

U.S. Department of Homeland Security



Homeland Helium-3 Alternative Implementation

Backpack Program (HAIBP)

Solicitation Number 70RDND18R00000005

Amendment A0001

Office of Procurement Operations
Washington, District of Columbia

April 05, 2018

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*This acquisition will be conducted under the auspices of the DHS Procurement Innovation Lab (PIL). The PIL is a virtual lab that experiments with innovative techniques for increasing efficiencies in the procurement process and institutionalizing best practices. There is nothing you need to do differently for this requirement. The PIL project team may reach out to successful and unsuccessful Offerors to assess the effectiveness of the procurement process and the innovative techniques applied. The anonymous feedback will be used to further refine DHS procurement practices. Additional information on the PIL may be found here--
<https://www.dhs.gov/pil>.*

EXECUTIVE SUMMARY

This Request for Proposal (RFP) is for the Department of Homeland Security (DHS) Domestic Nuclear Detection Office's (DNDO) non-Helium-3 solutions compatible with the DHS Special Notice Regarding Future Use of the Helium-3 Gas for Neutron Detection for the expansion of the wide-area search and detection capabilities of DNDO's current backpack solutions for radionuclide identification and data transfer.

1 Introduction

1.1 Purpose

The Department of Homeland Security (DHS) Domestic Nuclear Detection Office (DNDO) was established by National Security Presidential Directive (NSPD)-43/Homeland Security Presidential Directive (HSPD)-14 to protect against Radiological/Nuclear (R/N) threats directed against the U.S. or its interests. Title V of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act; Public Law 109-347) codified NSPD-43/HSPD-14 and directs DNDO to serve as the primary entity of the United States (U. S.) Government to further develop, acquire, and support the deployment of an enhanced domestic system, and improve that system over time. It addresses systems used to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the U. S. This includes improving R/N detection capabilities aligned with the Global Nuclear Detection Architecture (GNDA).

DNDO carries out the engineering, systems development, test and evaluation, assessments, production, procurement, and deployment of current and next-generation nuclear detection systems in support of its end-user community, including DHS Components: U.S. Customs and Border Protection (CBP), U.S. Coast Guard (USCG), and the Transportation Security Administration (TSA).

DNDO seeks novel solutions and technologies responding to the requirements identified by the HAIBP. The HAIBP backpack or vest R/N detection systems must perform in an operationally effective and suitable manner according to the HAIBP requirements.

1.2 Background

The HAIBP is a DNDO program intended to replace current capabilities provided by the legacy Helium-3 backpack detection systems. This acquisition will leverage the commercial market and support a rapid modification to improve performance and suitability of the backpack or vest configured system, and expand the capability of the wearable detection system by including radionuclide identification and data transfer. Combining these

capabilities into a single solution shortens the amount of time required for alarm adjudication and potentially reduces the number of detection systems required in the field. The selected solution(s) will be provided to the TSA and the Mobile Detection Deployment Program (MDDP) for deployment. This effort will also be intended to inform future procurement efforts to replace the backpack detection systems currently in use across the DHS components.

1.3 Mission, Scope & Performance Objectives

The scope of the HAIBP includes modification and production of a human wearable radiological/nuclear detection materiel solution to a subset of current DNDO stakeholders (primarily TSA and DNDO's MDDP) by providing non-Helium-3 solutions compatible with the DHS Special Notice Regarding Future Use of the Helium-3 Gas for Neutron Detection [1]. The HAIBP will expand the wide-area search and detection capabilities of DNDO's current backpack solutions to include radionuclide identification and data transfer.

In general, the system shall:

- Detect potential R/N sources.
- Notify the operator of R/N sources detected in order for the operator to refer items for additional inspection.
- Correctly identify present radionuclides.
- Be wearable by an operator while minimizing operator mission performance degradation.
- Minimize impact on commerce (low false alarm rate).

Representative list of operational scenarios for the system includes:

- Small vessel boarding
- Small cargo vessel boarding
- Large vessel boarding
- Boat to boat inspection
- Boat to Dock/shore inspection
- Intermodal container inspection
- Land search under USCG authority
- Industrial area search
- Interagency operations
- Loading dock search
- Mass transit sweep
- Transit chokepoint
- Pedestrian chokepoint
- Vehicle mounted sweep
- Special event/Area sweep
- Aircraft Scan

1.4 HELIUM-3 ALTERNATIVE IMPLEMENTATION BACKPACK PROGRAM (HAIBP)

HAIBP, as required under this solicitation, will be structured into four (4) Phases as described below.

1.4.1 Phase 1 – Initial Article (IA) Delivery & Testing

DNDO will seek and award development contracts of up to three (3) vendors who demonstrate viable plans to modify their existing systems to meet HAIBP requirements and innovation goals within the allotted timeline. To be considered for award, offerors will submit a Concept Paper that describes their proposed technical approach, a self-assessment of their commercial system's current performance against HAIBP requirements, supporting third party test data for the system's components (if available), a past performance volume, and proposed cost and schedule. In addition to the Concept Paper, vendors responding to this RFP will be invited to give brief oral presentations. The Government will retain all materials provided during the oral presentations and will use those materials in its evaluation.

The immediate exercise of Contract Line Item Number (CLIN) 0001 upon contract award will initiate a nine-month development period, by the end of which the offerors will each provide:

- An initial article (system prototype)
- A Replay Tool and verification data files to support DNDO modeling and simulation,
- System specification, and
- User and Maintenance Manuals and Training Materials.

Two design reviews/progress reviews will occur during the development period, where DNDO and DHS Component representatives will provide feedback on system design and functionality.

With these deliverables, DNDO will conduct testing to evaluate the prototypes' performance against the Key Performance Parameters (KPPs) and other essential requirements, score the performance of the systems against the Algorithm Improvement Program (AIP) benchmark set, and an initial Operational Suitability Assessment. DNDO will also assess the Replay Tool for compliance against the requirements and accuracy. Based upon the test results, DNDO will exercise Phase 2 CLINs to up to three (3) vendors that deliver the top performing systems.

1.4.2 Phase 2 – Low-Rate Initial Production (LRIP) Delivery & Testing

With the execution of Phase 2 CLINs, vendors will be granted two months to make minor adjustments and produce five (5) LRIP units for test against the requirements as stated in Section 3 of this RFP. An Updated Replay Tool, User manuals, maintenance manuals, Training materials, vendor self-assessment against the system specifications, and an estimated life cycle cost for the system if it was deployed, are also required. DNDO will then conduct the Production Unit Evaluation, which will include performance characterization testing, an Operational Suitability Assessment, scoring against the AIP benchmark set, and environmental testing to verify

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compliance with all HAIBP requirements to include any innovation goals as mutually agreed upon.

Based upon the test results, DNDO will exercise Phase 3 CLINs under up to three (3) contracts that deliver the top performing systems.

1.4.3 Phase 3 – Full-Rate Production (FRP)

CLIN 2001 will require the production of an estimated quantity of 40 HAIBP systems. One or more vendors may have Phase 3 options executed. The purchased systems will be deployed to the TSA and MDDP and used for an extended evaluation by CBP, USCG and possibly others.

1.4.4 Phase 4 – Deployment and Post Implementation Reviews

Phase 4 of this requirement will consist of a five-year deployment of all HAIBP systems delivered under Phase 3. During this time period, DNDO will conduct Post Implementation Review (PIRs) to inform planning on a follow-on procurement.

1.4.5 Future Requirements – Phase 5

Phase 5 of the HAIBP requirement is not within the scope of this Solicitation. HAIBP Phase 5 will be addressed in future solicitations and is included here, for informational purposes only, to describe the future intent for the overall program.

Phase 5 of the HAIBP program is intended to consist of the establishment of a single or multiple award indefinite-delivery indefinite-quantity (IDIQ) contract vehicles in order to allow for streamlined ordering for various DHS components requiring the HAIBP systems created under Phase 3 of the HAIBP program. Requirements for phase 5 may be adjusted to reflect lessons learned during Phase 4 as well as the evolving needs of the DHS users.

Table 1 – HAIBP Estimated Key Dates and Events

| The following chart shows the important events and their estimated corresponding dates of the HAIBP Solicitation, 70RDND18R00000005 | |
|---|---|
| EVENT | DATE |
| Vendor Questions Due: | No later than April 02, 2018 at 3:00PM Eastern Time |
| Government Posts Responses to Vendor Questions to FBO | No later than April 04, 2018 at 3:00PM Eastern Time |
| Written Proposals Due: | April 13, 2018 at 3:00PM Eastern Time |
| Advisory Letters Issued: | April 20 , 2018 |
| <u>Pricing Submissions Due</u> | <u>April 27, 2018</u> |
| Oral Presentations Conducted: | April 30, 2018 – May 04, 2018 |
| Contract Award | May 25, 2018 |

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1.5 Period of Performance

The period of performance for the HAIBP requirement, sought under this solicitation, shall consist of one 9-month Base Period with one (1) 6-month Option Period and one (1) 12-month Option Period. This total period of performance shall be broken into the following 3 Phases.

Phase 1, Initial Article – Nine (9) Months

Phase 2, Low-Rate Initial Production – Six (6) Months

Phase 3, Full-Rate Production – Twelve (12) Months

1.6 Place of Performance

The primary place of performance shall be the Contractor's facilities where design and modification of awardees' commercial solutions will occur in order to meet the HAIBP requirements.

1.7 Document Organization

Section 1 of this RFP contains general HAIBP program background information.

The objectives to be accomplished under this Solicitation are described in the following sections:

Section 2 lists the types of deliverables that DNDO expects to receive in fulfillment of HAIBP requirement.

Section 3 lists guidelines and mandatory constraints and restrictions.

Section 4 contains lists of applicable documents.

Appendix A provides the required scalability thresholds for the HAIBP requirement, broken out by the required number of units in Phase 1, Phase 2, & Phase 3.

2 Deliverables

The Government expects to receive deliverable artifacts that address the scope of deliverable categories listed in this Section. The following deliverables shall be manufactured and delivered to the Government during the course of the HAIBP design, modification, and testing efforts. Each individual deliverable shall be complete, comprehensive, and, at a minimum, meet the KPPs set forth in Section 3 of this RFP. Table 2 lists the expected deliverables.

