

SOLICITATION, OFFER AND AWARD		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING		PAGE OF PAGES 1 109	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER RFP-CMS-2011-0048		4. TYPE OF SOLICITATION ☐ SEALED BID (IFB) ☒ NEGOTIATED (RFP)		5. DATE ISSUED 12/08/2011	
6. REQUISITION/PURCHASE NUMBER		7. ISSUED BY CODE ASG - DPIFMC CMS, OAGM, ASG, DPIFMC 7111 SECURITY BLVD., MS: B3-30-03 BALTIMORE MD 21244-1850		8. ADDRESS OFFER TO (If other than Item 7)			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 8 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in _____ until 1100 ES local time 01/23/2012 (Hour) (Date)

CAUTION: LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL:	A. NAME JOANNE DAY	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS joanne.day@cms.hhs.gov
		AREA CODE 410	NUMBER 786-5166	EXT.	

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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232.8)	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
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14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

15B. TELEPHONE NUMBER	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
AREA CODE	NUMBER	EXT.	

AWARD (To be completed by government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: ☐ 10 U.S.C. 2304 (c) () ☐ 41 U.S.C. 253 (c) ()		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ITEM	
24. ADMINISTERED BY (If other than Item 7) CODE		25. PAYMENT WILL BE MADE BY CODE	
26. NAME OF CONTRACTING OFFICER (Type or print)		27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	
		28. AWARD DATE	

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SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1. DESCRIPTION OF SERVICES

The purpose of this contract is to establish a centralized Coordination of Benefits (COB) and Medicare Secondary Payer Recovery (MSPR) operation by consolidating all activities that support the collection, management, and reporting of other insurance coverage of Medicare beneficiaries and the collection of conditional payments or mistaken primary payments.

B.2. TYPE OF CONTRACT

As prescribed in FAR PART 52.216-1 "Type of Contract", the Government intends to award a Cost-Plus-Award-Fee (CPAF) to a contractor with an adequate accounting system capable of accepting Government cost type contracts. The Contracting Officer reserves the right to award any other type contract.

B.3 HHSAR 353.232-71 ESTIMATED COST-INCREMENTALLY FUNDED CONTRACT (JUNE 2010)

(a) The total estimated cost to the Government for full performance of this contract, including all allowable direct and indirect costs, is \$_____ (To be completed at time of award).

(b) The following represents the schedule* by which the Government expects to allot funds to this contract:

CLIN, Task # or Description	Start Date of Period or Increment of Performance	Start Date of Period or Increment of Performance	Estimated Cost	Base Fee	Award Fee	Estimated Cost Plus Fees
			.			

* To be completed at time of award

(c) Total funds currently obligated and available for payment under this contract are \$_____ [To be completed at time of award].

(d) The Contracting Officer may issue unilateral modifications to obligate additional funds to the contract and make related changes to paragraphs (b) and/or (c) above.

(e) Until this contract is fully funded, the requirements of the clause at **FAR 52.232-22, Limitation of Funds**, shall govern. Once the contract is fully funded, the requirements of the clause at **FAR 52.232-20, Limitation of Cost**, govern.

B.4 BASE FEE SCHEDULE

The Contractor shall voucher for payment in accordance with the instructions provided in Section G of this contract. The Contractor shall bill Base Fee on a monthly basis and the Government shall make monthly payments of Base Fee in accordance with FAR 52.216-8, entitled "Fixed Fee" and the following schedule:

CLIN	Period	# Pmts	Pmt per MO	Payment per Month	Total Payment	Total Base Fee
0001						

B.5 AWARD FEE

The amount of award fee the Contractor earns, if any, will be based on an evaluation by the Government of the contractor's performance in accordance with the Performance Evaluation Award Fee Plan (see Attachment J2). CMS Fee Determination Official (FDO) will determine the amount of award fee earned by the contractor for the evaluation period. The determination of the amount of the award fee for the evaluation period is a unilateral decision made solely at the discretion of the FDO. Upon receiving written notification from the FDO of the amount of award fee earned for the evaluation period, the Contractor may submit an invoice for the earned award fee. The Government may unilaterally change the Performance Evaluation Plan at any time. However, any revisions to the evaluation factors in the Performance Evaluation Plan shall be presented to the Contractor prior to the evaluation period in which it will be used. The award fee evaluations will be performed on an annual basis with the actual evaluation taking place in the month immediately following the evaluation period. The award fee available for each period shall be a portion of the total award fee pool available for the entire contract period.

*Note: A sample Performance Evaluation Award Fee Plan (see Attachment J2) is provided. The final Award Fee Plan will be provided at time of contract award.

B.6 PERFORMANCE EVALUATION AWARD FEE PLAN

A sample Performance Evaluation Award Fee Plan upon which the determination of award fee is based is identified herein as Attachment J2.* The award fee plan contains details with respect to how the Contractor will be evaluated periodically for its performance. The general criteria upon which the Contractor will be evaluated, substandard, expected or superior in performing each function includes such elements as efficiency, ingenuity, responsiveness, perceptiveness, thoroughness, timeliness, and resourcefulness.

