus Size (100000-299999- Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$3.00	20.00%	\$2.40	21.00%	\$2.37	\$2.39		SCW	US
132-33	asset management (300000+)	asset management only, FleetFocus Size (300000+Units)- per vehicle unit (non bus/ non transit)	Base system Charge, FleetFocus, for asset management only, (outsourced maintenance) non-shop environments		\$2.00	20.00%	\$1.60	21.00%	\$1.58	\$1.59		SCW	US
132-33	Yard Management (1-199)	Yard Management (1-199 Units)- per asset	Base System Charge, Yard Management Real Time Location Service		\$100.00	20.00%	\$80.00	21.00%	\$79.00	\$79.60		SCW	US
132-33	Yard Management (200-499)	Yard Management (200-499 Units)- per asset	Base System Charge, Yard Management Real Time Location Service		\$80.00	20.00%	\$64.00	21.00%	\$63.10	\$63.64		SCW	US
132-33	Yard Management (500-749)	Yard Management (500-749 Units)- per asset	Base System Charge, Yard Management Real Time Location Service		\$60.00	20.00%	\$48.00	21.00%	\$47.10	\$47.64		SCW	US
132-33	Yard Management (750-999)	Yard Management (750 - 999 Units)- per vehicle unit(non bus/ non transit)	Base System Charge, Yard Management Real Time Location Service		\$45.00	20.00%	\$36.00	21.00%	\$35.55	\$35.82		SCW	US
132-33	Yard Management (1000-2499)	Yard Management (1000 - 2499 Units)-per asset	Base System Charge, Yard Management Real Time Location Service		\$42.00	20.00%	\$33.60	21.00%	\$33.18	\$33.43			

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132-33	EAM State Gov (5-10 Mil)	EAM for State Government (Population 5-10 Million Residents)	EAM Standard License for State Government (Population 5-10 Million Residents)	\$500,000.00	40.00%	\$300,000.00	41.00%	\$296,000.0000	\$297,212.50		SCW	US
132-33	EAM State Gov (10-20 Mil)	EAM for State Government (Population 10-20 Million Residents)	EAM Standard License for State Government (Population 10-20 Million Residents)	\$750,000.00	40.00%	\$450,000.00	41.00%	\$442,500.0000	\$445,818.75		SCW	US
132-33	EAM State Gov (>20 Mil)	EAM for State Government (Population >20 Million Residents)	EAM Standard License for State Government (Population >20 Million Residents)	\$1,000,000.00	40.00%	\$600,000.00	41.00%	\$590,000.0000	\$594,425.00		SCW	US
132-33	EAM County Gov (< 50 Thousand)	EAM Standard License for County Government (Population < 50 Thousand Residents)	EAM Standard License for County Government (Population < 50 Thousand Residents)	\$35,000.00	20.00%	\$28,000.00	21.00%	\$27,650.0000	\$27,857.38		SCW	US
132-33	EAM County Gov (50-100 Thousand)	EAM Standard License for County Government (Population 50-100 Thousand Residents)	EAM Standard License for County Government (Population 50-100 Thousand Residents)	\$65,000.00	20.00%	\$52,000.00	21.00%	\$51,350.0000	\$51,735.13		SCW	US
132-33	EAM County Gov (100-500 Thousand)	EAM Standard License for County Government (Population 100-500 Thousand Residents)	EAM Standard License for County Government (Population 100-500 Thousand Residents)	\$100,000.00	30.00%	\$70,000.00	31.00%	\$69,000.0000	\$69,517.50		SCW	US
132-33	EAM County Gov (500 Thousand-3 Mil)	EAM Standard License for County Government (Population 500 Thousand - 3 Million Residents)	EAM Standard License for County Government (Population 500 Thousand - 3 Million Residents)	\$150,000.00	30.00%	\$105,000.00	31.00%	\$103,500.0000	\$104,276.25		SCW	US
132-33	EAM County Gov (> 3 Mil)	EAM Standard License for County Government (Population > 3 Million Residents)	EAM Standard License for County Government (Population > 3 Million Residents)	\$250,000.00	40.00%	\$150,000.00	41.00%	\$147,500.0000	\$148,606.25		SCW	US
132-33	EAM City Gov (< 50 Thousand)	EAM Standard License for City Government (Population < 50 Thousand Residents)	EAM Standard License for City Government (Population < 50 Thousand Residents)	\$35,000.00	20.00%	\$28,000.00	21.00%	\$27,650.0000	\$27,857.38		SCW	US
132-33	EAM City Gov (50-100 Thousand)	EAM Standard License for City Government (Population 50-100 Thousand Residents)	EAM Standard License for City Government (Population 50-100 Thousand Residents)	\$65,000.00	20.00%	\$52,000.00	21.00%	\$51,350.0000	\$51,735.13		SCW	US
132-33	EAM City Gov (100-300 Thousand)	EAM Standard License for City Government (Population 100-300 Thousand Residents)	EAM Standard License for City Government (Population 100-300 Thousand Residents)	\$100,000.00	30.00%	\$70,000.00	31.00%	\$69,000.0000	\$69,517.50		SCW	US
132-33	EAM City Gov (300 Thousand-1 Mil)	EAM Standard License for City Government (Population 300 Thousand - 1Million Residents)	EAM Standard License for City Government (Population 300 Thousand - 1Million Residents)	\$150,000.00	30.00%	\$105,000.00	31.00%	\$103,500.0000	\$104,276.25		SCW	US
132-33	EAM City Gov (> 1 Mil)	EAM Standard License for City Government (Population > 1 Million Residents)	EAM Standard License for City Government (Population > 1 Million Residents)	\$250,000.00	40.00%	\$150,000.00	41.00%	\$147,500.0000	\$148,606.25		SCW	US
132-33	Reporting Module	Reporting Module	Add-on Modules (percentage of total fees)	5% of List Price		5% of MFC Price			\$0.05		SCW	US
132-33	Motor Pool Module	Motor Pool Module	Add-on Modules (percentage of total fees)	10% of List Price		10% of MFC Price			\$0.10		SCW	US
132-33	Motor Pool Reservations Module	Motor Pool Reservations Module	Add-on Modules (percentage of total fees)	5% of List Price		5% of MFC Price			\$0.05		SCW	US
132-33	Shop Activity Module	Shop Activity Module	Add-on Modules (percentage of total fees)	10% of List Price		10% of MFC Price			\$0.10		SCW	US
132-33	Customer Access Module	Customer Access Module	Add-on Modules (percentage of total fees)	5% of List Price		5% of MFC Price			\$0.05		SCW	US
132-33	KPI Dashboards Module	KPI Dashboards Module	Add-on Modules (percentage of total fees)	5% of List Price		5% of MFC Price			\$0.05		SCW	US