Table 2. HAIBP Deliverables

| # | Deliverable | Due | Notes |
|---|--|---|---|
| 1 | Supply Chain Risk Management Plan | Draft to be submitted with Concept Paper with updated versions to be submitted at the end of Phase 1 and Phase 2 | Describe processes in place to manage supply chain risk. |
| 2 | Version Description Document | Initially at end of Phase 1, updates commensurate with any future software updates | |
| 3 | Configuration change notification | Each time a change to form, fit or function is proposed (applies only after phase 1), prior to implementation | Notify what the change is, why it is proposed, and any associated testing results |
| 4 | Comprehensive 5-year warranty/protection plan | With initial proposal and any follow-on pricing updates. | Priced per unit but separate from unit price so we can see how much it costs. It should go beyond a typical warranty - more like a one-time fee to cover repairs. This should go beyond a typical warranty in that it covers any repairs. |
| 5 | Failure Reporting, Analysis and Corrective Action System (FRACAS) Report | Monthly after exercise of FRP CLIN | For each system failure addressed by the vendor, give the serial number, part failed, describe the failure, its root cause, and the fix |
| 6 | Progress Report | Due 1 week prior to each Design Review | PowerPoint showing status of development of Initial Article, issues/risks, questions for the Government |
| 7 | Operator Manual | To be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with each LRIP device and each FRP device during Phase 2 and Phase 3, respectively. | |
| 8 | Maintainer Manual (If applicable) | To be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with each LRIP device | To be submitted only if user maintenance is required. |

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| | | and each FRP device during Phase 2 and Phase 3, respectively. | |
| <u>9</u> | Operator Training Materials and Train-the-Trainer* | Training materials to be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with the first LRIP device and in advance of the first FRP device delivered during Phase 2 and Phase 3, respectively. | Train-the-trainer training to be provided once during LRIP prior to testing and once during FRP with the option for the government to purchase additional training as needed. |
| <u>10</u> | Maintainer Training* (If applicable) | Documentation and training to be provided at end of Initial Article development in Phase 1, with updated versions to be submitted with each LRIP device and each FRP device during Phase 2 and Phase 3, respectively. | To be conducted only if user maintenance is required. |
| <u>11</u> | Initial Article (prototype) | At end of Initial Article development in Phase 1 | |
| <u>12</u> | 5 LRIP production representative samples | At end of LRIP production period in Phase 2 | |
| <u>13</u> | Replay Tool and verification data files | To be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with first LRIP device and first FRP device during Phase 2 and Phase 3, respectively. | It's anticipated that this may go through several iterations throughout the initial article development period |
| <u>14</u> | System Specification | To be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with first LRIP device and first FRP device during Phase 2 and Phase 3, respectively. | |
| <u>15</u> | Offeror self-assessment against requirements | To be submitted at end of Initial Article development in Phase 1, with updated versions to be submitted with first LRIP device and first FRP device during Phase 2 and Phase 3, respectively. | |

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*The Offeror shall provide Train the Trainer and (if required) Maintainer training at approximately 5 CONUS locations to DNDO, CBP, USCG, TSA, and MDDP personnel. Notional locations include: San Francisco, CA, Washington, DC (two locations) Atlantic City, NJ, & Houston, TX.

Approximate number of students per location is 15.

3 Mandatory Performance Objectives/ Key Performance Parameters (KPPs) & Innovation Goals

3.1 Mandatory Performance Objectives/ Key Performance Parameters (KPPs)

An Offeror’s proposed solution(s) shall comply with the following requirements:

1. The system shall be human-wearable and hands-free (i.e., not handheld).
2. The system shall not employ the use of Helium-3.
3. The system shall not store Personal Identification Information (PII).
4. The system shall comply with the KPPs listed in the HAIBP Requirements Traceability Matrix [See Tab titled “Scorecard” in RFP Attachment 2 for KPPs in RTM Requirements]
5. At the end of Phase 1, the system shall include a replay tool that meets the DNDO Replay Tool Requirements [See RFP Attachment 1]
6. Any system under contract for Phase 3 shall qualify for Authority to Operate (ATO). ATO for TSA is subject to TSA Information Assurance Requirements [See Appendix C of RFP Attachment 2]

3.2 HAIBP Innovation Goals

In addition to the Mandatory Requirements and KPPs listed in Section 3.1 of this Solicitation, DNDO sets forth the following innovation goals shown in Table 3. An Offeror’s proposed solution may meet one or more of these items; however, these items are not required. The innovation goals indicated in Table 3 are preferred performance parameters, which exceed the current RTM requirements. The following table lists the goals in order of importance to the government.

Table 3. HAIBP Innovation Goals

| # | Description | Threshold |
|---|--|---|
| 1 | The system provides data streaming capability. | The system shall be capable of automatically reporting system status, health, location and alarm results (for example, energy calibrated gamma ray spectra and neutron counts) at 1Hz. The system’s streaming and wifi/Bluetooth capability can be disabled at user command. <i>Any vendor whose initial article contract includes this goal will be provided with an Interface Control Document.</i> |
| 2 | The system is lightweight. | The system weighs less than 17lbs. |
| 3 | The system distributes weight ergonomically (for example, heavier side being closer to the wearer’s back and the | The system’s weight is distributed evenly for balance |

| | | |
|---|---|---|
| | weight as even as possible left to right for good balance). | |
| 4 | The system minimizes interference with the operator's ease of movement (easy to wear, remove, and have adjustable openings around the arms). | The system is adjustable and easy to remove. |
| 5 | The system is inconspicuous as a law enforcement equipment to a casual observer to the maximum extent practical (e.g., providing varying external appearance, including different colors and style of backpack, no visible wires, etc.) (ANSI N42.53-2013: 5.2.1) | The system does not have visible wires or sensors that would suggest its detection mission. |
| 6 | The system is re-configurable to other form factors (e.g., portal, choke point, gateway) | The system has a modular hardware design which enables detector to be reconfigured to non-wearable configuration. Modules containing firmware or software need to be updateable and/or replaceable. |

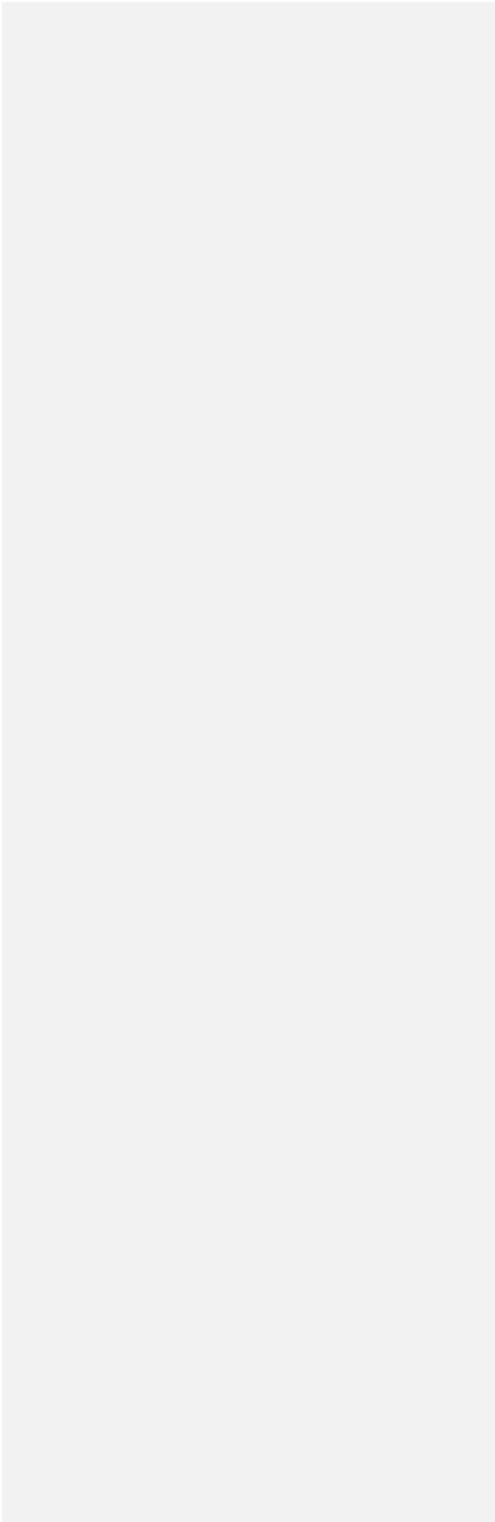
4 Compliance & Reference Documents

The following documents provide specifications, standards, guidelines with which compliance is required in order to meet the requirements of this solicitation, as well as necessary information for the Contractor in performing the work described in this document. The HAIBP system shall comply with the following:

1. U.S. Department of Homeland Security, Domestic Nuclear Detection Office, Special Notice Regarding Future Use of Helium-3 (3He) Gas for Neutron Detection, dated May 2014.
2. U.S. Department of Homeland Security, Domestic Nuclear Detection Office, Requirements Traceability Matrix (RTM), Human Portable Radiation detection Systems (HPRDS) Helium-3 Alternative Implementation Backpack Program (HAIBP), Document Number 600-HAIBP-122520v1.00, dated November 6, 2017.

The following are publications referenced in the RTM:

- i) American National Standards Institute/ Institute of Electrical and Electronics Engineers (ANSI/IEEE). American National Standard Performance Criteria for Backpack-Based Radiation-Detection (BRD) Systems Used for Homeland Security. ANSI N42.53-2013. June 4, 2013.
 - ii) Department of Homeland Security, Domestic Nuclear Detection Office, Technical Capability Standard for Backpack Based Radiation Detection Systems. August 2013.
 - iii) Transportation Security Administration, Information Assurance Requirements for TSA Government Acquisitions, April 2016.
 - iv) Domestic Nuclear Detection Office, Replay Tool Requirements Specification, Version 2.0, dated January 2016.
3. FAR Part 2.1 Definitions.
https://www.acquisition.gov/far/html/Subpart%202_1.html#wp1145507



Appendix A HAIBP Scalability Requirements

This appendix contains the scalability requirements as they pertain to the Phase 2 – LRIP and Phase 3 – FRP CLINs.

Table 5 shows the anticipated quantities of HAIBP systems that the government anticipates requiring under each Phase assuming a May 2018 award date.