The Contractor may submit self-evaluations of performance for each period under consideration. The Performance Evaluation Board in reaching its determination will consider these self-evaluations.

*Note: A sample Performance Evaluation Award Fee Plan is provided. The final award fee plan will be provided at time of contract award.

B.7 INDIRECT COST RATES (To be completed at time of award).

- a. **INDIRECT COST PROVISIONAL BILLING AND CEILING RATES:** Federal Acquisition Regulation (FAR) 52.216-7(e) Billing Rates, allows the Contractor to use pre-determined Provisional Billing Rates established by its respective Cognizant Federal Agency (CFA) for reimbursement of indirect costs until final annual Indirect Cost Rates are established. The

Government shall reimburse the Contractor at the Provisional Billing Rates as indicated below until final Indirect Cost Rates are established.

In addition, in accordance with 42.707, Cost Sharing Rates and Limitations on Indirect Cost Rates, to prevent substantial over or under-payment pending establishment of Final Indirect Cost Rates for any period, the Contractor is hereby limited to reimbursement of indirect costs at the Indirect Cost Ceilings Rates indicated below.

Example:

Type	Cost Center	Provisional Indirect Cost Billing Rate	Indirect Cost Rate Ceiling	Period	Rate Base
Provisional	Fringe	TBD	<i>Add no more than 3 basis points to Fringe for the Ceiling</i>		(a)
Provisional	Overhead	TBD	<i>Add no more than 5 basis points to Overhead for the Ceiling</i>		(b)
Provisional	G&A	TBD	<i>Add no more than 3 basis points to G&A for the Ceiling</i>		(c)
Provisional	Other	TBD			

Rates are applied to the following rate base(s):

- a. Fringe rate is applied to ...
- b. Overhead rate is applied to...
- c. G&A rate is applied to...

Any change(s) to the Provisional Billing Rates established for this contract shall be approved by the CFA and implemented by a modification to this contract before the contractor may bill for Indirect Costs. A copy of the CFA approved Provisional Billing Rate agreement shall be provided to the Contracting Officer with any request for contract modification.

If it appears that the Contractor may exceed a Ceiling Rate established, the CMS Contracting Officer, upon review of documentation submitted by the Contractor, may modify the contract to establish new Ceiling Rates, but in no case shall the Government reimburse the Contractor for more than the total estimated cost of the contract/task order for which the rate(s) may be applied.

- b. **FINAL INDIRECT COST RATES:** Pursuant to the provisions of FAR 52.216-7, Allowable Cost & Payment, the allowable Indirect Costs under this contract shall be obtained by applying the CFA approved final annual Indirect Cost Rate(s) to the appropriate cost base as follows:

Example (To be completed as Indirect Cost Rates become final):

Type	Cost Center	Final Indirect Cost Rate	Period	Rate Base
Final	Fringe	TBD		(a)
Final	Overhead	TBD		(b)
Final	G&A	TBD		(c)
Final	Other	TBD		

Rates are applied to the following rate base(s):

- a. Fringe rate is applied to ...
 - b. Overhead rate is applied to...
 - c. G&A rate is applied to...
- c. **INDIRECT COST RATE (ICR) PROPOSAL:** Pursuant to FAR 52.216-7, Allowable Cost and Payment, paragraph (d)(2), Final indirect cost rates, the Contractor shall submit an adequate final annual Indirect Cost Rate proposal within the 6-month period following the expiration of each of its fiscal years.

FAR 42.003(a) provides that the CFA, "...normally will be the agency with the largest dollar amount of negotiated contracts, including options." FAR 42.703-1 further provides that a single agency shall be responsible for establishing **final indirect cost rates** for each business unit. This single agency is the CFA and may be DHHS, a delegated component of DHHS or another federal Agency.

Pursuant to the Health & Human Services Acquisition Supplement (HHSAR) 342.705, Final Indirect Cost Rates, Contractors who's CFA is the Department of Health & Human Services (DHHS), the National Institutes of Health (NIH), Division of Financial Advisory Services, "...shall establish indirect cost rates, fringe benefit rates, and similar rates for use in contracts awarded to **commercial organizations**."