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132-33	Notifications Module	Notifications Module	Add-on Modules Included with Shop Activity, Motor Pool and FuelFocus (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	PMM-1	PMM/ Performance Measures and Monitors	Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Capital Planning Module	Capital Planning Module	Add-on Modules (percentage of total fees)	15% of List Price	15% of MFC Price				\$0.15		SCW	US
132-33	CAM-1	CAM - Capital Asset Management	Add-on Modules (percentage of total fees)	40% of List Price	40% of MFC Price				\$0.40		SCW	US
132-33	MAXQueue-1	MAXQueue Integration Module	Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Esri Integration Module	Esri Integration Module	Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Allocation Assignment Module	Allocation & Assignment Module	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	TripCard Module	TripCard Module	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	TripCard ComData Connector-1	TripCard ComData Connector Module	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Equipment Focus for Facilities-1	Equipment Focus for Facilities Module	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	ACTIONMap-1	ACTIONMap!	Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	MobileFocus-1	MobileFocus, Per Device	Add-on Modules	\$960.00	20.00%			\$788.00	\$773.80		SCW	US
132-33	MobileFocus/Smart Apps-1	MobileFocus / Smart Apps, Enterprise License	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Telematics Module	Telematics Module	Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Passive GPS-1	Passive GPS	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Zonar Evir Connector-1	Zonar Evir Connector	Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Zonar GPS Connector-1	Zonar GPS Connector (Odometers)	Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	NAPA TAMS Interface	NAPA TAMS Interface Module	Add-on Modules	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	FluidFocus Lincoln Industrial Interface-1	FluidFocus Lincoln Industrial Interface Module	Increase for 2nd generation product (percentage of total fees) Add-on Modules	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Parts Catalog Integration Documoto	Illustrated Parts Catalog Integration for Documoto	Increase for 2nd generation product (percentage of total fees) Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Incident Management Module	Incident Management Module	Add-on Modules (percentage of total fees)	15% of List Price	15% of MFC Price				\$0.15		SCW	US
132-33	Rail Operations Modules	Rail Operations Modules	Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Trapeze Ops/ PASS Interface Module	Trapeze Ops/ PASS Interface Module	Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Trapeze ITS Interface Module	Trapeze ITS Interface Module (required Telematics Module)	Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Yard Management Module	Yard Management Module	Add-on Modules (percentage of total fees)	15% of List Price	15% of MFC Price				\$0.15		SCW	US
132-33	Networkfleet 3rd Party Connector-1	Networkfleet - 3rd Party Connector (Requires Telematics Module)	FA Subscription Modules For customers who purchase Networkfleet from others (vehicle/month)	\$5 / vehicle / month				\$5 / vehicle / month	\$4.00		SCW	US
132-33	Networkfleet Connector AssetWorks Client-1	Networkfleet Connector - AssetWorks Client - Includes Telematics Module	FA Subscription Modules For customers who purchase Networkfleet from AssetWorks (vehicle/month)	\$1.25 / vehicle / month				\$1.25 / vehicle / month	\$1.00		SCW	US
132-33	Screen Designer Module	Screen Designer Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Motor Pool	Motor Pool Module	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Motor Pool Reservations	Motor Pool Reservations Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Shop Activity	Shop Activity Module	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Driver Management	Driver Management Module	M5 Add-on Modules Not GA - requires link of operator to driver (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	KPI/Dashboards	KPI/Dashboards Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Customer Access	Customer Access Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	AdHoc Query	AdHoc Query Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	PMM	PMM/ Performance Measures and Monitors	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	CAM	CAM - Capital Asset Management	M5 Add-on Modules (percentage of total fees)	40% of List Price	40% of MFC Price				\$0.40		SCW	US
132-33	MAXQueue	MAXQueue Integration Module	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	TripCard	TripCard Module	M5 Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	TripCard ComData Connector	TripCard ComData Connector Module	M5 Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Equipment Focus for Facilities	Equipment Focus for Facilities Module	M5 Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	ACTIONMap	ACTIONMap!	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	MobileFocus	MobileFocus, Per Device	M5 Add-on Modules	\$960.00				\$788.00	\$758.40		SCW	US
132-33	MobileFocus/Smart Apps	MobileFocus / Smart Apps, Enterprise License	M5 Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Telematics Module	Telematics Module	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Passive GPS	Passive GPS	M5 Add-on Modules (percentage of total fees)	20% of List Price	20% of MFC Price				\$0.20		SCW	US
132-33	Zonar Evir Connector	Zonar Evir Connector	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	Zonar GPS Connector	Zonar GPS Connector (Odometers)	M5 Add-on Modules (percentage of total fees)	5% of List Price	5% of MFC Price				\$0.05		SCW	US
132-33	NAPA TAMS	NAPA TAMS Interface Module	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	FluidFocus Lincoln Industrial Interface	FluidFocus Lincoln Industrial Interface Module	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	M5 Crystal/BOE Adapter	M5 Crystal/ BOE Adapter with customer provided BOE license	M5 Add-on Modules (percentage of total fees)	10% of List Price	10% of MFC Price				\$0.10		SCW	US
132-33	Networkfleet 3rd Party Connector	Networkfleet - 3rd Party Connector (Requires Telematics Module)	Subscription Modules For customers who purchase Networkfleet from others (vehicle/month)	\$5 / vehicle / month				\$5 / vehicle / month	\$4.00		SCW	US
132-33	Networkfleet Connector AssetWorks Client	Networkfleet Connector - AssetWorks Client - Includes Telematics Module	Subscription Modules For customers who purchase Networkfleet from AssetWorks (vehicle/month)	\$1.25 / vehicle / month				\$1.25 / vehicle / month	\$1.00		SCW	US
132-33	Telogis Connector	Telogis Connector Module	Subscription Modules Requires Telematics License (vehicle/month)	\$5 / vehicle / month				\$5 / vehicle / month	\$4.00		SCW	US
132-33	KeyValet Module 1	KeyValet Module (1st site)	KeyValet	\$7,500.00	20.00%			\$6,000.00	\$5,925.00		SCW	US
132-33	KeyValet Module 2-3	KeyValet Module (2nd and 3rd sites (each))	KeyValet	\$2,500.00	20.00%			\$2,000.00	\$1,975.00		SCW	US
132-33	KeyValet Module 4-10	KeyValet Module (each site # 4-10)	KeyValet	\$1,500.00	20.00%			\$1,200.00	\$1,183.95		SCW	US
132-33	KeyValet Module 10+	KeyValet Module (each site after the 10th)	KeyValet	\$1,000.00	20.00%			\$800.00	\$795.97		SCW	US
132-33	Base Software Charge	Base Software Charge with FleetFocus Base, Motor Pool, MP Reserve, Notifications and Ad Hoc Report	FleetFocus software, for KeyValet stand alone, i.e. not current software customers. Purchasing KeyValet 'stand alone'	\$5,000.00	20.00%			\$4,000.00	\$3,950.00		SCW	US
132-33	FleetFocus Size (1-199 Units)	FleetFocus Size (1-199 Units) - per vehicle unit (non bus/ non transit)	FleetFocus software, for KeyValet stand alone, i.e. not current software customers. Purchasing KeyValet 'stand alone'	\$20.00	20.00%			\$16.00	\$15.92		SCW	US
132-33	FleetFocus Size (200+)	FleetFocus Size (200+ Units) - per vehicle unit (non bus/ non transit)	FleetFocus software, for KeyValet stand alone, i.e. not current software customers. Purchasing KeyValet 'stand alone'	\$19.20	20.00%			\$15.36	\$15.28		SCW	US
132-33	FleetFocus/FuelFocus Integration License	FleetFocus/FuelFocus Integration License (per ICU)	FuelFocus	\$2,495.00	20.00%			\$1,996.00	\$1,971.05		SCW	US
132-33	Telematics Module (FleetFocusFA)-1	Telematics Module (For FleetFocusFA) Per Site	FuelFocus	\$2,495.00	20.00%			\$1,996.00	\$1,985.94		SCW	US
132-33	Telematics Module (FleetFocusFA)-2	Telematics Module (For FleetFocusFA) Per Site	FuelFocus	\$2,495.00	20.00%			\$1,996.00	\$1,985.94		SCW	US
132-33	Telematics Module (FleetFocusM5)-1	Telematics Module (For FleetFocusM5) Per Site	FuelFocus	\$1,295.00	20.00%			\$1,036.00	\$1,023.05		SCW	US
132-33	Telematics Module (FleetFocusM5)-2	Telematics Module (For FleetFocusM5) Per Site	FuelFocus	\$1,295.00	20.00%			\$1,036.00	\$1,030.78		SCW	US
132-33	FuelFocus TLS/Veeder Root Integration-1	FuelFocus TLS/Veeder Root Integration License (per site, if one site)	FuelFocus	\$2,495.00	20.00%			\$1,996.00	\$1,971.05		SCW	US
132-33	FuelFocus TLS/Veeder Root Integration	FuelFocus TLS/Veeder Root Integration License (per site, if multiple sites)	FuelFocus	\$1,295.00	20.00%			\$1,036.00	\$1,023.05		SCW	US
132-33	Fuel Insight Windows Stand alone	Fuel Insight Windows Stand alone Software (per site), For non-FleetFocus clients only (1 seat)	FuelFocus	\$7,995.00	20.00%			\$6,396.00	\$6,316.05		SCW	US
132-33	Fuel Insight Software Additional Seats	Fuel Insight Software Additional Seats	FuelFocus	\$995.00	20.00%			\$796.00	\$791.99		SCW	US
132-33	FleetFocus FuelFocus alone1-999	FleetFocus software, for FuelFocus stand alone, FleetFocus Size (1-999 Units) - per vehicle unit	FleetFocus software, for FuelFocus stand alone, i.e. not current software customers. Purchasing FuelFocus 'stand alone'	\$15.00	20.00%			\$12.00	\$11.85		SCW	US
132-33	FleetFocus FuelFocus alone1000	FleetFocus software, for FuelFocus stand alone, FleetFocus Size (1000 + Units) - per vehicle unit	FleetFocus software, for FuelFocus stand alone, i.e. not current software customers. Purchasing FuelFocus 'stand alone'	\$5.00	20.00%			\$4.00	\$3.95		SCW	US
132-33	OEM Embedded EditionFA	Crystal Reports Server OEM Embedded Edition (for FA), - includes one report writer	3rd Party FA	\$2,900.00	0.00%			\$2,900.00	\$2,892.70		SCW	US
132-33	OEM Embedded EditionFAFull	Crystal Reports Server OEM Embedded Edition (for FA), Full CPU license- includes one report writer	3rd Party FA	\$15,000.00	0.00%			\$15,000.00	\$14,962.22		SCW	US
132-33	Crystal Reports Professional Edition	Crystal Reports Professional Edition (1 x report writer, 0 report users)	3rd Party FA	\$495.00	0.00%			\$495.00	\$493.75		SCW	US
132-33	Crystal Developer	Crystal Developer (1 x report writer, 0 report users)	3rd Party M5	\$450.00	0.00%			\$450.00	\$448.87		SCW	US
132-33	XI for M5 Concurrent Access Licenses	Business Objects Enterprise XI for M5, Concurrent Access Licenses	3rd Party M5	\$4,200.00	0.00%			\$4,200.00	\$4,189.42		SCW	US
132-33	XI for M5 Named Users	Business Objects Enterprise XI for M5, Named Users	3rd Party M5	\$695.00	0.00%			\$695.00	\$693.25		SCW	US
132-33	XI for M5 CPU license	Business Objects Enterprise XI for M5, CPU license	3rd Party M5	\$70,000.00	0.00%			\$70,000.00	\$69,823.68		SCW	US