Table 5. Scalability Requirements under Phase 2 & Phase 3

| Description | Volume required in Phase 2 - LRIP (in individual units) | Volume required in Phase 3 - FRP (in individual units) |
|-------------------------------|---|--|
| HAIBP Systems to be Delivered | 5 | Estimated: 40 Units |

PART 3. SPECIAL CONTRACT REQUIREMENTS

3.1 Organizational Conflict of Interest Notice

(a) Offerors should be aware that they may be deemed ineligible to participate in this acquisition by reason of an organizational conflict of interest (OCI) (see FAR 9.5, Organizational and Consultant Conflicts of Interest). Offerors should carefully examine and comply with HSAR 3052.209-72, Organizational Conflict of Interest, found in Section 4 of this Solicitation. An offeror's eligibility or ineligibility to participate in the current acquisition is determined by the Contracting Officer.

(b) Offerors should be aware that the type of work required by this acquisition may give rise to an OCI that may restrict the Offeror's ability to compete for follow-on work. These types of OCI do not generally lend themselves to successful mitigation (see FAR 9.5, Organizational and Consultant Conflicts of Interest). Offerors should carefully examine and comply with HSAR 3052.209 73, Limitation of Future Contracting, found in Section 4 of this Solicitation. An Offeror's eligibility or ineligibility to participate in a future acquisition is determined by the Contracting Officer.

3.2 Travel

The Contractor may be required to travel in order to support this requirement. All travel required by the Government outside the local commuting area (National Capital Region) will be reimbursed to the Contractor in accordance with the Federal Travel Regulations (**no local travel will be reimbursed under this contract**). All travel shall be requested in advance and be approved by the COR in writing prior to the travel dates. No travel is authorized unless sufficient funds for travel are available under the contract. Travel is reimbursable at cost. Payment of fees or other charges is not applicable to travel. Travel shall be in accordance with FAR 31.205-46.

3.3 Exercise of Option - Phase II

Phase II, Low-Rate Initial Production (LRIP) is the second of the three-phased HAIBP requirement sought under this Solicitation and will not be funded at the time of award. The exercise of all Phase II CLINs is dependent on the results of the Government's Initial Article Testing and Evaluation. The Phase II LRIP and Travel CLINs are Optional CLINs and the Government will exercise these CLINs at its sole discretion.

3.4 Exercise of Option - Phase III

Phase III, Full-Rate Production (FRP) is the third of the three-phased HAIBP requirement sought under this Solicitation and will not be funded at the time of award. The exercise of all Phase III CLINs is dependent on the results of the Government's Production Unit Testing and Evaluation. The Phase III FRP and Warranty CLIN are Optional CLINs and the Government will exercise these CLINs at its sole discretion.

3.5 Contractor Identification

Contractor employees shall identify themselves as contractors along with their company name at/in all meetings/functions/e-mails related to performance under the anticipated contract.

3.6 Integrated Master Schedule

The Contractor shall develop and submit a complete and comprehensive integrated master schedule (IMS) that incorporates all projects, activities, and milestones necessary for the design and modification of its current commercial detection devices under the anticipated contract. Activities include, but are not limited to, major acquisition decision events, test events as defined in Section 3 of this RFP, training, etc. The schedule shall conform to the best practices set forth in the GAO Schedule Assessment Guide (GAO-16- 89G) and the HAIBP schedule set forth in Section 3 of this RFP. The Contractor shall submit this comprehensive schedule in advance of each design review and monthly schedule updates during Phase 2 of contract execution to the Government in an electronic format mutually agreed upon with the Government.

The initial IMS submission shall be required not later than twenty (20) business days following contract

award. All anticipated changes to the schedule baseline shall be communicated to the Contracting Officer's Representative (COR) within three (3) business days. Following contract award, the Contractor shall attend weekly Integrated Project Team (IPT) meetings to identify schedule risks and all known and anticipated schedule variances, to include any potential impacts to the schedule baseline.

3.7 Invoicing Instructions

A. FAR 52.232-1 Payments. In addition to invoice preparation as required by the FAR, the Contractor's invoice shall include the following information:

- 1) Cover sheet identifying DHS;
- 2) Contract Number;
- 3) Modification Number, if any;
- 4) DUNS Number;
- 5) TINS Number; and
- 6) Month services provided or date deliverables completed
- 7) Contract Line Item Number (CLIN) for each billed item.

B. The Contractor shall submit an electronic copy to email address: [To be provided at award]

C. Simultaneously provide an electronic copy of the invoice to the following individuals at the addresses below:

Jennifer D'Addio, Contracting Officer
Jennifer.DAddio@hq.dhs.gov; 202-447-0879

Ryan Buck, Contracting Specialist
Ryan.Buck@hq.dhs.gov 202-447-5313

Todd Pardue, Contracting Officer Representative
Todd.Pardue@HQ.DHS.GOV; 202-254-7224

The Contractor shall submit invoices to the email address above. Additionally, the Contractor shall prepare and submit a sufficient and procurement regulatory compliant invoice and receiving report for technical certification of inspection/acceptance of services and approval for payment. The Contractor shall attach back up information to the invoices and receiving reports substantiating all costs for services performed. The receiving agency's written or electronic acceptance by the COR and date of acceptance shall be included as part of the backup documentation.

Payment for Phases 2 and 3 shall be based on the delivery to the Government of product deliverables, and acceptance by the Government of such product deliverables, in accordance with contract schedule. Deliverables rejected by the Government for non-performance or deficiencies shall be corrected by the Contractor at no additional cost to the Government prior to payment for that deliverable. Final payment for each increment shall be withheld until a determination of acceptance can be made by the Government based on a fully operational system meeting all mandatory HAIBP requirements, as tested and verified by a qualified independent party chosen by the Government.

PART 4. SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4.1. PROVISIONS AND CLAUSES INCORPORATED BY REFERENCE

- | | |
|---------------|---|
| FAR 52.203-18 | Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements – Representation (JAN 2017) |
| FAR 52.203-19 | Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) |

| | |
|------------------|---|
| FAR 52.216-7 | Allowable Cost and Payment (JUN 2013) |
| FAR 52.227-9 | Refund of Royalties (APR 1984) |
| FAR 52.227-14 | Rights in Data - General |
| FAR 52.232-1 | Payments (APR 1984) |
| FAR 52.232-18 | Availability of Funds (APR 1984) |
| FAR 52.232-39 | Unenforceability of Unauthorized Obligations (JUN 2013) |
| FAR 52.239-1 | Privacy or Security Safeguards (AUG 1996) |
| FAR 52.246-2 | Inspection of Supplies – Fixed Price (AUG 1996) |
| HSAR 3052.219-70 | Small Business Subcontracting Plan Reporting (JUN 2006) |
| HSAR 3052.242-72 | Contracting Officer’s Technical Representative (DEC 2003) |

4.2. PROVISIONS AND CLAUSES INCORPORATED BY FULL TEXT

52.212-3 -- Offeror Representations and Certifications -- Commercial Items (Jan 2017)

The offeror shall complete only paragraphs (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) Web site located at <http://www.sam.gov/portal>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (u) of this provision.

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

“Administrative merits determination” means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. An administrative merits determination may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Arbitral award or decision” means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes an award or decision that is not final or is subject to being confirmed, modified, or vacated by a court, and includes an award or decision resulting from private or confidential proceedings. To determine whether a particular award or decision is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Civil judgment” means--

(1) In paragraph (h) of this provision: A judgment or finding of a civil offense by any court of competent jurisdiction.

(2) In paragraph (s) of this provision: Any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular judgment or order is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“DOL Guidance” means the Department of Labor (DOL) Guidance entitled: “Guidance for Executive Order 13673, ‘Fair Pay and Safe Workplaces’ “. The DOL Guidance, dated August 25, 2016, can be obtained from www.dol.gov/fairpayandsafeworkplaces.

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

“Enforcement agency” means any agency granted authority to enforce the Federal labor laws. It includes the enforcement components of DOL (Wage and Hour Division, Office of Federal Contract Compliance Programs, and Occupational Safety and Health Administration), the Equal Employment Opportunity

Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It also means a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, conduct investigations of potential labor law violations. The enforcement agencies associated with each labor law under E.O. 13673 are--

- (1) Department of Labor Wage and Hour Division (WHD) for--
 - (i) The Fair Labor Standards Act;
 - (ii) The Migrant and Seasonal Agricultural Worker Protection Act;
 - (iii) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act;
 - (v) 41 U.S.C. chapter 67, formerly known as the Service Contract Act;
 - (vi) The Family and Medical Leave Act; and
 - (vii) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors);
- (2) Department of Labor Occupational Safety and Health Administration (OSHA) for--
 - (i) The Occupational Safety and Health Act of 1970; and
 - (ii) OSHA-approved State Plans;
- (3) Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for--
 - (i) Section 503 of the Rehabilitation Act of 1973;
 - (ii) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974; and
 - (iii) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity);
- (4) National Labor Relations Board (NLRB) for the National Labor Relations Act; and
- (5) Equal Employment Opportunity Commission (EEOC) for--
 - (i) Title VII of the Civil Rights Act of 1964;
 - (ii) The Americans with Disabilities Act of 1990;
 - (iii) The Age Discrimination in Employment Act of 1967; and
 - (iv) Section 6(d) of the Fair Labor Standards Act (Equal Pay Act).

“Forced or indentured child labor” means all work or service—

- (6) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (7) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

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

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

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

“Labor compliance agreement” means an agreement entered into between a contractor or subcontractor and an enforcement agency to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

“Labor laws” means the following labor laws and E.O.s:

- (1) The Fair Labor Standards Act.
- (2) The Occupational Safety and Health Act (OSHA) of 1970.
- (3) The Migrant and Seasonal Agricultural Worker Protection Act.
- (4) The National Labor Relations Act.
- (5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.
- (6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.
- (7) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).
- (8) Section 503 of the Rehabilitation Act of 1973.
- (9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.
- (10) The Family and Medical Leave Act.
- (11) Title VII of the Civil Rights Act of 1964.
- (12) The Americans with Disabilities Act of 1990.
- (13) The Age Discrimination in Employment Act of 1967.
- (14) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).
- (15) Equivalent State laws as defined in the DOL Guidance. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans, which can be found at www.osha.gov/dcsp/osp/approved_state_plans.html).

“Labor law decision” means an administrative merits determination, arbitral award or decision, or civil judgment, which resulted from a violation of one or more of the laws listed in the definition of “labor laws”.

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

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

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

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

Sensitive technology—

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

- (i) To restrict the free flow of unbiased information in Iran; or
- (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

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

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

- (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

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

“Small business concern” means a concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

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

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

- (i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and
- (ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

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

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

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation.