Any questions about CFA responsibilities should be submitted to the OAGM Division of Cost Audit, Compliance and Closeout at:

CMSAcquisitionDACCServiceRequest@CMS.HHS.Gov

The Contractor shall submit the final annual Indirect Cost Rate proposal to the following:

Contracting Officer:

Centers for Medicare & Medicaid Services
Office of Acquisition & Grants Management
Acquisition Support Group
Division of Procurement Integrity Financial Management Contracts
Attn: Edward Rutherford

7500 Security Blvd, M/S B3-30-03
Baltimore, MD 21244-1850

CMS OAGM DACC Auditor:

Centers for Medicare & Medicaid Services
Office of Acquisition & Grants Management
Acquisition Policy Group
Division of Cost Audit, Compliance & Closeout
7500 Security Blvd, M/S B3-30-03
Baltimore, MD 21244-1850

Cognizant Federal Agency:

National Institutes of Health
Office of Acquisition Management and Policy
Director, Division of Financial Advisory Services
6100 Building, Room 6B05
6100 Executive Blvd. M/S C-7540
Bethesda, MD. 20892-7540

End of Section B

SECTION C – DESCRIPTIONS/SPECIFICATIONS, WORK STATEMENT

C.1 STATEMENT OF WORK

Independently and not as an agent of the Government, the Contractor shall furnish all the necessary services, qualified personnel, material, equipment, facilities, and supplies, not otherwise provided by the Government as needed to perform the requirements set forth in the Statement of Work, Attachment J1, and BPOC Deliverable, Appendix #2. The SOW is annotated and entitled “Business Program Operations Center” (BPOC).

(End of Section C)

SECTION D - PACKAGING AND MARKING

D.1 PACKAGING, MARKING, SHIPPING

All deliverables required under this contract shall be packaged, marked and shipped in accordance with Government specifications. The Contractor shall guarantee that all required materials shall be delivered in immediate usable and acceptable condition.

(End of Section D)

SECTION E - INSPECTION AND ACCEPTANCE

E.1 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 address:

<https://www.acquisition.gov/comp/far/index.html>

NUMBER	TITLE	DATE
52.246-5	INSPECTION OF SERVICES – COST-REIMBURSEMENT	APRIL 1984

E.2 INSPECTION AND ACCEPTANCE

- A. All work under this contract is subject to the inspection and final acceptance by the Contracting Officer or the duly authorized representative of the Government.
- B. The Contracting Officer's Representative (COR) is a duly authorized representative of the Government and is responsible for inspection and acceptance of all items to be delivered under this contract.
- C. Inspection and acceptance of the Contractor's performance shall be in accordance with the applicable FAR clauses referenced in Section E.1.

E.3 APPROVALS BY THE CONTRACTING OFFICER'S REPRESENTATIVE

All items to be delivered to the Contracting Officer's Representative (COR) will be deemed to have been approved thirty (30) calendar days after date of delivery, except as otherwise specified in this contract, if written approval or disapproval has not been given within such period. The COR's acceptance or revision to the items submitted shall be within the general scope of the work stated in this contract.

(End of Section E)

SECTION F - DELIVERIES OR PERFORMANCE

F.1 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 address:

<https://www.acquisition.gov/comp/far/index.html>

NUMBER	TITLE	DATE
52.242-15	STOP WORK ORDER – Alternate I	APR 1989
52.242-17	GOVERNMENT DELAY OF WORK	APR 1984
52.247-34	F.O.B. DESTINATION	NOV 1991

F.2 ITEMS TO BE FURNISHED AND DELIVERY SCHEDULE

The Contractor shall submit all required report(s)/deliverables in accordance with the BPOC Deliverables as found in Appendix #2. Report(s) submitted under the contract shall reference and cite the contract number and identify CMS as the sponsoring agency.

F.3 TIME AND PLACE OF DELIVERIES

- A. The supplies/services to be furnished shall be delivered in accordance with the BPOC Deliverables as specified in Appendix #2.
- B. Satisfactory performance under this contract shall be deemed to occur upon delivery and acceptance by the Contracting Officer, or the duly authorized representative, in accordance with the stated delivery schedule.

F.4 PERIOD OF PERFORMANCE

The period of performance for this contract shall be a Base Year with Four (4) Option Years.

(End of Section F)

SECTION G - CONTRACT ADMINISTRATION

G.1. ACCOUNTING AND APPROPRIATION DATA

Mod	Requisition #	Appropriation #	CAN #	Object Class	Amount
Base					
TOTAL					\$0

G.2. INVOICING AND PAYMENT INFORMATION

The Contractor shall report data in accordance with the format described in the billing instructions. (See attachment J7, Billing Instructions)

Submission of invoices for payment:

1. Once each month following the effective date of this contract, the Contractor may submit to the Government an invoice for payment.
2. To expedite payment, invoices shall be prepared and submitted as follows:

--Original and one (1) copy shall be submitted to the address below:

Department of Health & Human Services
Centers for Medicare & Medicaid Services
OFM/Division of Accounting Operations
P.O. Box 7520
7500 Security Boulevard
Baltimore, MD 21207-0520

--For overnight delivery:

Department of Health & Human Services
Centers for Medicare & Medicaid Services
OFM/Division of Accounting Operations
7500 Security Boulevard/Mail stop: C3-11-03
Baltimore, MD 21244-1850

--One (1) electronic copy shall be sent to the Contracting Officer's Representative.