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132-33	5CALPackM5	5 Concurrent Access License (CAL) Pack - Crystal Reports Server for M5	3rd Party M5	\$4,900.00	0.00%	\$4,900.00	1.00%	\$4,851.00	\$4,887.66	SCW	US
132-33	10CALPackM5	10 Concurrent Access License (CAL) Pack - Crystal Reports Server for M5	3rd Party M5	\$9,600.00	0.00%	\$9,600.00	1.00%	\$9,504.00	\$9,575.82	SCW	US
132-33	15CALPackM5	15 Concurrent Access License (CAL) Pack - Crystal Reports Server for M5	3rd Party M5	\$14,100.00	0.00%	\$14,100.00	1.00%	\$13,959.00	\$14,064.48	SCW	US
132-33	20CALPackM5	20 Concurrent Access License (CAL) Pack - Crystal Reports Server for M5	3rd Party M5	\$18,000.00	0.00%	\$18,000.00	1.00%	\$17,820.00	\$17,954.66	SCW	US
132-32	Hosting one time	Hosting, per Non-Transit vehicle per month, Server Set-Up (one time)	Hosting, per Non-Transit vehicle per month (customer purchases software)	\$5,000.00	0.00%	\$5,000.00	1.00%	\$4,950.00	\$4,987.41	SCW	US
132-32	Hosting 500-749	Hosting, per Non-Transit vehicle per month, Vehicles 500-749	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$1.75	0.00%	\$1.75	1.00%	\$1.73	\$1.75	SCW	US
132-32	Hosting 750-1999	Hosting, per Non-Transit vehicle per month, Vehicles 750-1999	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$1.50	0.00%	\$1.50	1.00%	\$1.49	\$1.50	SCW	US
132-32	Hosting 2000-4999	Hosting, per Non-Transit vehicle per month, Vehicles 2000-4999	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,500 per month	\$1.25	0.00%	\$1.25	1.00%	\$1.24	\$1.25	SCW	US
132-32	Hosting 5000-9999	Hosting, per Non-Transit vehicle per month, Vehicles 5000-9999	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$1.00	0.00%	\$1.00	1.00%	\$0.99	\$1.00	SCW	US
132-32	Hosting 10000-14999	Hosting, per Non-Transit vehicle per month, Vehicles 10000-14999	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$0.75	0.00%	\$0.75	1.00%	\$0.74	\$0.75	SCW	US
132-32	Hosting 15000+	Hosting, per Non-Transit vehicle per month, Vehicles 15000+	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$0.50	0.00%	\$0.50	1.00%	\$0.50	\$0.50	SCW	US
132-32	Hosting Reports one-time	Hosting, per Non-Transit vehicle per month, Reports Server Set-Up (one-time)	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70	SCW	US
132-32	Hosting Reports Month	Hosting, per Non-Transit vehicle per month, Reports Server Per Month	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$500.00	0.00%	\$500.00	1.00%	\$495.00	\$498.74	SCW	US
132-32	Hosting MobileFocus PDA Month	Hosting, per Non-Transit vehicle per month, MobileFocus Per PDA, Per Month	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$10.00	0.00%	\$10.00	1.00%	\$9.90	\$9.97	SCW	US
132-32	Hosting FuelFocus ICU	Hosting, per Non-Transit vehicle per month, FuelFocus (Per ICU)	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$50.00	0.00%	\$50.00	1.00%	\$49.50	\$49.87	SCW	US
132-32	Hosting VPN Setup Fee	Hosting, per Non-Transit vehicle per month, VPN Setup Fee	Hosting, per Non-Transit vehicle per month (customer purchases software) Minimum \$1,000 per month	\$3,120.00	0.00%	\$3,120.00	1.00%	\$3,088.80	\$3,112.14	SCW	US
132-32	Hosting Transit one time	Hosting, per Transit vehicle per month, Server Set-Up (one time)	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$5,000.00	0.00%	\$5,000.00	1.00%	\$4,950.00	\$4,987.41	SCW	US
132-32	Hosting Transit 1-99	Hosting, per Transit vehicle per month, Vehicles 1-99	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$30.00	0.00%	\$30.00	1.00%	\$29.70	\$29.92	SCW	US
132-32	Hosting Transit 100-199	Hosting, per Transit vehicle per month, Vehicles 100-199	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$25.00	0.00%	\$25.00	1.00%	\$24.75	\$24.94	SCW	US
132-32	Hosting Transit 200-299	Hosting, per Transit vehicle per month, Vehicles 200-299	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$20.00	0.00%	\$20.00	1.00%	\$19.80	\$19.95	SCW	US
132-32	Hosting Transit 300-399	Hosting, per Transit vehicle per month, Vehicles 300-399	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$15.00	0.00%	\$15.00	1.00%	\$14.85	\$14.96	SCW	US
132-32	Hosting Transit 400-499	Hosting, per Transit vehicle per month, Vehicles 400-499	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$12.00	0.00%	\$12.00	1.00%	\$11.88	\$11.97	SCW	US
132-32	Hosting Transit 500-749	Hosting, per Transit vehicle per month, Vehicles 500-749	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$10.00	0.00%	\$10.00	1.00%	\$9.90	\$9.97	SCW	US
132-32	Hosting Transit 750-1999	Hosting, per Transit vehicle per month, Vehicles 750-1999	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$8.00	0.00%	\$8.00	1.00%	\$7.92	\$7.98	SCW	US
132-32	Hosting Transit 2000+	Hosting, per Transit vehicle per month, Vehicles 2000+	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$5.00	0.00%	\$5.00	1.00%	\$4.95	\$4.99	SCW	US
132-32	Hosting Transit Reports Server Set-Up	Hosting, per Transit vehicle per month, Reports Server Set-Up (one-time)	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70	SCW	US
132-32	Hosting Transit Reports Server Month	Hosting, per Transit vehicle per month, Reports Server Per Month	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$500.00	0.00%	\$500.00	1.00%	\$495.00	\$498.74	SCW	US
132-32	Hosting Transit MobileFocus PDA Month	Hosting, per Transit vehicle per month, MobileFocus Per PDA, Per Month	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$10.00	0.00%	\$10.00	1.00%	\$9.90	\$9.97	SCW	US
132-32	Hosting Transit month FuelFocus ICU	Hosting, per Transit vehicle per month, FuelFocus (Per ICU)	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$50.00	0.00%	\$50.00	1.00%	\$49.50	\$49.87	SCW	US
132-32	Hosting Transit month VPN Setup	Hosting, per Transit vehicle per month, VPN Setup Fee	Hosting, per Transit vehicle per month (customer purchases software) Minimum \$2,500 per month	\$3,120.00	0.00%	\$3,120.00	1.00%	\$3,088.80	\$3,112.14	SCW	US
132-32	ASP/Software Hosting one-time	ASP/Software As a Service, and Hosting- Non-Transit, Server Set-Up (one-time)	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance	\$5,000.00	0.00%	\$5,000.00	1.00%	\$4,950.00	\$4,987.41	SCW	US
132-32	ASP/Software Hosting 500-749	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 500-749	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$3.50	0.00%	\$3.50	1.00%	\$3.47	\$3.49	SCW	US
132-32	ASP/Software Hosting 750-1999	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 750-1999	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$3.25	0.00%	\$3.25	1.00%	\$3.22	\$3.24	SCW	US
132-32	ASP/Software Hosting 2000-4999	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 2000-4999	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$3.00	0.00%	\$3.00	1.00%	\$2.97	\$2.99	SCW	US
132-32	ASP/Software Hosting 5000-9999	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 5000-9999	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$2.50	0.00%	\$2.50	1.00%	\$2.48	\$2.49	SCW	US
132-32	ASP/Software Hosting 10000-14999	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 10000-14999	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$2.25	0.00%	\$2.25	1.00%	\$2.23	\$2.24	SCW	US
132-32	ASP/Software Hosting 15000+	ASP/Software As a Service, and Hosting- Non-Transit, Vehicles 15000+	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$2.00	0.00%	\$2.00	1.00%	\$1.98	\$1.99	SCW	US
132-32	ASP/Software Hosting Reports one time	ASP/Software As a Service, and Hosting- Non-Transit, Reports Server Set-Up (one time)	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70	SCW	US
132-32	ASP/Software Hosting Reports Month	ASP/Software As a Service, and Hosting- Non-Transit, Reports Server Per Month	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$500.00	0.00%	\$500.00	1.00%	\$495.00	\$498.74	SCW	US
132-32	ASP/Software Hosting MobileFocus PDA Month	ASP/Software As a Service, and Hosting- Non-Transit, MobileFocus Per PDA, Per Month	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$25.00	0.00%	\$25.00	1.00%	\$24.75	\$24.94	SCW	US