“Successor” means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The

extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

“Veteran-owned small business concern” means a small business concern—

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

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

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

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

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

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

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

Note to paragraph (a): By a court order issued on October 24, 2016, the following definitions in this paragraph (a) are enjoined indefinitely as of the date of the order: “Administrative merits determination”, “Arbitral award or decision”, paragraph (2) of “Civil judgment”, “DOL Guidance”, “Enforcement agency”, “Labor compliance agreement”, “Labor laws”, and “Labor law decision”. The enjoined definitions will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(b)

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

(2) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representation and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____. *[Offeror to identify the applicable paragraphs at (c) through (u) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it is, is not a small business concern.

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

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

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

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

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

(6) *WOSB concern eligible under the WOSB Program.* [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It is, is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) *Economically disadvantaged women-owned small business (EDWOSB) concern.* [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It is, is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern

in paragraph (c)(1) of this provision.] The offeror represents that it is, a women-owned business concern.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Examples.

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

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

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

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

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

(1) Listed End Product

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

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

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

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

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

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

(2) Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) *Taxpayer identification number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to the SAM database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) Taxpayer Identification Number (TIN).

TIN: _____.

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other _____.

(5) Common parent.

Offeror is not owned or controlled by a common parent:

Name and TIN of common parent:

Name _____

TIN _____

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) Prohibition on Contracting with Inverted Domestic Corporations—

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

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

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

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

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

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

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

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

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

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

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

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

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

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

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

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

Immediate owner CAGE code: _____

Immediate owner legal name: _____

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

Is the immediate owner owned or controlled by another entity:

Yes or No.

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

Highest level owner CAGE code: _____

Highest level owner legal name: _____

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

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

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

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

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

(2) The Offeror represents that--

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

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

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

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

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

Predecessor CAGE code _____ (or mark “Unknown”).

Predecessor legal name: _____
(Do not use a “doing business as” name).

(s) Representation regarding compliance with labor laws (Executive Order 13673). If the offeror is a joint venture that is not itself a separate legal entity, each concern participating in the joint venture shall separately comply with the requirements of this provision.

(1)(i) For solicitations issued on or after October 25, 2016 through April 24, 2017: The Offeror does does not anticipate submitting an offer with an estimated contract value of greater than \$50 million.

(ii) For solicitations issued after April 24, 2017: The Offeror does does not anticipate submitting an offer with an estimated contract value of greater than \$500,000.

(2) If the Offeror checked "does" in paragraph (s)(1)(i) or (ii) of this provision, the Offeror represents to the best of the Offeror's knowledge and belief Offeror to check appropriate block]:

(i) There has been no administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the offeror (see definitions in paragraph (a) of this section) during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; or

(ii) There has been an administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter.

(3)(i) If the box at paragraph (s)(2)(ii) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide--

(A) The following information for each disclosed labor law decision in the System for Award Management (SAM) at www.sam.gov, unless the information is already current, accurate, and complete in SAM. This information will be publicly available in the Federal Awardee Performance and Integrity Information System (FAPIIS):

(1) The labor law violated.

(2) The case number, inspection number, charge number, docket number, or other unique identification number.

(3) The date rendered.

(4) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision;

(B) The administrative merits determination, arbitral award or decision, or civil judgment document, to the Contracting Officer, if the Contracting Officer requires it;

(C) In SAM, such additional information as the Offeror deems necessary to demonstrate its responsibility, including mitigating factors and remedial measures such as offeror actions taken to address the violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws. Offerors may provide explanatory text and upload documents. This information will not be made public unless the contractor determines that it wants the information to be made public; and

(D) The information in paragraphs (s)(3)(i)(A) and (s)(3)(i)(C) of this provision to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR 4.1102(a)).

(ii)(A) The Contracting Officer will consider all information provided under (s)(3)(i) of this provision as part of making a responsibility determination.

(B) A representation that any labor law decision(s) were rendered against the Offeror will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsive.

(C) The representation in paragraph (s)(2) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in FAR 12.403.

(4) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation at paragraph (s)(2) of this provision is no longer accurate.

(5) The representation in paragraph (s)(2) of this provision will be public information in the Federal Awardee Performance and Integrity Information System (FAPIIS).

Note to paragraph (s): By a court order issued on October 24, 2016, this paragraph (s) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

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

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

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

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

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

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

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

(u)

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

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

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

(End of Provision)

52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Jan 2017)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)

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

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

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

- (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).
- (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub L. 111-5) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).
- (4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Oct 2016) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- (5) [Reserved]
- (6) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) (31 U.S.C. 6101 note).
- (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).
- (10) [Reserved]
- (11) (i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).
- (ii) Alternate I (Nov 2011) of 52.219-3.
- (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).
- (ii) Alternate I (Jan 2011) of 52.219-4.
- (13) [Reserved]
- (14) (i) 52.219-6, Notice of Total Small Business Aside (Nov 2011) (15 U.S.C. 644).
- (ii) Alternate I (Nov 2011).
- (iii) Alternate II (Nov 2011).
- (15) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-7.
- (iii) Alternate II (Mar 2004) of 52.219-7.
- (16) 52.219-8, Utilization of Small Business Concerns (Nov 2016) (15 U.S.C. 637(d)(2) and (3)).
- (17) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2017) (15 U.S.C. 637 (d)(4)).
- (ii) Alternate I (Nov 2016) of 52.219-9.
- (iii) Alternate II (Nov 2016) of 52.219-9.

- (iv) Alternate III (Nov 2016) of 52.219-9.
- (v) Alternate IV (Nov 2016) of 52.219-9.
- (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).
- (19) 52.219-14, Limitations on Subcontracting (Jan 2017) (15 U.S.C. 637(a)(14)).
- (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).
- (22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).
- (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).
- (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).
- (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Oct 2016) (E.O. 13126).
- (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
- (28) 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246).
- (29) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).
- (30) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
- (31) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).
- (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- (33) (i) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).
- (ii) Alternate I (Mar 2015) of 52.222-50, (22 U.S.C. chapter 78 and E.O. 13627).
- (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- (35) 52.222-59, Compliance with Labor Laws (Executive Order 13673) (Oct 2016). (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).

Note to paragraph (b)(35): By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

- (36) 52.222-60, Paycheck Transparency (Executive Order 13673) (Oct 2016).
- (37) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O.13693).
- (39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- (40) (i) 52.223-13, Acquisition of EPEAT® -Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514)
- (ii) Alternate I (Oct 2015) of 52.223-13.
- (41) (i) 52.223-14, Acquisition of EPEAT® -Registered Television (Jun 2014) (E.O.s 13423 and 13514).
- (ii) Alternate I (Jun 2014) of 52.223-14.
- (42) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).
- (43) (i) 52.223-16, Acquisition of EPEAT® -Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
- (ii) Alternate I (Jun 2014) of 52.223-16.
- (44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011) (E.O. 13513).
- (45) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).
- (46) 52.223-21, Foams (Jun 2016) (E.O. 13696).
- (47) (i) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).
- (ii) Alternate I (Jan 2017) of 52.224-3.
- (48) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).
- (49) (i) 52.225-3, Buy American--Free Trade Agreements--Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- (ii) Alternate I (May 2014) of 52.225-3.
- (iii) Alternate II (May 2014) of 52.225-3.
- (iv) Alternate III (May 2014) of 52.225-3.

X (50) 52.225-5, Trade Agreements (Oct 2016) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

X (51) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (52) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

___ (53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (55) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505), 10 U.S.C. 2307(f)).

___ (56) 52.232-30, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

X (57) 52.232-33, Payment by Electronic Funds Transfer— System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (58) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (59) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

___ (60) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

X (61) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(12)).

___ (62) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

___ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

X (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495)

___ (2) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

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

___ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (Multiple Year and Option Contracts) (May 2014) (29 U.S.C.206 and 41 U.S.C. chapter 67).

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

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

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

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

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

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

___ (11) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

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

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

(iii) 52.219-8, Utilization of Small Business Concerns (Nov 2016) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

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

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

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

(x) 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.

(xi) 52.222-41, Service Contract Labor Standards (May 2014), (41 U.S.C. chapter 67).

(xii) (A) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

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

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

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

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

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

(xvii) 52.222-59, Compliance with Labor Laws (Executive Order 13673) (Oct 2016) (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).

Note to paragraph (e)(1)(xvii): By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, DoD, GSA, and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(xviii) 52.222-60, Paycheck Transparency (Executive Order 13673) (Oct 2016).

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

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

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

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

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

(xxiii) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(End of Clause)

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

The Government contemplates award of a Firm-Fixed Price (FFP) with Fixed-Price Prospective Price Redetermination (FP-PPR) and Time & Materials (T&M) CLINs contract resulting from this solicitation.

(End of Provision)

52.216-5 -- Price Redetermination -- Prospective (Oct 1997)

(a) *General.* The unit prices and the total price stated in this contract shall be periodically redetermined in accordance with this clause, except that --

(1) The prices for supplies delivered and services performed before the first effective date of price redetermination (see paragraph (c) of this clause) shall remain fixed; and

(2) In no event shall the total amount paid under this contract exceed any ceiling price included in the contract.

(b) *Definition.* "Costs," as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) *Price redetermination periods.* For the purpose of price redetermination, performance of this contract is divided into successive periods. The first period shall extend from the date of the contract to nine months after award, and the second and each succeeding period shall extend for six months from the end of the last preceding period, except that the parties may agree to vary the length of the final period. The first day of the second and each succeeding period shall be the effective date of price redetermination for that period.

(d) *Data submission.*

(1) Not more than 45 nor less than 30 days before the end of each redetermination period, except the last, the Contractor shall submit --

(i) Proposed prices for supplies that may be delivered or services that may be performed in the next succeeding period, and --

(A) An estimate and breakdown of the costs of these supplies or services in the format of Table 15-2, FAR 15.408, or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of this estimate; and

(C) An explanation of the differences between this estimate and the original (or last preceding) estimate for the same supplies or services; and

(ii) A statement of all costs incurred in performing this contract through the end of the first month before the submission of proposed prices in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), with sufficient supporting data to disclose unit costs and cost trends for --

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary).