3. Content of invoice:

- Contractor's name and invoice date;
- Contract number or other authorization for delivery of property and/or services;
- Description, CLIN, cost or price and quantity of property and/or services actually delivered or rendered, breakout of hours incurred by labor category;
- Shipping and payment terms;
- Other substantiating documentation or information as required by the contract;

- Name, title, phone number and complete mailing address of responsible official to whom payment is to be sent;
- Taxpayer Identification Number; and
- Period of performance or delivery date of goods or services provided.

4. Invoice payment

Reimbursement for invoices submitted under this contract shall be made not later than thirty (30) days after receipt of the original invoice from the Contractor in the copies requested at the paying office designated above.

Payment will be authorized after the Division of Accounting has received a certification of the invoice by the COR and verification that the invoice amount is consistent with the schedule set forth under Section B of this contract. Any discrepancies determined as a result of the audit could delay the processing of the invoice and may result in the invoice being returned to the Contractor for corrections. Inquiries relating to payments should be directed to the Office of Financial Management/Accounting Management Group.

5. Interest on overdue payment

The Prompt Payment Act, Public Law 97-177 (96 Stat.85.31 U.S.C. 1801) and FAR 52.232-25 Prompt Payment (OCT 2008), is applicable to payments under this contract and requires the payment of interest on payments made more than 30 days after receipt of an invoice by the Division of Accounting Operations, pursuant to FAR 32.907.

Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

G.3 METHOD OF PAYMENT

- A. In accordance with FAR 52.204-7, the contractor must register in the Central Contractor Registration (CCR) database. Failure to register in CCR may prohibit CMS from making awards to your organization.
- B. The contractor shall notify CMS' Division of Accounting Operations of all EFT and address changes in CCR via the following email address: CCRChanges@cms.hhs.gov

G.4. OTHER PROVISIONS APPLICABLE ALLOWABLE COSTS

The following costs have been the subject of particular scrutiny in the past. CMS will determine the allowability of these costs, on a case-by-case basis, in accordance with OMB Circular A-122 and FAR Part 31. Contractors are cautioned to propose and account for these costs in accordance with these authorities.

- The determination and reasonableness of accounting for costs as either direct or indirect.
- Acquisition, by purchase or lease, of any interest in real property;

- Special arrangement or alteration of facilities;
- Purchase or lease of any item of general purpose; office furniture or office equipment;
- DSL lines for employees working at home.
- Honorariums, whether incurred on a direct or indirect basis.
- Space allocation based on the GSA guidelines for analyzing the appropriateness of space.
- The appropriateness and reasonableness of costs incurred for Contractor participation in meeting/conferences whether held within the Contractor's respective state or outside the state. In determining reasonableness, CMS will consider the role of the participants attending meetings/conferences in relationship to their performance of the requirements under Section C, Statement of Work.
- Executive (Corporate Management) salaries, such as salaries paid to the CEO, COO, CFO and CMO. In addition, the issue of properly accounting for executive salaries may be a factor in assessing the adequacy of a Contractor's accounting system.

G.5. A-133 INTERIM AUDITS (for non-profit CONTRACTORS only)

For each non-profit Contractor, there shall be an A-133 audit in accordance with OMB Circular entitled, "Audits of States, Local Governments, and Non-Profit Organizations." The Contractor will contract independently with a CPA firm to perform these audits. The Office of Inspector General (OIG) for the Department of Health and Human Services (DHHS) shall serve as the cognizant oversight agency as defined by OMB Circular A-133. The Contractor shall share all A-133 findings with any audit entity authorized by CMS.

G.6. CLOSEOUT AUDITS FOR PROFIT AND NON—PROFIT ORGANIZATIONS

The contract closeout audit will be performed in accordance with the terms and conditions of the contract, FAR, OMB Circular A-122 (as applicable) and other appropriate guidelines such as generally accepted accounting principles.

G.7. KEY PERSONNEL

A. HHSAR 352.242-70 Key Personnel (JAN 2006)

The personnel specified in this contract are considered to be essential to work performance. At least 30 days prior to diverting any of the specified individuals to other programs or contracts (or as soon as possible, if an individual must be replaced, for example, as a result of leaving the employ of the Contractor), the Contractor shall notify the Contracting Officer and shall submit comprehensive justification for the diversion or replacement request (including proposed substitutions for key personnel) to permit evaluation by the Government of the impact on performance under this contract. The Contractor shall not divert or otherwise replace any key

personnel without the written consent of the Contracting Officer. The Government may modify the contract to add or delete key personnel at the request of the Contractor or Government.

- B. CMS considers the following positions are determined to be Key Personnel and are governed by the requirements HHSAR 352.270-5 Key Personnel contract requirements:

Labor Category	Name	Phone	E-Mail Address
Project Director			
Deputy Project Director			
Certified Financial Officer			
Task Managers: (1) Call Center Manager (2) Correspondence Processing Manager (3) Electronic Data Interchange (EDI) Manager			
Compliance Officer			
Security Officer			
Telecommunications Engineer			
Medical Director			
System Administrator			

G.8. CONTRACTING OFFICER REPRESENTATIVE (COR)

A. Designation

(To be entered at time of award) is hereby designated as the Government Contracting Officer Representative (COR).