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132-32	ASP/Software Hosting FuelFocus ICU	ASP/Software As a Service, and Hosting- Non-Transit, FuelFocus (Per ICU)	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$75.00	0.00%	\$75.00	1.00%	\$74.25	\$74.81	SCW	US
132-32	ASP/Software Hosting VPN	ASP/Software As a Service, and Hosting- Non-Transit, VPN Setup Fee	ASP/Software As a Service, and Hosting- Non-Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$3,120.00	0.00%	\$3,120.00	1.00%	\$3,088.80	\$3,112.14	SCW	US
132-32	ASP/Software Hosting Transit one-time	ASP/Software As a Service, and Hosting- Transit, Server Set-Up (one-time)	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$2,000 per month Price for base, modules added as per %	\$10,000.00	0.00%	\$10,000.00	1.00%	\$9,900.00	\$9,974.81	SCW	US
132-32	ASP/Software Hosting Transit 1-99	ASP/Software As a Service, and Hosting- Transit, Vehicles 1-99	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$150.00	0.00%	\$150.00	1.00%	\$148.50	\$149.62	SCW	US
132-32	ASP/Software Hosting Transit 100-199	ASP/Software As a Service, and Hosting- Transit, Vehicles 100-199	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$125.00	0.00%	\$125.00	1.00%	\$123.75	\$124.69	SCW	US
132-32	ASP/Software Hosting Transit 200-299	ASP/Software As a Service, and Hosting- Transit, Vehicles 200-299	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$100.00	0.00%	\$100.00	1.00%	\$99.00	\$99.75	SCW	US
132-32	ASP/Software Hosting Transit 300-399	ASP/Software As a Service, and Hosting- Transit, Vehicles 300-399	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$75.00	0.00%	\$75.00	1.00%	\$74.25	\$74.81	SCW	US
132-32	ASP/Software Hosting Transit 400-499	ASP/Software As a Service, and Hosting- Transit, Vehicles 400-499	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$60.00	0.00%	\$60.00	1.00%	\$59.40	\$59.85	SCW	US
132-32	ASP/Software Hosting Transit 500-749	ASP/Software As a Service, and Hosting- Transit, Vehicles 500-749	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$50.00	0.00%	\$50.00	1.00%	\$49.50	\$49.87	SCW	US
132-32	ASP/Software Hosting Transit 750-1999	ASP/Software As a Service, and Hosting- Transit, Vehicles 750-1999	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$40.00	0.00%	\$40.00	1.00%	\$39.60	\$39.90	SCW	US
132-32	ASP/Software Hosting Transit 2000+	ASP/Software As a Service, and Hosting- Transit, Vehicles 2000+	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$25.00	0.00%	\$25.00	1.00%	\$24.75	\$24.94	SCW	US
132-32	ASP/Software Hosting Transit Reports one-time	ASP/Software As a Service, and Hosting- Transit, Reports Server Set-Up (one-time)	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$5,000.00	0.00%	\$5,000.00	1.00%	\$4,950.00	\$4,987.41	SCW	US
132-32	ASP/Software Hosting Transit Reports Month	ASP/Software As a Service, and Hosting- Transit, Reports Server Per Month	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$1,000.00	0.00%	\$1,000.00	1.00%	\$990.00	\$997.48	SCW	US
132-32	ASP/Software Hosting Transit PDA Month	ASP/Software As a Service, and Hosting- Transit, MobileFocus Per PDA, Per Month	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$25.00	0.00%	\$25.00	1.00%	\$24.75	\$24.94	SCW	US
132-32	ASP/Software Hosting Transit FuelFocus ICU	ASP/Software As a Service, and Hosting- Transit, FuelFocus (Per ICU)	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$125.00	0.00%	\$125.00	1.00%	\$123.75	\$124.69	SCW	US
132-32	ASP/Software Hosting Transit VPN	ASP/Software As a Service, and Hosting- Transit, VPN Setup Fee	ASP/Software As a Service, and Hosting- Transit FleetFocus ASP- SAAS (Rental-Per vehicle/Per Month); Includes Maintenance Minimum \$5,000 per month	\$3,120.00	0.00%	\$3,120.00	1.00%	\$3,088.80	\$3,112.14	SCW	US
132-33	Capital Asset Management 0-999	Capital Asset Management (Fleet), 0 - 999 Assets	0 - 999 Assets	\$25,000.00	20.00%	\$20,000.00	21.00%	\$19,750.00	\$19,899.24	SCW	US
132-33	Capital Asset Management 1,000-2,499	Capital Asset Management (Fleet), 1,000 - 2,499 Assets	1,000 - 2,499 Assets	\$50,000.00	20.00%	\$40,000.00	21.00%	\$39,500.00	\$39,798.49	SCW	US
132-33	Capital Asset Management 2,500-4,999	Capital Asset Management (Fleet), 2,500 - 4,999 Assets	2,500 - 4,999 Assets	\$75,000.00	20.00%	\$60,000.00	21.00%	\$59,250.00	\$59,697.73	SCW	US
132-33	Capital Asset Management 5,000-7,499	Capital Asset Management (Fleet), 5,000 - 7,499 Assets	5,000 - 7,499 Assets	\$100,000.00	20.00%	\$80,000.00	21.00%	\$79,000.00	\$79,596.98	SCW	US