(2) The Contractor shall also submit, to the extent that it becomes available before negotiations on redetermined prices are concluded --

(i) Supplemental statements of costs incurred after the date stated in subdivision (d)(1)(ii) of this section for --

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary); and

(ii) Any other relevant data that the Contracting Officer may reasonably require.

(3) If the Contractor fails to submit the data required by subparagraphs (d)(1) and (2) of this section, within the time specified, the Contracting Officer may suspend payments under this contract until the data are furnished. If it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(e) *Price redetermination.* Upon the Contracting Officer's receipt of the data required by paragraph (d) of this section, the Contracting Officer and the Contractor shall promptly negotiate to redetermine fair and reasonable prices for supplies that may be delivered or services that may be performed in the period following the effective date of price redetermination.

(f) *Contract modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, stating the redetermined prices that apply during the redetermination period.

(g) *Adjusting billing prices.* Pending execution of the contract modification (see paragraph (f) of this section), the Contractor shall submit invoices or vouchers in accordance with the billing prices stated in this contract. If at any time it appears that the then-current billing prices will be substantially greater than the estimated final prices, or if the Contractor submits data showing that the redetermined price will be substantially greater than the current billing prices, the parties shall negotiate an appropriate decrease or increase in billing prices. Any billing price adjustment shall be reflected in a contract modification and shall not affect the redetermination of prices under this clause. After the contract modification for price redetermination is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed-upon prices, and any requested additional payments, refunds, or credits shall be made promptly.

(h) *Quarterly limitation on payments statement.* This paragraph (h) applies only during periods for which firm prices have not been established.

(1) Within 45 days after the end of the quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a

copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing --

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (h)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) The statement required by subparagraph (h)(1) of this section need not be submitted for any quarter for which either no costs are to be reported under subdivision (h)(1)(ii) of this section, or revised billing prices have been established in accordance with paragraph (g) of this section, and do not exceed the existing contract price, the Contractor's price-redetermination proposal, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (h)(1)(iv) of this section exceeds the sum due the Contractor, as computed in accordance with subdivisions (h)(1)(i), (ii), and (iii) of this section, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of any applicable tax credits due the Contractor under 26 U.S.C.1481 and by the amount of previous refunds or credits affected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account, consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(4) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(i) *Subcontracts.* No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(j) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within 60 days (or within such other period as the parties agree) after the date on which the data required by paragraph (d) of this section are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause. For the purpose of paragraphs (f), (g), and (h) of this section, and pending final settlement of the disagreement on appeal, by failure to appeal, or by agreement, this decision shall be treated as an executed contract modification. Pending final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as provided in this clause.

(k) *Termination.* If this contract is terminated, prices shall continue to be established in accordance with this clause for

(1) completed supplies and services accepted by the Government and

(2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(End of Clause)

FAR 52.217-5, Evaluation of Options (JUL 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Clause)

52.217-6 -- Option for Increased Quantity (Mar 1989)

The Government may increase the quantity of supplies called for in the Schedule by up to 48 at the unit price specified in Phase 3. The Contracting Officer may exercise the option by written notice to the Contractor within 10 days prior to exercise. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of Clause)

FAR 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 5 days prior to the end of the contract period; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least *10 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 *27... months*.

FAR 52.227-1, Authorization and Consent (DEC 2007)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent—

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. the entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of Clause)

FAR 52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in the Contractor's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold.

(End of Clause)

FAR 52.227-6, Royalty Information (APR 1984)

(a) Cost or charges for royalties. When the response to this solicitation contains costs or charges for royalties totaling more than \$250, the following information shall be included in the response relating to each separate item of royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable.
- (4) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable.
- (5) Percentage or dollar rate of royalty per unit.
- (6) Unit price of contract item.
- (7) Number of units.
- (8) Total dollar amount of royalties.

(b) Copies of current licenses. In addition, if specifically requested by the Contracting Officer before execution of the contract, the offeror shall furnish a copy of the current license agreement and an identification of applicable claims of specific patents.

FAR 52.227-3, Patent Indemnity (APR 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under [35 U.S.C. 181](#)) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense.

Further, this indemnity shall not apply to—

- (1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;
- (2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or
- (3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of Clause)

FAR 52.252-1, Solicitation Provisions Incorporated by Reference (FEB 1998)

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

(End of Provision)

FAR 52.252-2, Clauses Incorporated by Reference (FEB 1998)

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

(End of Clause)

HSAR 3052.204-71, Contractor Employee Access (SEP 2012)

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

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

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

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

to the national or homeland security interest; and

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

(b) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.

(c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All Contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.

(d) The Contracting Officer may require the Contractor to prohibit individuals from working on the contract if the Government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.

(e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those Contractor employees authorized access to sensitive information, the Contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.

(f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

(End of Clause)

HSAR 3052.209-72, Organizational Conflict of Interest (JUN 2006)

(a) Determination. The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting is that: (1) Potential offerors may have had access to non-public Government information that would provide an unfair competitive advantage under the present solicitation, (2) Potential offerors may have an unfair competitive advantage because they developed or established the ground rules for the present solicitation.

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

(c) Disclosure: The offeror hereby represents, to the best of its knowledge that:

___(1) It is not aware of any facts which create any actual or potential organizational conflicts of interest relating to the award of this contract, or

___(2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this provision.

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

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

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

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

(End of Provision)

HSAR 3052.209-70, Prohibition on Contracts with Corporate Expatriates (JUN 2006)

(a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Definitions. As used in this clause:

Expanded Affiliated Group means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Person, domestic, and foreign have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) Certain stock disregarded. For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) Stock of such entity which is sold in a public offering related to an acquisition described in section 835(b)(1) of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) Plan deemed in certain cases. If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) Certain transfers disregarded. The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) Special rule for related partnerships. For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

- (i) warrants;
- (ii) options;
- (iii) contracts to acquire stock;
- (iv) convertible debt instruments; and
- (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) Disclosure. The offeror under this solicitation represents that [Check one]:

it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003;

___it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it has submitted a request for waiver pursuant to 3009.108-7004, which has not been denied; or

___it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it plans to submit a request for waiver pursuant to 3009.108-7004.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

(End of Clause)

HSAR Deviation 15-01, Information Technology Security and Privacy Training (MAR 2015)

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

(b) Security Training Requirements.

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

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

(c) Privacy Training Requirements. All Contractor and subcontractor employees that will have access to Personally Identifiable Information (PII) and/or Sensitive PII (SPII) are required to take Privacy at DHS: Protecting Personal Information before accessing PII and/or SPII. The training is accessible at

<http://www.dhs.gov/dhs-security-and-training-requirements-contractors>.

Training shall be completed within thirty (30) days of contract award and be completed on an annual basis thereafter not later than October 31st of each year. Any new Contractor employees assigned to the contract shall also complete the training before accessing PII and/or SPII. The Contractor shall maintain copies of training certificates for all Contractor and subcontractor employees as a record of compliance. Initial training certificates for each Contractor and subcontractor employee shall be provided to the COR not later than thirty (30) days after contract award.

Subsequent training certificates to satisfy the annual training requirement shall be submitted to the COR via e-mail notification not later than October 31st of each year. The email notification shall state the required training has been completed for all Contractor and subcontractor employees.

Accessibility Requirements (Section 508)

Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (P.L. 105-220) requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), they must ensure that it is accessible to people with disabilities. Federal employees and members of the public who have disabilities must have equal access to and use of information and data that is comparable to that enjoyed by non-disabled Federal employees and members of the public. All EIT deliverables within this work statement shall comply with the applicable technical and functional performance criteria of Section 508 unless exempt. Specifically, the following applicable EIT accessibility standards have been identified:

Section 508 Applicable EIT Accessibility Standards

36 CFR 1194.21 Software Applications and Operating Systems, applies to all EIT software applications and operating systems procured or developed under this work statement including but not limited to GOTS and COTS software. In addition, this standard is to be applied to Web-based applications when needed to fulfill the functional performance criteria. This standard also applies to some Web based applications as described within 36 CFR 1194.22.

36 CFR 1194.22 Web-based Intranet and Internet Information and Applications, applies to all Web-based deliverables, including documentation and reports procured or developed under this work statement. When any Web application uses a dynamic (non-static) interface, embeds custom user control(s), embeds video or multimedia, uses proprietary or technical approaches such as, but not limited to, Flash or Asynchronous Javascript and XML (AJAX) then 1194.21 Software standards also apply to fulfill functional performance criteria.

36 CFR 1194.24 Video and Multimedia Products, applies to all video and multimedia products that are procured or developed under this work statement. Any video or multimedia presentation shall also comply with the software standards (1194.21) when the presentation is through the use of a Web or Software application interface having user controls available.

36 CFR 1194.26 Desktop and Portable Computers, applies to all desktop and portable computers, including but not limited to laptops and personal data assistants (PDA) that are procured or developed under this work statement.

36 CFR 1194.31 Functional Performance Criteria, applies to all EIT deliverables regardless of delivery method. All EIT deliverable shall use technical standards, regardless of technology, to fulfill the functional performance criteria.

36 CFR 1194.41 Information Documentation and Support, applies to all documents, reports, as well as help and support services. To ensure that documents and reports fulfill the required 1194.31 Functional Performance Criteria, they shall comply with the technical standard associated with Web-based Intranet and Internet Information and Applications at a minimum. In addition, any help or support provided in this work statement that offer telephone support, such as, but not limited to, a help desk shall have the ability to transmit and receive messages using TTY.

Section 508 Applicable Exceptions

Exceptions for this work statement have been determined by DHS and only the exceptions described herein may be applied. Any request for additional exceptions shall be sent to the COTR and determination will be made in accordance with DHS MD 4010.2. DHS has identified the following exceptions that may apply: 36 CFR 1194.3(b) Incidental to Contract, all EIT that is exclusively owned and used by the contractor to fulfill this work statement does not require compliance with Section 508. This exception does not apply to any EIT deliverable, service or item that will be used by any Federal employee(s) or member(s) of the public. This exception only applies to those contractors assigned to fulfill the obligations of this work statement and for the purposes of this requirement, are not considered members of the public.