B. Responsibilities

1. Authority for directing and managing implementation of the program/technical aspects of the Act, as amended, has been re-delegated from the Administrator through the Director of the Office of Clinical Standards and Quality.
2. Performance of the work under this contract shall be subject to the technical direction of the COR. The COR shall be the authorized representative of the Contracting Officer and the person representing CMS for the purpose of providing technical direction and monitoring of contract performance. It is within the purview of the COR to conduct on-site visits as deemed necessary. Such visits are to be used as a tool to gather or verify information regarding such things as SDPS property, performance issues and/or financial issues.

3. It is the responsibility of the COR to conduct necessary evaluations throughout the term of the contract. The COR may include any CMS personnel considered necessary in order to conduct these reviews.
4. It is the responsibility of the COR to monitor the Contractor's progress against the Contractor's contract management plan. The COR may use the contract management plan as a tool in providing appropriate technical direction to the Contractor.
5. The term "technical direction" is defined as government guidance of a Contractor's effort toward areas of effort that fall within the statement of work. For the purposes of this contract, this definition shall include the following:
 - Recommendations from the COR that must be implemented by the Contractor to bring their performance into compliance with the minimum requirements of the contract, review, and, where required by the contract, approval of reports and other technical information to be delivered by the Contractor under the contract.
6. The COR may also provide advice and consultation on the Statement of Work and deliverables and services to be furnished under the provisions of the contract. Unlike technical direction, however, the Contractor is not required to implement these suggestions.
7. The COR may work with the Business Function Lead (BFL) to provide information to the Contractor which assists in the interpretation of the work and services to be furnished within a given task area.
8. Any and all technical direction and advice and consultation must be within the general scope of the contract. The COR does not have the authority to and shall not issue any technical direction or advice which:
 - constitutes an assignment of additional work outside the scope of the contract;
 - constitutes a change as defined in the contract clause at FAR 52.243-2, Alt I;
 - in any manner, causes an increase or decrease in the total estimated contract cost; and,
 - changes any of the expressed terms, conditions, or specifications of the contract.
9. Technical direction which is within the scope of the contract, as written, shall, whenever possible, be in writing and a copy submitted to the Contracting Officer.
10. The Contractor shall proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by his/her authority under the provisions of this article.
11. If the Contractor believes that instruction issued by the COR does not follow the definition of technical direction, and results in a contractual change or cost impact, the Contractor shall not proceed but shall notify the Contracting Officer immediately.

If the Contractor believes that information provided, as a result, of interaction with other technical personnel as defined in G.9. below is inconsistent with the statement of work, the Contractor shall contact the COR for resolution.

G.9. BUSINESS FUNCTION LEAD (BFL)

A. Designation

The following are hereby designated as the Business Function Lead (BFLs): TBD

B. Business Function Lead Responsibilities

1. The BFL will be the authorized representative of the Contracting Officer and the person representing CMS for the purpose of providing program content and clarification.
2. It is the responsibility of the BFL to participate with the COR in monitoring the Contractor's progress against the Contractor's contract management plan.
3. It is the responsibility of the BFL to provide information to the Contractor which assists in the interpretation of the work and services to be furnished within their task area.
4. The BFL may provide advice and consultation on a Contractor's implementation of the Statement of Work and deliverables and services to be furnished under the provisions of the contract. The BFL, however, may not provide technical direction to the Contractor as distinguished from advice and consultation in Section G.8.
5. Any and all advice and consultation must be within the general scope of the contract. The BFL does not have the authority to and shall not issue any advice which:
 - constitutes an assignment of additional work outside the scope of the contract;
 - constitutes a change as defined in the contract clause at FAR 52.243-2, Alt I;
 - in any manner, causes an increase or decrease in the total estimated contract cost; and,
 - changes any of the expressed terms, conditions, or specifications of the contract.

G.10. CONTRACTING OFFICER (CO)

- A. The Contracting Officer is the only person under this contract with the ability to bind the government legally by signing the contract and any/all subsequent modifications.
- B. The Contracting Officer is responsible for ensuring performance of all necessary actions for effective contracting, for ensuring compliance with all terms and conditions of the contract, and for safeguarding the interest of the government in its contractual relationships.
- C. The Contracting Officer is the only individual authorized to:
 - accept nonconforming work or waive any requirement of this contract;

- authorize reimbursement to the Contractor for any costs incurred during the performance of the contract; and
- modify any term or condition of this contract, extend the period of performance, change the delivery schedule, etc.