132-33	Capital Asset Management 7,500-9,999	Capital Asset Management (Fleet), 7,500 - 9,999 Assets	7,500 - 9,999 Assets	\$125,000.00	20.00%	\$100,000.00	21.00%	\$98,750.00	\$99,496.22	SCW	US
132-33	Capital Asset Management 10,000-12,499	Capital Asset Management (Fleet), 10,000 - 12,499 Assets	10,000 - 12,499 Assets	\$150,000.00	20.00%	\$120,000.00	21.00%	\$118,500.00	\$119,395.47	SCW	US
132-33	Capital Asset Management 12,500-14,999	Capital Asset Management (Fleet), 12,500 - 14,999 Assets	12,500 - 14,999 Assets	\$175,000.00	20.00%	\$140,000.00	21.00%	\$138,250.00	\$139,294.71	SCW	US
132-33	Capital Asset Management 15,000-19,999	Capital Asset Management (Fleet), 15,000 - 19,999 Assets	15,000 - 19,999 Assets	\$200,000.00	20.00%	\$160,000.00	21.00%	\$158,000.00	\$159,193.95	SCW	US
132-33	Capital Asset Management 20,000-29,999	Capital Asset Management (Fleet), 20,000 - 29,999 Assets	20,000 - 29,999 Assets	\$240,000.00	20.00%	\$192,000.00	21.00%	\$189,800.00	\$191,032.75	SCW	US
132-33	Capital Asset Management 30,000-49,999	Capital Asset Management (Fleet), 30,000 - 49,999 Assets	30,000 - 49,999 Assets	\$300,000.00	20.00%	\$240,000.00	21.00%	\$237,000.00	\$238,790.93	SCW	US
132-33	Capital Asset Management 50,000-99,999	Capital Asset Management (Fleet), 50,000 - 99,999 Assets	50,000 - 99,999 Assets	\$350,000.00	20.00%	\$280,000.00	21.00%	\$276,500.00	\$278,589.42	SCW	US
132-33	Capital Asset Management 100,000+	Capital Asset Management (Fleet), 100,000 + Assets	100,000 + Assets	\$375,000.00	20.00%	\$300,000.00	21.00%	\$298,250.00	\$299,488.66	SCW	US
132-32	CAM Hosting / SaaS Setup Fee	CAM Hosting / SaaS Setup Fee	CAM Hosting / SaaS Setup Fee	\$2,500.00		\$300.00		\$1,975.00	\$1,989.92	SCW	US
132-32	CAM/Hosting 0-999	CAM / Hosting, 0 - 999 Assets	0 - 999 Assets	\$1,000.00	20.00%	\$800.00	21.00%	\$790.00	\$795.97	SCW	US
132-32	CAM/Hosting 1,000-2,499	CAM / Hosting, 1,000 - 2,499 Assets	1,000 - 2,499 Assets	\$1,500.00	20.00%	\$1,200.00	21.00%	\$1,185.00	\$1,193.95	SCW	US
132-32	CAM/Hosting 2,500-4,999	CAM / Hosting, 2,500 - 4,999 Assets	2,500 - 4,999 Assets	\$1,900.00	20.00%	\$1,520.00	21.00%	\$1,501.00	\$1,512.34	SCW	US
132-32	CAM/Hosting 5,000-7,499	CAM / Hosting, 5,000 - 7,499 Assets	5,000 - 7,499 Assets	\$2,200.00	20.00%	\$1,760.00	21.00%	\$1,738.00	\$1,751.13	SCW	US
132-32	CAM/Hosting 7,500-9,999	CAM / Hosting, 7,500 - 9,999 Assets	7,500 - 9,999 Assets	\$2,500.00	20.00%	\$2,000.00	21.00%	\$1,975.00	\$1,989.92	SCW	US
132-32	CAM/Hosting 10,000-12,499	CAM / Hosting, 10,000 - 12,499 Assets	10,000 - 12,499 Assets	\$2,800.00	20.00%	\$2,240.00	21.00%	\$2,212.00	\$2,228.72	SCW	US
132-32	CAM/Hosting 12,500-14,999	CAM / Hosting, 12,500 - 14,999 Assets	12,500 - 14,999 Assets	\$3,000.00	20.00%	\$2,400.00	21.00%	\$2,375.00	\$2,387.91	SCW	US
132-32	CAM/Hosting 15,000-19,999	CAM / Hosting, 15,000 - 19,999 Assets	15,000 - 19,999 Assets	\$3,500.00	20.00%	\$2,800.00	21.00%	\$2,760.00	\$2,785.89	SCW	US
132-32	CAM/Hosting 20,000-29,999	CAM / Hosting, 20,000 - 29,999 Assets	20,000 - 29,999 Assets	\$4,000.00	20.00%	\$3,200.00	21.00%	\$3,160.00	\$3,183.88	SCW	US
132-32	CAM/Hosting 30,000-49,999	CAM / Hosting, 30,000 - 49,999 Assets	30,000 - 49,999 Assets	\$4,500.00	20.00%	\$3,600.00	21.00%	\$3,555.00	\$3,581.86	SCW	US
132-32	CAM/Hosting 50,000-99,999	CAM / Hosting, 50,000 - 99,999 Assets	50,000 - 99,999 Assets	\$5,000.00	20.00%	\$4,000.00	21.00%	\$3,950.00	\$3,979.85	SCW	US
132-32	CAM/Hosting 100,000	CAM / Hosting, 100,000 + Assets	100,000 + Assets	\$6,000.00	20.00%	\$4,800.00	21.00%	\$4,740.00	\$4,775.82	SCW	US
132-32	CAM/SaaS Fleet 0-999	CAM / SaaS Fleet, 0 - 999 Assets	0 - 999 Assets	\$1,400.00	20.00%	\$1,120.00	21.00%	\$1,106.00	\$1,114.36	SCW	US
132-32	CAM/SaaS Fleet 1,000-2,499	CAM / SaaS Fleet, 1,000 - 2,499 Assets	1,000 - 2,499 Assets	\$1,800.00	20.00%	\$1,440.00	21.00%	\$1,422.00	\$1,432.75	SCW	US
132-32	CAM/SaaS Fleet 2,500-4,999	CAM / SaaS Fleet, 2,500 - 4,999 Assets	2,500 - 4,999 Assets	\$2,500.00	20.00%	\$2,000.00	21.00%	\$1,985.00	\$1,997.50	SCW	US
132-32	CAM/SaaS Fleet 5,000-7,499	CAM / SaaS Fleet, 5,000 - 7,499 Assets	5,000 - 7,499 Assets	\$3,100.00	20.00%	\$2,480.00	21.00%	\$2,449.00	\$2,467.51	SCW	US
132-32	CAM/SaaS Fleet 7,500-9,999	CAM / SaaS Fleet, 7,500 - 9,999 Assets	7,500 - 9,999 Assets	\$3,600.00	20.00%	\$2,880.00	21.00%	\$2,844.00	\$2,865.49	SCW	US
132-32	CAM/SaaS Fleet 10,000-12,499	CAM / SaaS Fleet, 10,000 - 12,499 Assets	10,000 - 12,499 Assets	\$3,900.00	20.00%	\$3,120.00	21.00%	\$3,081.00	\$3,104.28	SCW	US