Section 508 Compliance Requirements

36 CFR 1194.2(b) (COTS/GOTS products), When procuring a product, each agency shall procure products which comply with the provisions in this part when such products are available in the commercial marketplace or when such products are developed in response to a Government solicitation. Agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meet some but not all of the standards, the agency must procure the product that best meets the standards. When applying this standard, all procurements of EIT shall have documentation of market research that identify a list of products or services that first meet the agency business needs, and from that list of products or services, an analysis that the selected product met more of the accessibility requirements than the non-selected products as required by FAR 39.2. Any selection of a product or service that meets less accessibility standards due to a significant difficulty or expense shall only be permitted under an undue burden claim and requires authorization from the DHS Office of Accessible Systems and Technology (OAST) in accordance with DHS MD 4010.2.

All tasks for testing of functional and/or technical requirements must include specific testing for Section 508 compliance, and must use DHS Office of Accessible Systems and Technology approved testing methods and tools. For information about approved testing methods and tools send an email to accessibility@dhs.gov.

PART 5. INSTRUCTIONS TO OFFERORS

This acquisition will be conducted under the auspices of the DHS Procurement Innovation Lab (PIL). The PIL is a virtual lab that experiments with innovative techniques for increasing efficiencies in the procurement process and institutionalizing best practices. There is nothing you need to do differently for this requirement. The PIL project team may reach out to successful and unsuccessful Offerors, after award, to assess effectiveness of the procurement process and the innovative techniques applied. The anonymous feedback will be used to further refine DHS procurement practices. Additional information on the PIL may be found here-- <https://www.dhs.gov/pil>.

The Government intends to break down the proposal process into the following two steps (Paragraphs 5.1.1 and 5.1.2).

Questions regarding the RFP must be received by the Government no later than April 02, 2018 at 3PM Eastern Time. Please submit any RFP questions as follows:

- Forward email to: Ryan.Buck@hq.dhs.gov & Jennifer.DAddio@hq.dhs.gov. Include “**Vendor Questions**” in the Subject line.

Responses to vendor questions will be released to all vendors on or about April 04, 2018.

STEP 1 – WRITTEN PORTION OF PROPOSALS:

For the written portion of proposal submissions under STEP 1, Offerors are required to submit one Technical volume in accordance with the instructions below in Section 5.1.1.2.

All **written** portions of proposal submissions shall be submitted electronically to the email addresses below and received by the Government no later than **April 13, 2018 at 3:00PM, Eastern**

Deliver to: Jennifer.DAddio@hq.dhs.gov & Ryan.Buck@hq.dhs.gov

In the “**Subject**” line for the written proposal, include the **Solicitation 70RDND18R00000005**. For proposals exceeding 7 MB, it is recommended that the Offeror submit multiple emails. When submitting multiple emails, Offerors shall identify the number of emails following the solicitation number in the “**Subject**” line as follows: Email 1 of 3, Email 2 of 3, etc.

In the Body of the email, Offerors shall include the following:

- Name of Offeror
- Email contents/list of attachments
- Offeror Point of Contact (name, phone number and email address) for any questions regarding submission.

The Government is not obligated to review or evaluate any offer submitted to an email address other than the one set forth above. Additionally, the Government is not obligated to review or evaluate any offer it receives past the submission deadline that is deemed late. An offer determined to be late may be eliminated from further consideration.

The Government will not be obligated to pay any pre-award costs incurred by the offeror in preparing a response to this solicitation.

Marking Proprietary Information: Any proprietary data included in Offerors’ proposals shall be clearly identified. Each page that contains proprietary data shall be marked CONTRACTOR PROPRIETARY at the bottom of the page. The title page of each proposal volume that contains proprietary data shall also be marked CONTRACTOR PROPRIETARY.

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Deleted: in response to this Solicitation: (1) *Technical Volume* and (2) *Business Volume*

5.1.1.1 HAIBP TECHNICAL VOLUME REQUIREMENTS

5.1.1.2 HAIBP CONCEPT PAPERS (Factor 1 – Technical Capability and Approach)

The Offeror shall include as an enclosure to its Concept Paper, its self-assessment of its proposed system against the performance requirements using Attachment 2, Self-Assessment Worksheet. Offerors shall provide a Concept Paper which describes the Offeror's approach to meeting the requirements as stated in Section 3 of this RFP. The Concept Paper shall include:

Description of the System Proposed. The Offeror shall describe the system proposed, to include features and technical specifications including at minimum weight, size, power source, supporting equipment (charging or data cables, calibration equipment, etc), maintenance intervals, warranty options, and consumables.

The Offeror shall describe the technology (including visual aids) utilized in their system and how it will meet the Key Performance Parameters (Attachment 2) and the Innovation goals indicated in Section 3 of this RFP. The Offeror shall identify any state-of-the-art technology leveraged in their proposed system, and shall describe the maturity of their proposed system. If the proposed system has been evaluated by a third party, the Offeror shall identify the testing entity, the test criteria, and give a brief summary of test results.

Approach to Meeting the Requirements. For each requirement in the Self-Assessment Worksheet that the Offeror's proposed system does not currently meet, the Offeror shall provide a detailed approach for how they will meet it and the associated schedule for doing so within the six-month Phase 1 prototype development timeline. If the Offeror does not believe a requirement can be met with the proposed system, the Offeror shall explain why it cannot meet it and what the expected impact is on the overall performance. The Offeror shall provide a risk assessment for meeting each requirement within the Phase 1 timeline as well as a draft Supply Chain Risk Management Plan. Please note that there is no mandatory format for the Supply Chain Risk Management Plan. The Offeror shall describe its production capability and delivery lead time.

Description of Replay Tool. The Offeror shall describe its Replay Tool. The Offeror shall also describe its process for ensuring that the Replay Tool is updated during the Phase 1 prototype development to ensure that the Replay Tool maintains an accurate representation of the prototype itself for modeling and simulation purposes.

Management. The Offeror shall describe its management team, their background and experience. The Offeror shall identify key project personnel (if different from the management team) and their qualifications. The Offeror shall outline its configuration management and quality management processes to ensure that Phase 1's Initial Article delivery results in a production representative sample and meets all schedule and performance requirements.

Bill of Materials (BOM) without Pricing Information (pricing information is prohibited from being submitted with technical volume – see BOM requirements for Business Volume, below) (no page limit)

Formatting Requirements. The Concept Paper shall be in PDF or Word format and no more than 25 pages long (excluding any supporting third party test data for the system's components

from this page limit). Page numbering does not include title page, table of contents, or index. Proposals shall be single sided pages (8-1/2 x 11 with 1” margins on all four sides) typed in no less than 12-point type. Figures and tables will have no less than 8-point font. Header/footer information (does not include any information to be evaluated) may be included in the margin space. Failure to fully adhere to the prescribed format may result in the Offeror’s disqualification from the competition.

In order for the technical volume to be evaluated strictly on the merit of the material submitted no cost information should be included in the technical volume. Information provided in the technical volume that addresses each factor shall be complete to the extent that evaluation of one factor may be accomplished independently of, and concurrently with, evaluation of the other.

5.1.1.3 HAIBP Past Performance Information (Factor 2 – Past Performance)

Past Performance citations (limit three (3) pages) - Provide up to three (3) relevant projects of similar size, scope and complexity to the proposed HAIBP effort within the last five (5) years from the date of this Solicitation; either executory or completed. The projects may be of the prime or a key prime subcontractor, but must clearly identify the owner of the project experience. If the reference pertains to a subcontractor’s experience, a letter of commitment to team with the prime on the subcontractor’s letterhead, signed by an individual of the subcontractor’s firm authorized to make such a commitment, shall be submitted along with the Past Performance citations. At a minimum, each reference shall include:

- Name of project, duration, and dollar value.
- Client Agency or Company for whom work was performed
- Brief description of project (sufficient to establish relevance of experience to the HAIBP project), and role of prime or subcontractor which clearly identifies the level and type of services performed under the contract.
- Point of Contact (Name, title, current phone number, and current email) familiar with the project and can confirm level and quality of referenced experience and work.

Note: Offerors with no Past Performance of similar size, scope and complexity will receive a “neutral” rating for this factor.

Advisory Notifications: After the government concludes its evaluation of Offerors’ written submissions under Step 1, Offerors will receive an advisory notification. Offerors that the government has determined likely to receive award based on evaluation of Step 1 submissions will receive a notice to proceed to Step 2. Offerors that the government has determined to have a low likelihood of receiving award based on evaluation of Step 1 submissions will be advised not to proceed to Step 2. The intent of this distinction is to minimize proposal development costs for those Offerors with little or no chance of receiving an award. This will be a recommendation only and discontinuing the pursuit of the requirement following the notification is voluntary. Instructions for how to proceed, should an offeror choose to do that even with the Government’s notification that the offeror is unlikely to receive award, will be included in the advisory notification letter. However, in making a decision to proceed regardless of being advised not to continue, an Offeror should note that the Step 1 factors are more important than the Step 2 factors for award, and Factor 1- Technical Capability and Approach is the most important factor in the overall evaluation (See Part 6.1 Evaluation Factors). Note: If requested, details regarding the basis for the recommendation will not be provided until after award and any details provided are not construed to be a debriefing.

Note: Failure to timely submit Step 1 proposals precludes further consideration of an Offeror. Offerors will not be permitted to participate in Step 2 if Step 1 proposals have not been received.

STEP 2 – HAIBP BUSINESS VOLUME SUBMISSION & ORAL PRESENTATIONS

5.1.1.4 HAIBP Price (Factor 4)

Upon receipt of an Advisory notification in which instruction is received to proceed to STEP 2, Offerors will be required to submit pricing (Factor 4), in accordance with the instructions below. The Pricing submission will be due to the Government approximately one week after issuance of Advisory letters. The specific due date for the Pricing submission will be specified in each Advisory Letter. Note that the Government intends to award a hybrid type contract which will include Firm-Fixed Price (FFP), Time & Materials (T&M) and Fixed Price Prospective Price Redetermination (FPPR) CLINS.