G.11. PROPERTY ADMINISTRATION

- A. The Contractor is responsible for an annual physical inventory accounting for all government property under this contract. The inventory must be conducted by September 30th and the Form 565 Report of Accountable Personal Property submitted by October 31st of each year.
- B. The inventory report shall include all items acquired, furnished, rented or leased under the contract. Employees who conduct the inventories should not be the same individuals who maintain the property records. Following the physical inventory, the Contractor shall prepare an inventory report and submit the report to the CMS Property Administrator at the address on the following page:

Centers for Medicare & Medicaid Services
OICS, Administrative Services Group
Attn: Elias Bouloubassis
Division of Property and Space Management
7500 Security Boulevard, MS SLL-14-06
Baltimore, Maryland 21244-1850

- C. Commercially leased software is subject to these reporting requirements.
- D. The Contractor shall submit a consolidated report of all accountable government property under this contract, including subcontractor inventory information.
- E. The final inventory report shall indicate that all items required for continued contract performance are acceptable and free from contamination. Property that is no longer usable or required shall be reported and disposition requested. The final inventory report shall be submitted upon the date of contract expiration.

G.12 SUBCONTRACTING PROGRAM FOR SMALL, SMALL DISADVANTAGED, WOMEN-OWNED, SERVICE-DISABLED VETERAN, AND HUBZONES

In accordance with FAR 19.704, Subcontracting Plan Requirements, the subcontracting plan submitted for work under this contract with small, disadvantaged, woman-owned, HUBZone, and services-disabled veteran-owned small business concerns, shall be approved by the Contracting Officer and incorporated as Attachment J.3 of this contract and made a part hereof. Contractors should strive to achieve the following Dept. of Health and Human Services minimum small business utilization goals when developing its small business subcontracting plan:

Small Business	33%
Small Disadvantaged Business	5%

Women-Owned Small Business	5%
HUBZone	3%
Service Disabled Veteran Owned Small Business	3%

G.13. SUBCONTRACT REPORTING (ONLY FOR LARGE BUSINESSES)

- A. A non-profit Contractor is considered a large business and shall submit a subcontracting plan and reports. A for-profit Contractor shall follow the size standards provided at www.SBA.gov in order to determine the applicability of the subcontracting plan and subsequent reports. For the purposes of this contract, the NAICS is 524298.
- B. The Subcontracting Plan submitted by the Contractor and approved by the Contracting Officer for this contract is incorporated into the contract. A Sample Subcontracting Plan is included as Section J, Attachment J3.
- C. The Contractor shall report all subcontract awards to small, small disadvantaged, women-owned, HUBZone, veteran-owned and service-disabled veteran-owned small business concerns. The reports shall be prepared using the electronic Subcontracting Reporting System (eSRS) via the internet at <http://www.esrs.gov>. The Individual Subcontracting Report (ISR), formerly SF 294, and the Summary Subcontracting Report (SSR), formerly, SF 295 shall be submitted as follows:

Reporting Period	Report Due	Due Date
Oct 1 – Mar 31	SF 294 (ISR)	Apr 30
Apr 1 – Sept 30	SF 294 (ISR)	Oct 30
Oct 1 – Sept 30	SF 295 (SSR)	Oct 30

The Department of Health and Human Services (DHHS) has determined that all non-profit organizations are defined as large businesses for reporting purposes.

G14. CONSENT TO SUBCONTRACT

- A. The Contractor shall be in compliance with FAR 44.202-2 and FAR 52.244-2 when entering into a subcontract arrangement for the purpose of performing this contract.
- B. Each Contractor shall complete and submit the Subcontract Checklist (provided in Section J, Attachment J5) in order to obtain subcontract consent after award of the contract.
- C. Consent is granted to the following subcontracts:
TBD
- D. For the purposes of this contract, consultants are considered subcontractors.

When requesting Contracting Officer consents to subcontract for Consultants and/or other subcontracts, the Contractor shall follow the procedures established in:

Federal Acquisition Regulation (FAR) Clauses:
52.244-2 Subcontracts (OCT 2010)

52.244-5	Competition in Subcontracting (DEC 1996)
52.244-6	Subcontracts for Commercial Items (DEC 2010)

G.15. PAST PERFORMANCE DATABASE AND CENTRAL CONTRACTOR REGISTRATION

In accordance with Federal Acquisition Regulation (FAR) 42.15, CMS will complete a final Contractor performance evaluations. Additional interim performance evaluations may be prepared at Contracting Officer discretion, as necessary. Final performance evaluations will be completed upon contract expiration.

CMS will utilize the Contractor Performance Assessment Reporting System (CPARS) in order to execute the 18th month and final Contractor performance evaluations. CPARS is a secure Internet website located at <http://www.cpars.csd.disa.mil/cparsmain.htm>. CMS will register the Contractor in CPARS upon receipt of the name and email address of two (2) individuals who will be responsible for serving as the Contractor's primary and alternate CPARS contacts. Once CMS registers the Contractor in CPARS, the Contractor will receive an automated CPARS email message that contains User IDs and instructions for creating a password.