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132-32	CAM/SaaS Fleet 12,500-14,999	CAM / SaaS Fleet, 12,500 - 14,999 Assets	12,500 - 14,999 Assets	\$4,300.00	20.00%	\$3,440.00	21.00%	\$3,397.00	\$3,422.67		SCW	US
132-32	CAM/SaaS Fleet 15,000-19,999	CAM / SaaS Fleet, 15,000 - 19,999 Assets	15,000 - 19,999 Assets	\$5,100.00	20.00%	\$4,080.00	21.00%	\$4,028.00	\$4,059.45		SCW	US
132-32	CAM/SaaS Fleet 20,000-29,999	CAM / SaaS Fleet, 20,000 - 29,999 Assets	20,000 - 29,999 Assets	\$6,000.00	20.00%	\$4,800.00	21.00%	\$4,740.00	\$4,775.82		SCW	US
132-32	CAM/SaaS Fleet 30,000-49,999	CAM / SaaS Fleet, 30,000 - 49,999 Assets	30,000 - 49,999 Assets	\$7,300.00	20.00%	\$5,840.00	21.00%	\$5,767.00	\$5,810.58		SCW	US
132-32	CAM/SaaS Fleet 50,000-99,999	CAM / SaaS Fleet, 50,000 - 99,999 Assets	50,000 - 99,999 Assets	\$8,300.00	20.00%	\$6,640.00	21.00%	\$6,557.00	\$6,606.55		SCW	US
132-32	CAM/SaaS Fleet 100,000+	CAM / SaaS Fleet, 100,000 + Assets	100,000 + Assets	\$9,300.00	20.00%	\$7,440.00	21.00%	\$7,347.00	\$7,402.52		SCW	US
132-32	EAM Hosting State Gov (< 1 Mil)	EAM Hosting for State Government (Population < 1 Million Residents)	EAM Hosting for State Government (Population < 1 Million Residents)	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70		SCW	US
132-32	EAM Hosting State Gov (1-5 Mil)	EAM Hosting for State Government (Population 1-5 Million Residents)	EAM Hosting for State Government (Population 1-5 Million Residents)	\$3,000.00	0.00%	\$3,000.00	1.00%	\$2,970.00	\$2,992.44		SCW	US
132-32	EAM Hosting State Gov (5-10 Mil)	EAM Hosting for State Government (Population 5-10 Million Residents)	EAM Hosting for State Government (Population 5-10 Million Residents)	\$4,500.00	0.00%	\$4,500.00	1.00%	\$4,455.00	\$4,488.66		SCW	US
132-32	EAM Hosting State Gov (10-20 Mil)	EAM Hosting for State Government (Population 10-20 Million Residents)	EAM Hosting for State Government (Population 10-20 Million Residents)	\$6,000.00	0.00%	\$6,000.00	1.00%	\$5,940.00	\$5,984.89		SCW	US
132-32	EAM Hosting State Gov (>20 Mil)	EAM Hosting for State Government (Population >20 Million Residents)	EAM Hosting for State Government (Population >20 Million Residents)	\$7,500.00	0.00%	\$7,500.00	1.00%	\$7,425.00	\$7,481.11		SCW	US
132-32	EAM Hosting County Gov (< 50 Thousand)	EAM Hosting for County Government (Population < 50 Thousand Residents)	EAM Hosting for County Government (Population < 50 Thousand Residents)	\$1,500.00	0.00%	\$1,500.00	1.00%	\$1,485.00	\$1,496.22		SCW	US
132-32	EAM Hosting County Gov (50-100 Thousand)	EAM Hosting for County Government (Population 50-100 Thousand Residents)	EAM Hosting for County Government (Population 50-100 Thousand Residents)	\$2,250.00	0.00%	\$2,250.00	1.00%	\$2,227.50	\$2,244.33		SCW	US
132-32	EAM Hosting County Gov (100-500 Thousand)	EAM Hosting for County Government (Population 100-500 Thousand Residents)	EAM Hosting for County Government (Population 100-500 Thousand Residents)	\$3,000.00	0.00%	\$3,000.00	1.00%	\$2,970.00	\$2,992.44		SCW	US
132-32	EAM Hosting County Gov (500 Thousand - 3 Mil)	EAM Hosting for County Government (Population 500 Thousand - 3 Million Residents)	EAM Hosting for County Government (Population 500 Thousand - 3 Million Residents)	\$4,500.00	0.00%	\$4,500.00	1.00%	\$4,455.00	\$4,488.66		SCW	US
132-32	EAM Hosting County Gov (> 3 Mil)	EAM Hosting for County Government (Population > 3 Million Residents)	EAM Hosting for County Government (Population > 3 Million Residents)	\$6,000.00	0.00%	\$6,000.00	1.00%	\$5,940.00	\$5,984.89		SCW	US
132-32	EAM Hosting City Gov (< 50 Thousand)	EAM Hosting for City Government (Population < 50 Thousand Residents)	EAM Hosting for City Government (Population < 50 Thousand Residents)	\$1,500.00	0.00%	\$1,500.00	1.00%	\$1,485.00	\$1,496.22		SCW	US
132-32	EAM Hosting City Gov (50-100 Thousand)	EAM Hosting for City Government (Population 50-100 Thousand Residents)	EAM Hosting for City Government (Population 50-100 Thousand Residents)	\$2,250.00	0.00%	\$2,250.00	1.00%	\$2,227.50	\$2,244.33		SCW	US
132-32	EAM Hosting City Gov (100-300 Thousand)	EAM Hosting for City Government (Population 100-300 Thousand Residents)	EAM Hosting for City Government (Population 100-300 Thousand Residents)	\$3,000.00	0.00%	\$3,000.00	1.00%	\$2,970.00	\$2,992.44		SCW	US
132-32	EAM Hosting City Gov (300 Thousand - 1Mil)	EAM Hosting for City Government (Population 300 Thousand - 1Million Residents)	EAM Hosting for City Government (Population 300 Thousand - 1Million Residents)	\$4,500.00	0.00%	\$4,500.00	1.00%	\$4,455.00	\$4,488.66		SCW	US
132-32	EAM Hosting City Gov (> 1 Mil)	EAM Hosting for City Government (Population > 1 Million Residents)	EAM Hosting for City Government (Population > 1 Million Residents)	\$6,000.00	0.00%	\$6,000.00	1.00%	\$5,940.00	\$5,984.89		SCW	US