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5.1.1.5 Individual CLIN Requirements for Submission

A CLIN structure is provided in this section as well as the SF-1449 for CLINS in the execution of all tasks under each contract. Offerors are not permitted to deviate from this CLIN structure. Additionally, the government has established not-to-exceed thresholds for each CLIN under Phase 1, Phase 2, & Phase 3.

| CLIN | CLIN Type | CLIN Description | Not to Exceed Value (\$) per Contract |
|------|---|---|---------------------------------------|
| 0001 | Firm-Fixed Price (FFP) | Phase 1 – Initial Article | \$248,000.00 |
| 0002 | Time & Materials (T&M) | Phase 1 Travel | \$2,000.00 |
| 1001 | Fixed Price Prospective Redetermination (FPPR) | Phase 2 – LRIP | None |
| 1002 | Time & Materials (T&M) | Phase 2 Travel | \$2,000.00 |
| 2001 | Fixed Price (price per unit to include 5-year extended warranty) Prospective Redetermination (FPPR) | Phase 3 – FRP Units with 5-Year Extended Warranty | None |
| 2002 | Time & Materials (T&M) | Phase 3 Travel | \$2,000.00 |

Offerors shall:

1. Submit Pricing information to include
 - A detailed pricing narrative and breakdown showing, at a minimum, the estimated material costs (IAW BOM submitted under STEP 1), and how these costs add up to the proposed price for each CLIN.
Note: ALL pricing must be submitted in U.S. Dollars. Any business volume submitted that contains pricing in currency foreign to the United States will not be evaluated.
 - A completed SF-1449 showing the proposed price of each CLIN listed in the schedule. Note: The pricing for CLINs 0001 and 1001 should be inclusive of a standard manufacturer's warranty for the IA and LRIP units to be delivered and CLIN 2001 must be inclusive of a 5-year extended warranty for each unit delivered under Phase 3.
 - Pricing for Phase 1 prototype development, to include delivery of a production representative sample. This shall include the delivery of the Replay Tool.

Deleted: labor rates, hours,

- Offeror shall provide a pricing list for system quantities of 1-120. This pricing shall include the delivery of the Replay Tool.
 - The Offeror shall provide all device, training, and deliverable costs over the lifecycle of the contract's performance period in addition to maintenance and calibration service rates. These costs should be based on reliability predictions, system part and component costs, planned preventive maintenance schedules (if applicable), and anticipated / predicted corrective maintenance necessary to sustain the HAIBP equipment
2. Submit BOM with pricing for each item in clear, legible format. Please note that offerors are to propose pricing only for those items in the BOM that will required government funding to procure. Offerors are invited and encouraged to provide materials and components at no cost to the government. However, providing components or materials is not a mandatory requirement for this RFP.
 3. Complete and return Offeror's response to Provision 3052.209-72, Organizational Conflict of Interest (See Part 4 of the RFP).
 4. Submit Subcontracting Plan (if applicable).
 5. Submit Data Rights Notices, as required.
 6. Provide proposal Point of Contact (name, title, phone number, and email).

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5.1.1.6 Business Volume File Breakdown:

When submitting the Business Volume, it is requested that the volume be broken down into separate electronic files as follows:

1. Pricing information (Pricing schedule and backup, BOM, OCI response, POC info).
2. Subcontracting Plan, if required.
3. Data Rights Notices, if required.

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5.1.1.7 Other Business Volume Submissions

- *Subcontracting Plan* (Large Businesses Only): Large businesses responding to this RFP are required to submit a Subcontracting Plan with their proposals. A large business which fails to submit an acceptable subcontracting plan with its proposal may be eliminated from further consideration for award. (See 3052.219-70, Small Business Subcontracting Plan Reporting)
- *Organizational Conflict of Interest*: Complete and return HSAR 3052.209-72, Organizational Conflict of Interest (see Part 4 of the RFP). Provide any additional required documentation related to this issue, as deemed necessary.
- *Data Rights Notices*: In accordance with FAR 52.227-14- Rights in Data – General (See Part 4 of the RFP).

Deleted: <#>Government Approved Purchasing and Accounting Systems: Provide evidence of Government approved purchasing and accounting systems. If you have an approved purchasing system, provide the POC information of the representative at your Cognizant DCMA or Cognizant Federal Agency (CFA) that determined approval; and a copy of the Contractor Purchasing System Review (CPSR) report, if available, and/or a copy of the official letter from DCMA or CFA verifying the approval of the purchasing system.

5.2 Oral Presentations (Factor 3):

Oral Presentations shall begin approximately two weeks after the Government issues advisory notifications and will conclude based on the number of offers received. The Contracting Officer will determine the order in which Offerors are scheduled through a random selection process. Requests to reschedule will be at the discretion of the Contracting Officer. An Offeror must notify DHS of its intent to participate in oral presentations within two work days after receipt of an Advisory Notification from the Contracting Officer, which will be issued approximately five (5) business days after the deadline for submission of Step 1 proposals in accordance with this RFP. All notifications of an Offeror's intent to conduct oral presentations shall be accomplished as follows:

- i. Offeror shall forward email to: Jennifer.DAddio@hq.dhs.gov & Ryan.Buck@hq.dhs.gov. Include "HAIBP Advisory Notification" in the Subject line.
- ii. Offeror shall provide Name of Offeror, address, and point of contact (email and phone number)

with whom you wish the Government to coordinate the oral presentation schedule.

iii. Offeror shall provide the names, e-mails, phone numbers, and proposed role of the five Prime Offeror participants for oral presentations.

Within one business day of the notification of intent to participate deadline, the Contracting Officer or Contract Specialist will contact the Offeror's POC to provide the schedule date and time of the oral presentation. Subsequently, the Government will provide written confirmation of the schedule in an email to the POC. Location and building access instructions will be provided at that time. Oral presentations will be held in person at a specified location in the Washington, DC metropolitan area.

Introduction - Oral Presentations

Through the Oral Presentations, the Government intends to understand the Offeror's proposed solution and its capabilities as it relates to the Government's performance objectives for the new system. Further, these presentations will be used as an opportunity to assess the viability of an Offeror to successfully deliver the HAIBP solution.

Travel costs for the presentation **will not** be reimbursed.

Oral Presentation Process/ Format/ Instructions:

The Offeror shall arrive at least 20 minutes before the assigned scheduled time for processing and accessing the building. A DHS representative will escort the presenters to the appropriate location. Presentations will begin promptly at the appointed time. Presenter names and their roles in the HAIBP project shall be submitted to the specified Government Point of Contact (POC) at least three (3) business days in advance of the offeror's scheduled oral presentation date (Government will provide POC during presentation scheduling). The presentation team shall be knowledgeable and well versed in all aspects of the Offeror's proposed solution and be able to address all presented material independently of other sources.

Presenters: The Offeror's presentation team is limited to five (5) employees of the Prime and major subcontractors only. The Government requires at least one of the persons in the oral presentation to have a major functional role in the execution of the technical solution being proposed. Each presenter is required to carry and present a valid Government issued ID (e.g., driver's license, passport, etc.). If personnel of the Prime Offeror's Major Subcontractors will be participating in oral presentations, the Offeror shall submit a letter of commitment to team with the Prime Offeror signed by an individual of the Major Subcontractor's firm authorized to make such a commitment and on the Major Subcontractor's letterhead, that confirms a Subcontracting or teaming agreement is in place and that explains the role of the Major Subcontractor for the HAIBP Program. These letters of commitment shall be provided with the list of personnel provided to participate in oral presentations. **Major Subcontractors may only team and propose with one Prime Offeror in response to this solicitation.** A Major Subcontractor is defined as a subcontractor performing at least 25% (in hours or dollars) of the requirement relevant to solicitation.

Presentation: Each Offeror will be provided two sets of questions: (1) The first set of questions are contained within the RFP below (see Attachment 3 & the section titled BASIS FOR AWARD); and, (2) the second set of questions will be provided the day of the oral presentation. The answers to both sets of the questions will serve as the basis of the Offeror's presentation. Questions in the RFP will allow Offerors to prepare responses in advance of the presentation. For those questions received the day of the presentation, Offerors will be given one hour of preparation time prior to the start of the formal oral presentation.

Oral presentations will be limited to 3 hours, broken down as follows:

1. Preparation (60 minutes) - In addition to pre-released questions, the Government will provide a second set of prepared questions. The presenters will have 60 minutes to prepare.

2. Presentation (90 minutes) – The Offerors will have 90 uninterrupted minutes to conduct a presentation on both the advance questions and those received the day of the presentation.
3. Q&A (up to 30 minutes) – After the 90 minute presentation, the Government will caucus for up to 15 minutes to identify any clarifications it may require to understand the presentations. If needed, the Government will ask the Offeror any clarification questions.
4. No exchanges or discussions between evaluators and presenters will be permitted during the preparation and presentation times.

Oral Presentation Rules of Engagement –

- Only the five provided participants may attend the oral presentation. The presentation team may not reach back to any other personnel for assistance during the oral presentation.
- Offerors shall submit their final presentation reference material (e.g., slides, charts, graphs, diagrams, etc.) in .PDF format as well as the names of all of the presenters for the Offeror via email to both Jennifer D’Addio at Jennifer.DAddio@hq.dhs.gov and Ryan Buck at Ryan.Buck@hq.dhs.gov, within 5 business days after receipt of an advisory letter to allow for distribution to the Government evaluators in advance of commencement of oral presentations. Submitted presentation reference material is limited to addressing advance questions; each page must clearly indicate which advance question is being addressed. Each presentation package shall include no more than 15 pages total. Each page must be printable on 11”x17” paper or smaller and must be of Times New Roman font of size 10 or larger. Each page must be legible. The Government will provide 5 copies to Offeror’s presenters for use during the presentation. There will be no capability to photocopy materials at the oral presentation.
- The Government will provide flipcharts, paper, and writing materials, which may be used as needed, during the presentation. There will be no capability to photocopy at the oral presentation. The Government plans to project the submitted final presentation material on a projection screen.
- All presentation materials will be collected after each oral presentation.
- The Government will provide a conference room and a table of sufficient size to accommodate the Offeror’s five personnel.
- Up to two oral presentations will be scheduled per day; one in the morning and one in the afternoon.

Note: The confidence rating earned for the presentation will be based on the oral part of the presentations as well as the submitted reference material. The Government reserves the right to, and may, video record the oral presentations.

PART 6. EVALUATION FACTORS AND BASIS OF AWARD

6.1 EVALUATION FACTORS

The evaluation will be based on an integrated assessment of the information submitted in the Offeror’s proposal and other evaluation information available to the Government. The integrated assessment of proposals will include a risk assessment of the overall proposal.

Award will be made on a determination of Best Value. The non-Price Factors, when combined, are significantly more important than the Price Factor.

In **Step 1**, Factor 1 is more important than Factor 2. In **Step 2**, Factor 3 is significantly more important than Factor 4 - Price. However, as the non-price merits of competing Offerors’ proposals approach equal, Factor 4 will become more important in the best value trade-off decision. Offerors are cautioned that the award may not necessarily be made to the lowest priced proposals.