Once a performance evaluation is issued, the Contractor's primary and alternate CPARS contact will receive an email instructing them to logon to CPARS in order to review the performance evaluation. The Contractor has 30 days from the date of performance evaluation issuance in which to review the evaluation. If the Contractor is in agreement with the performance evaluation outcome, the evaluation becomes final. Should the Contractor be in disagreement with the performance evaluation outcome, rebuttal comments must be submitted via the CPARS within 30 days from date the evaluation was issued by CMS. Any disagreement between the Contracting Officer and the Contractor will be referred to the Deputy Director, CMS Office of Acquisition and Grants Management, whose decision will be final. Copies of each performance evaluation and Contractor responses, if any, will be retained as part of the official contract file and will be used to support future award decisions. Evaluations will also be stored for a 3-year period in the Past Performance Information Retrieval System (PPIRS) at www.ppirs.gov.

Contractors may obtain CPARS training material and register for on-line training at <http://www.cpars.csd.disa.mil/allapps/cpcbtdlf.htm>. There is no fee for registration or use of the CPARS.

In addition, per FAR 52.204-7, each Contractor shall register in the Central Contractor Registration (CCR) database. Failure of a Contractor to register may prohibit CMS from making a contract award, contract renewal or issuance of future contract modification(s).

G.16 CORRESPONDENCE PROCEDURES

To promote timely and effective administration (except for invoices/public vouchers, technical progress reports, deliverables) correspondence submitted under this contract shall be subject to the following procedures:

- A. Technical Correspondence-Technical correspondence (as used herein, this term excludes technical correspondence which proposes or otherwise involves waivers, deviations or modifications to the requirements, terms, or conditions of this contract) shall be addressed to the Contracting Officer's Representative, with an information copy of the basic correspondence to the Contracting Officer.

- B. Other Correspondence-All other correspondence shall be addressed to the Contracting Officer, with information copies of the basic correspondence to the Contracting Officer's Representative.
- C. Subject Lines-All correspondence shall contain a subject line, commencing with the Contract Number and assigning consecutive numbers (serial numbers to permit accountability), as illustrated below:

Contractors Name:
Contract No.:
Subject: *Request for Subcontract Approval*

G.17 TRAVEL COSTS

Contractor(s) shall request a travel letter from the Contracting Officer in order to receive any Government discounts offered.

- A. Costs incurred for lodging, meals and incidental expenses shall be considered to be reasonable, allowable and allocable under this contract only to the extent that they do not exceed, on a daily basis, the maximum per diem rates in effect at the time of travel as set forth in the latest Federal Travel Regulations. Federal Travel Regulations, as well as Per Diem rates, can be found at the following www.gsa.gov/travel
- B. Cost reimbursable contractor are non-mandatory user(s) and may take advantage of discounted rates only if vendors offer them to you. Most hotels and car rental agencies offer discounts; however, airlines no longer extend Government airfare rates to cost reimbursable or T&M Contractors. For information on airline policies concerning federal travel, as well as other federal travel assistance, please visit www.government-travel.org.
- C. Air or Rail: Reservations for transportation by public carrier may be obtained through your local travel agency or through the Centers for Medicare & Medicaid Services contract travel agency, Omega Travel. This agency will try to obtain the lowest available fare consistent with Federal Travel Regulations. In most cases, government rates are not available to cost reimbursable Contractors. Should you choose to use Omega Travel to make travel arrangements, you may contact them at: www.owt.net/tabs/government/. You may apply Federal reimbursement toward a more costly fare if you choose; however, reimbursement will be limited to the coach class fare. Providing a credit card number to Omega Travel will make payment for your airline tickets.
- D. Ground Transportation: The Government will reimburse for airport limousine or taxi service. Expenses must be itemized and receipts obtained.
- E. When privately owned vehicle (POV) is used for transportation from home to the transportation terminal, you will be reimbursed for round trip at the mileage rate in effect at the time of travel per Federal Travel Regulations (FTR), plus parking fees (receipts for parking fees are required). If traveling by POV, reimbursement will be at the mileage rate in effect at the time of travel per Federal Travel Regulations (FTR), plus tolls.

- F. Lodgings: If reservations for common carrier transportation are made through Omega Travel, reservations for hotel accommodations may also be made through Omega Travel. They are familiar with the authorized Federal per diem rates for each city and will offer assistance in locating lodging within the prescribed rates. Federal Travel Regulations prescribe the maximum amount that will be reimbursed for lodging expenses. Receipts are required for all lodging costs.
- G. Meals and Incidental Expenses (M&IE): Federal Travel Regulations prescribe that meals and incidental expenses be reimbursed at a maximum rate per day depending on the city. M&IE are calculated by the first and last day of travel receive 3/4 of the M&IE rate; the rest of the travel days in between receive the entire M&IE rate.
- H. If the city being visited is not listed in the Federal Travel Regulations as a high rate area, the standard CONUS (the continental United States) rate will be used for reimbursement purposes.