132-32	EAM SaaS State Gov (< 1 Mil)	EAM SaaS for State Government (Population < 1 Million Residents)	EAM SaaS for State Government (Population < 1 Million Residents)	\$8,600.00	0.00%	\$8,600.00	1.00%	\$8,415.00	\$8,478.59		SCW	US
132-32	EAM SaaS State Gov (1-5 Mil)	EAM SaaS for State Government (Population 1-5 Million Residents)	EAM SaaS for State Government (Population 1-5 Million Residents)	\$11,000.00	0.00%	\$11,000.00	1.00%	\$10,890.00	\$10,972.29		SCW	US
132-32	EAM SaaS State Gov (5-10 Mil)	EAM SaaS for State Government (Population 5-10 Million Residents)	EAM SaaS for State Government (Population 5-10 Million Residents)	\$16,000.00	0.00%	\$16,000.00	1.00%	\$15,840.00	\$15,959.70		SCW	US
132-32	EAM SaaS State Gov (10-20 Mil)	EAM SaaS for State Government (Population 10-20 Million Residents)	EAM SaaS for State Government (Population 10-20 Million Residents)	\$23,500.00	0.00%	\$23,500.00	1.00%	\$23,265.00	\$23,440.81		SCW	US
132-32	EAM SaaS State Gov (>20 Mil)	EAM SaaS for State Government (Population >20 Million Residents)	EAM SaaS for State Government (Population >20 Million Residents)	\$30,500.00	0.00%	\$30,500.00	1.00%	\$30,195.00	\$30,423.17		SCW	US
132-32	EAM SaaS County Gov (< 50 Thousand)	EAM SaaS for County Government (Population < 50 Thousand Residents)	EAM SaaS for County Government (Population < 50 Thousand Residents)	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70		SCW	US
132-32	EAM SaaS County Gov (50-100 Thousand)	EAM SaaS for County Government (Population 50-100 Thousand Residents)	EAM SaaS for County Government (Population 50-100 Thousand Residents)	\$3,750.00	0.00%	\$3,750.00	1.00%	\$3,712.50	\$3,740.55		SCW	US
132-32	EAM SaaS County Gov (100-500 Thousand)	EAM SaaS for County Government (Population 100-500 Thousand Residents)	EAM SaaS for County Government (Population 100-500 Thousand Residents)	\$5,325.00	0.00%	\$5,325.00	1.00%	\$5,271.75	\$5,311.59		SCW	US
132-32	EAM SaaS County Gov (500 Thousand-3 Mil)	EAM SaaS for County Government (Population 500 Thousand - 3 Million Residents)	EAM SaaS for County Government (Population 500 Thousand - 3 Million Residents)	\$8,000.00	0.00%	\$8,000.00	1.00%	\$7,920.00	\$7,979.85		SCW	US
132-32	EAM SaaS County Gov (> 3 Mil)	EAM SaaS for County Government (Population > 3 Million Residents)	EAM SaaS for County Government (Population > 3 Million Residents)	\$11,825.00	0.00%	\$11,825.00	1.00%	\$11,706.75	\$11,795.21		SCW	US
132-32	EAM SaaS City Gov (< 50 Thousand)	EAM SaaS for City Government (Population < 50 Thousand Residents)	EAM SaaS for City Government (Population < 50 Thousand Residents)	\$2,500.00	0.00%	\$2,500.00	1.00%	\$2,475.00	\$2,493.70		SCW	US
132-32	EAM SaaS City Gov (50-100 Thousand)	EAM SaaS for City Government (Population 50-100 Thousand Residents)	EAM SaaS for City Government (Population 50-100 Thousand Residents)	\$3,750.00	0.00%	\$3,750.00	1.00%	\$3,712.50	\$3,740.55		SCW	US
132-32	EAM SaaS City Gov (100-300 Thousand)	EAM SaaS for City Government (Population 100-300 Thousand Residents)	EAM SaaS for City Government (Population 100-300 Thousand Residents)	\$5,325.00	0.00%	\$5,325.00	1.00%	\$5,271.75	\$5,311.59		SCW	US
132-32	EAM SaaS City Gov (300 Thousand-1 Mil)	EAM SaaS for City Government (Population 300 Thousand - 1Million Residents)	EAM SaaS for City Government (Population 300 Thousand - 1Million Residents)	\$8,000.00	0.00%	\$8,000.00	1.00%	\$7,920.00	\$7,979.85		SCW	US
132-32	EAM SaaS City Gov (> 1 Mil)	EAM SaaS for City Government (Population > 1 Million Residents)	EAM SaaS for City Government (Population > 1 Million Residents)	\$11,825.00	0.00%	\$11,825.00	1.00%	\$11,706.75	\$11,795.21		SCW	US
132-32	Fuel Insight SaaS Setup Fee	Fuel Insight SaaS Setup Fee	Fuel Insight SaaS Setup Fee	\$3,500.00	0.00%	\$3,500.00	1.00%	\$3,465.00	\$3,491.18		SCW	US
132-32	Fuel Insight SaaS Standard Month	Fuel Insight SaaS Standard Monthly Fee	Fuel Insight SaaS Standard Monthly Fee	\$525.00	0.00%	\$525.00	1.00%	\$519.75	\$523.68		SCW	US
132-32	Fuel Insight Month Per Hose 1	Fuel Insight Per Hose Monthly Fee (1 Hose)	Fuel Insight Per Hose Monthly Fee (1 Hose)	\$70.00	0.00%	\$70.00	1.00%	\$69.30	\$69.82		SCW	US
132-32	Fuel Insight Month Per Hose 2-3	Fuel Insight Per Hose Monthly Fee (2-3 Hoses)	Fuel Insight Per Hose Monthly Fee (2-3 Hoses)	\$50.00	0.00%	\$50.00	1.00%	\$49.50	\$49.87		SCW	US
132-32	Fuel Insight Month Per Hose 4-5	Fuel Insight Per Hose Monthly Fee (4-5 Hoses)	Fuel Insight Per Hose Monthly Fee (4-5 Hoses)	\$37.50	0.00%	\$37.50	1.00%	\$37.13	\$37.41		SCW	US
132-32	Fuel Insight Month Per Hose 6-7	Fuel Insight Per Hose Monthly Fee (6-7 Hoses)	Fuel Insight Per Hose Monthly Fee (6-7 Hoses)	\$28.50	0.00%	\$28.50	1.00%	\$28.22	\$28.43		SCW	US
132-32	Fuel Insight Month Per Hose 8+	Fuel Insight Per Hose Monthly Fee (8+ Hoses)	Fuel Insight Per Hose Monthly Fee (8+ Hoses)	\$25.00	0.00%	\$25.00	1.00%	\$24.75	\$24.94		SCW	US