STEP 1 EVALUATION –

FACTOR 1 – Technical Capability & Approach

FACTOR 2 - Past Performance

STEP 2 EVALUATION –

FACTOR 3 – Oral Presentation

FACTOR 4 – Price

6.2 BASIS OF AWARD

The responses received under this RFP will be evaluated based on the criteria defined below. Awards may be made to the contractor(s) whose proposals are determined to be the most advantageous to the Government, as determined by trade-off analysis, non-price and price factors considered. Trade-off analysis and other analytic means involve the evaluation of superior technical capability (e.g., benefits clearly attributable to increased productivity, probability of successful agreement performance, ability to control cost, maintain schedule, and/or unique and innovative approaches to the work effort) versus the price.

The HAIBP evaluation will occur as follows:

STEP 1, Factor 1 – Concept Paper Initial Screening (Pass/Fail): The Concept Papers will be screened to ensure that they are compliant with all stipulations and instructions stated in this RFP:

- Are the RFP-specified Concept Paper format requirements met (page length, document type, font size, etc)?
- Does the vendor’s current system meet the Commercial Item definition under 41 U.S.C. 103?
- Does the vendor’s system rely on ³He-alternative technologies for neutron detection?

Any Concept Paper which does not clearly meet these requirements will be eliminated from further consideration.

STEP 1, Factor 1 - Evaluation of Technical Capability and Approach (Concept Paper): Based on the information presented in the Concept Paper, the evaluators will assess the offeror’s current commercial system’s capabilities as well as rate the proposed developmental pathway leading to the creation of a system meeting the HAIBP requirements.

- Factor 1, Technical Capability and Approach:
 - In its Concept Paper, does the vendor’s current system meet the HAIBP requirements as defined in the KPPs? If not, does their technical approach provide a sound explanation as to how their current system will be modified under Phase 1 in order to meet each of the KPPs?
 - Does the Concept Paper provide evidence that the HAIBP requirements stated in Section 3 of this RFP will be met?
 - Does the vendor’s Concept Paper provide evidence of the offeror’s ability and intent to meet the schedule requirements of each Phase of the HAIBP?
 - Has the vendor demonstrated that its current system meets any of the Innovation goals? If not, in its Concept Paper, does the vendor provide a sound approach as to how the Innovation goals, if any, will be met?
 - Has the vendor provided evidence that it currently has sufficient resources to scale its production capabilities in order to meet the demand for increased quantities under Phase 2 and Phase 3 of this requirement?

Note: Should an Offeror propose to meet any of the stated Innovation Goals, each instance of a proposal providing a sound technical approach to meeting said Innovation Goal(s) will be rated as a “Strength” in the offeror’s overall Technical evaluation. Thus, offerors are highly encouraged to pursue one or more innovation goals in responding to this requirement, as a

proposal that meets innovation goals in addition to the KPP's will be rated technically superior to a proposal that meets the KPP's alone. Note that innovation goals are listed in the order of importance to the government.

Confidence Rating System for Factor 1, Technical Capability and Approach and Factor 3, Oral Presentation

| Rating | Definition |
|------------------------|---|
| High Confidence | The Government has high confidence that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract with little or no Government intervention. Relative Risk: Minor risk anticipated with delivery of quality product, on time, or of any degradation of performance or lack of customer satisfaction (or cost growth if applicable). |
| Some Confidence | The Government has some confidence that the Offeror understands the requirement, proposes a sound approach, and will be successful in performing the contract with some Government intervention. Relative Risk: Moderate risk anticipated with delivery of quality product, on time, and of degradation of performance. |
| Low Confidence | The Government has low confidence that the Offeror understands the requirement, proposes a sound approach, or will be successful in performing the contract even with Government intervention. Relative Risk: Substantial risk anticipated with delivery of quality product, on time, and of degradation of performance. |

STEP 1, Factor 2 – Evaluation of Past Performance: The Government is required to review contractor past performance (available at www.ppirs.gov) prior to award. In addition to this, the Government may use present and/or past performance data obtained from a variety of sources, including, but not limited to those contract references identified in a quote submission. In evaluating an offeror's past performance, the government will seek to answer the following questions.

- o Has the vendor provided evidence of recent projects that are relevant in terms of size, scope and complexity to the HAIBP requirement?
- o Does the offeror's past performance (CPARS, etc) contain any evidence of adverse past performance that could conceivably pose a risk of unsuccessful performance under this contract?

The Government reserves the right to incorporate past performance information from commercial and Government sources and databases in its final rating determination for this factor. These sources may include, but are not limited to, Government audit reports, the Contractor Performance Assessment Reporting System (CPARS), the Past Performance Information Retrieval System (PPIRS), and commercial sources (such as Dun and Bradstreet Reports). In the event other sources conflict with the Offeror's past performance information, the Offeror will be given an opportunity to address the inconsistencies.

The Factor 2 Confidence Rating System is provided in the table below:

Confidence Rating System for the Evaluation of Factor 2, Past Performance

| Rating | Definition |
|------------------------|---|
| High Confidence | The Government has high confidence that the Offeror will successfully perform the required effort with little or no Government intervention. |
| Some Confidence | The Government has some confidence that the Offeror will successfully perform the required the required effort with some Government intervention. |

| | |
|---------------------------|---|
| Low Confidence | The Government has low confidence that the Offeror will be able to successfully perform the required effort based on recent/relevant past performance even with Government intervention. |
| Neutral Confidence | No recent/relevant past performance is available, or the Offeror's performance record is so sparse, such that a meaningful confidence rating cannot be assigned. The Offeror may not be evaluated favorably or unfavorably on the factor of past performance. |

STEP 2, Factor 3 – Oral Presentation (Only advance questions are identified below. On-the-spot questions will be provided on the day of the scheduled presentation.)

Offerors will be evaluated on a confidence scale (See Table on Page 58 of this Attachment) based on responses to the following advanced questions as well as the on-the-spot questions.

- 1) Production Readiness: As noted in the proposed timeline for vendors that continue to the Low Rate Initial Production Phase (LRIP) phase (Phase 2), the program seeks to have five (5) testable production representative HAIBP systems. How do you mitigate the risk that you will not meet this timeline?
- 2) Authority to Operate (ATO) Risk: As noted, any system that will be deployed at the Transportation Security Administration (TSA) must first achieve an ATO. Our schedule includes vulnerability testing during LRIP. How would you proceed if a vulnerability is identified that would preclude certification? What would be your path forward if a part became obsolete during Full Rate Production (FRP) and the Configuration Control Board (CCB) process identified a vulnerability at this stage?
- 3) Acquisition Innovation: If you were in charge of designing the HAIBP Government Solicitation, what changes would you make to the RFP that would enable industry to be positioned to rapidly develop and field innovative solutions? In reviewing the customized commercial-off-the-shelf (COTS) approach, what aspects do you like and not like?
- 4)
 - a) Your presentation addresses innovative ideas. What metrics would be appropriate for verifying that your innovative ideas can be achieved in the six months available for the Initial Article Phase (Phase 1)?
 - b) If unforeseen issues cause your innovation goals to not be met, (for instance the weight does not meet the goal threshold of 17 lbs) what is your plan to ensure a compliant prototype (KPP threshold: under 22lbs) will be provided on schedule? **Note:** devices that are not provided in time to participate in scheduled testing will be disqualified.
- 5) What do you consider to be the three highest risks to your modification strategy and why? How do you plan to mitigate those risks?

STEP 2, Factor 4 – Evaluation of Price:

The Government will establish a “total evaluated” price based on receipt of an offeror’s pricing volume. The government expects to receive price competition through several offers. The “total evaluated price” will be evaluated for price reasonableness through comparison with other proposed prices and may include other price analysis techniques. The price Quote will not be given an adjectival rating.

[The Government will consider the following in its Evaluation of Price:](#)

- Has the Offeror provided a pricing volume containing comprehensive pricing for all labor and materials required to modify their current systems to meet the requirements per Section 3 of this RFP and accomplish the proposed concept?
 - Was the total proposed pricing for each Phase at or below the maximum pricing threshold established in the RFP?
 - Has the offeror provided pricing for each CLIN to include a five (5) year standard warranty for all systems delivered under Phase 3?
- Price will be evaluated for reasonableness based on competition, as well as analysis of price reasonableness for all items quoted in the proposed BOM. However, price will not be rated. It should be noted that an award may be made to other than the lower priced proposal if the Government determines that a price premium is warranted due to technical merit. The Government may also make an award to other than the highest rated proposal, if the Government determines that a price premium is not warranted.
 - Due to the potential need of comparing pricing of diverse solutions, pure bottom line pricing comparisons among all proposed solutions will be paramount to the Government's determination of fair and reasonable pricing. Thus, it is critical that Offerors be explicitly clear which components or materials with the BOM the Offeror plans to utilize Government funding in obtaining, and which components or materials Offerors shall provide at their own expense. Thus, Offerors are invited and encouraged to provide the maximum quantity of components or materials within their proposed BOM as is possible to successfully develop a HAIBP system in accordance with Section 3 of this RFP.

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6.3.1. Award on Initial Responses

The government anticipates selecting the best-suited contractors from initial responses, without engaging in exchanges with contractors. Contractors are strongly encouraged to submit their best technical solutions and price in response to this RFP.

6.3.2. Exchanges with Best-Suited Contractors

Once the government determines the contractors that are the best-suited (i.e., the apparent successful contractors), the government reserves the right to communicate with only those contractors to address any remaining issues, if necessary, and finalize a contract with that contractor. These issues may include technical and price. If the parties cannot successfully address any remaining issues, as determined pertinent at the sole discretion of the government, the government reserves the right to communicate with the next best-suited contractor based on the original analysis and address any remaining issues. Once the government has begun communications with the next best-suited contractor, no further communications with the previous contractors will be entertained until after the contract or contracts have been awarded. This process shall continue until an agreement is successfully reached and a contract or multiple contracts are awarded.

PART 7. LIST OF ATTACHMENTS

- RFP Attachment 1 – DNDO Replay Tool Requirements January 2016
- RFP Attachment 2 – HAIBP Self-Assessment Scorecard
- RFP Attachment 3 – HAIBP Questions for Oral Presentations
- RFP Attachment 4 – HAIBP Past Performance Questionnaire (PPQ)