**Schedule # 70– Information Technology, Software Services
Solicitation FCIS-JB-980001B (Refresh # 42)**

SIN(s) PROPOSED	SERVICE PROPOSED (e.g. Job Title/Task)	MINIMUM EDUCATION/ CERTIFICATION LEVEL	MINIMUM YEARS OF EXPERIENC E	COMMERCIAL LIST PRICE (CPL) OR MARKET PRICES	UNIT OF ISSUE (e.g. Hour, Task, Sq ft)	MOST FAVORED CUSTOMER (MFC)	BEST DISCOUNT OFFERED TO MFC (%)	MFC PRICE	GSA(%) DISCOUNT (exclusive of the .75% IFF)	PRICE OFFERED TO GSA (excluding IFF)	PRICE OFFERED TO GSA (including IFF)	QUANTITY/ VOLUME DISCOUNT
132-51	Fleet/Facilities Software Program Manager	Bachelor's	10 Years	\$225.00	Hr	<i>Commercial Entities</i>	0.00%	\$225.00	2.50%	\$219.38	\$221.03	
132-51	Fleet/Facilities Software Sr Project Manager	Bachelor's	7 Years	\$205.00	Hr	<i>Commercial Entities</i>	0.00%	\$205.00	2.50%	\$199.88	\$201.39	
132-51	Fleet/Facilities Software Project Manager	Bachelor's	2 Years	\$190.00	Hr	<i>Commercial Entities</i>	0.00%	\$190.00	2.50%	\$185.25	\$186.65	
132-51	Fleet/Facilities Software System Architect	Bachelor's	10 Years	\$225.00	Hr	<i>Commercial Entities</i>	0.00%	\$225.00	2.50%	\$219.38	\$221.03	
132-51	Fleet/Facilities Software Sr Developer	Bachelor's	7 Years	\$190.00	Hr	<i>Commercial Entities</i>	0.00%	\$190.00	2.50%	\$185.25	\$186.65	
132-51	Fleet/Facilities Software Developer	Bachelor's	2 Years	\$175.00	Hr	<i>Commercial Entities</i>	0.00%	\$175.00	2.50%	\$170.63	\$171.91	
132-51	Fleet/Facilities Software Sr Implementation Specialist	Bachelor's	7 Years	\$225.00	Hr	<i>Commercial Entities</i>	0.00%	\$225.00	2.50%	\$219.38	\$221.03	
132-51	Fleet/Facilities Software Implementation Specialist	Bachelor's	3 Years	\$195.00	Hr	<i>Commercial Entities</i>	0.00%	\$195.00	2.50%	\$190.13	\$191.56	
132-51	Fleet/Facilities Software Installation Engineer	Bachelor's	3 Years	\$195.00	Hr	<i>Commercial Entities</i>	0.00%	\$195.00	2.50%	\$190.13	\$191.56	
132-51	Fleet/Facilities Software Documentation Specialist	Bachelor's	3 Years	\$135.00	Hr	<i>Commercial Entities</i>	0.00%	\$135.00	2.50%	\$131.63	\$132.62	
132-51	Fuel Program Manager	Bachelor's	2 Years	\$200.00	Hr	<i>Commercial Entities</i>	0.00%	\$200.00	2.50%	\$195.00	\$196.47	
132-51	Fuel Software Installer/Trainer	Bachelor's	1 Year	\$200.00	Hr	<i>Commercial Entities</i>	0.00%	\$200.00	2.50%	\$195.00	\$196.47	
132-51	Fuel Master Technician	Approved Service Representative	5 Years	\$185.00	Hr	<i>Commercial Entities</i>	0.00%	\$185.00	2.50%	\$180.38	\$181.74	
132-51	Fuel Technician Helper	Vocational Diploma	1 Year	\$150.00	Hr	<i>Commercial Entities</i>	0.00%	\$150.00	2.50%	\$146.25	\$147.36	

Labor Categories

EXHIBIT C

STATEMENT OF WORK

FOR

COMMONWEALTH OF PA – [Insert Agency Name]

PO NUMBER: _____

AGENCY CONTACT: _____
AGENCY ADDRESS: _____

PHONE: _____
E-MAIL: _____

A. Introduction

This Statement of Work (“SOW”) is made (“Effective Date”), by and between the Commonwealth of PA, [Insert name of Agency] (“Agency”), with its principal office located at [Insert address] (“Address”) (hereinafter referred to as “Customer”) and [Insert complete name of Supplier] with its principal place of business at [Insert address] (hereinafter referred to as “Supplier”). Supplier and Agency may also be referred individually as “Party” or collectively as “Parties.”

Agency is responsible for promptly obtaining all required consents necessary for the Supplier to provide the services described in this SOW. A required consent means any written consent or approval required to give Supplier access to Agency or third party software, firmware, data or other products to enable Supplier and Supplier’s subcontractors to perform the services set forth in this SOW without infringing on the ownership or license rights (including patent and copyright) of the providers or owners of such products.

Any terms and conditions not set forth in this SOW are governed by Software/Services License Requirements Agreement Number 4400021220 and the Participating Addendum Number 4400021169. In the event of inconsistencies between the Participating Addendum and the Software/Services License Requirements Agreement, the parties agree that the Software/Services License Requirements Agreement prevails, only with respect to the specific subject matter addressed therein.

B. Project Overview and Tasks

AssetWorks, LLC will perform the following tasks (the “Project”):

Supplier to insert exact, detailed description of work to be performed

Agency Requirements & Room Preparation:

Any requirements for the agency must be inserted here

C. Time Estimates / Delivery Schedule

The actual Project start date will depend on following:

(below are examples only, ensure dates are provided)

- 1.) Scheduled availability of a qualified systems engineer. 5/10/16
- 2.) Receipt of equipment. 5/20/16
- 3.) Completion necessary cabling, ISP connection, etc. by other vendors if applicable. 5/20/16
- 4.) Receipt of signed SOW from Customer prior to proposed start date. 5/5/16

The Supplier's required delivery time for the requested services shall be included within this SOW and must be agreed upon the Parties prior to issuance of the Purchase Order to which this SOW will be attached.

D. Project Cost

Project Cost is: \$

All work associated with the Project is performed during Mondays through Fridays, between the hours of 8 a.m. and 5 p.m. local time, excluding holidays.

(An exact costing breakdown must be provided)

E. SOW Acceptance

This SOW is acceptable. The Parties hereby acknowledge and confirm that the scope of work and related terms of this SOW have been read and are accepted and approved. If additional work is required that by its nature was not known or determined at the time this SOW was executed, a written change order describing the additional work and any related expenses is required prior to commencing in any work outside the scope of the original SOW.

Please sign and email to Supplier at [email address]

Supplier

Commonwealth of PA – Agency

Approved (date): _____

Authorized Agency Name

Authorized Supplier Signature

Authorized Agency Signature

Authorized Supplier Title

Title

F. Project Completed and Accepted

The Project was completed in accordance with this SOW. The Parties hereby accept as completed all work indicated in this SOW. The Parties acknowledge that there is nothing that should prevent prompt payment in accordance with the terms indicated above.

Approved (date): _____

Authorized Agency Name

Authorized Supplier Signature

Authorized Agency Signature

Authorized Supplier Title

Title

PLEASE ATTACH HARD COPY OF PURCHASE ORDER
REFERENCING THIS SOW