G.18 AUDIT OF HOURS

- A. In addition to the examination of costs, as detailed in FAR Clause No. 52.215-2 entitled "Audit and Records-Negotiation," the Contracting Officer or his representatives will have the right to examine all books, records, documents and other data of the Contractor relating to this contract for the purpose of evaluating the accuracy and completeness of the hours which the Contractor has recorded on his invoices as expended toward satisfaction of the requirements of this contract.
- B. The materials described above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit or reproduction until:
 - a. The expiration of three (3) years from the date of final payment under this contract,
 - b. The expiration of three (3) years from the date of final settlement resulting from a termination or a partial termination of this contract.

G.19. ON-SITE VISITS

At any time during the period of performance, the Contracting Officer, and delegated/authorized CMS personnel may conduct an on-site visit to the Contractor. These visits may be announced or unannounced. The visits will be conducted during normal working hours of the Contractor and will not disrupt the on-going work of the Contractor.

G.20. WAGE DETERMINATIONS

The following Wage Determination(s) is/are incorporated herein for the performance of work on this contract:

Wage Determination#	Date
TBD	

Every year, calculated from the anniversary date of the contract, the Contracting Officer will obtain revised wage determination rate table from the U.S. Department of Labor. The revised wage

determination will be incorporated into the contract as Section J, Attachment J9. The revised wage determination shall be implemented within 45 days of issuance of the modification by CMS.

G.21. FOOD COSTS

On June 12, 2007, the Department of Health and Human Services (DHHS) issued a follow-up memorandum to Operating Division Heads articulating the Department's policy on the purchase of food with appropriated funds. The general principle stated in the memoranda of July 26, 2005 and October 12, 2004 remains unchanged; that is, food cannot be purchased with appropriated funds.

For the purposes of this contract, Food Expense either incurred as a **direct or indirect expense** will be considered an **unallowable cost**.

Note: This contract clause does not pertain to the meals portion of allowable costs incurred as a part of the per diem expense allowed under the Federal Travel Regulations (FTRs). However, Contractor employees must remove the cost of the meal(s) from their allowable per diem reimbursement when attending a conference where meals are included in the cost of the conference.

G.22. SECURITY CLAUSE – BACKGROUND INVESTIGATIONS FOR CONTRACTOR PERSONNEL

Homeland Security Presidential Directive 12 (HSPD-12) Physical and Logical Access Requirements:

As required by HSPD-12 directives, if applicable, Contractor personnel performing services for CMS under this contract, task order or delivery order shall be required to undergo a background investigation and obtain an HSPD-12 Identification Smartcard for physical and logical systems access. CMS will initiate and pay for any required background investigation(s).

After contract award, the CMS Contracting Officer's Representative (COR) and the Office of Operations Management, Division of Personnel Security Services (DPSS), with the assistance of the Contractor, shall perform a position-sensitivity analysis based on the duties contractor personnel shall perform on the contract, task order or delivery order. The results of the position-sensitivity analysis will determine first, whether the provisions of this clause are applicable to the contract and second, if applicable, determine each position's sensitivity level (i.e., high risk, moderate risk or low risk) and dictate the appropriate level of background investigation to be processed. Investigative packages may contain the following forms:

1. SF-85, Questionnaire for Non-Sensitive Positions, 09/1995
<http://contacts.gsa.gov/webforms.nsf>
2. SF-85P, Questionnaire for Public Trust Positions, 09/1995
<http://contacts.gsa.gov/webforms.nsf>
3. OF-306, Declaration for Federal Employment, 01/2001
<http://contacts.gsa.gov/webforms.nsf>
4. Credit Report Release Form
<http://www.opm.gov/investigate/archive/1998//fin9802.asp>

5. FD-258, Fingerprint Card, 5/99
6. CMS-730A, Request for Physical Access to CMS Facilities (NON-CMS ONLY), 11/2003.

The Contractor personnel shall be required to undergo a background investigation commensurate with one of these position-sensitivity levels:

1) High Risk (Level 6)

Public Trust positions that would have a potential for exceptionally serious impact on the integrity and efficiency of the service. This would include computer security of a major automated information system (AIS). This includes positions in which the incumbent's actions or inaction could diminish public confidence in the integrity, efficiency, or effectiveness of assigned government activities, whether or not actual damage occurs, particularly if duties are especially critical to the agency or program mission with a broad scope of responsibility and authority.

Major responsibilities that would require this level include:

- a. development and administration of CMS computer security programs, including direction and control of risk analysis and/or threat assessment;
- b. significant involvement in mission-critical systems;
- c. preparation or approval of data for input into a system which does not necessarily involve personal access to the system but with relatively high risk of causing grave damage or realizing significant personal gain;
- d. other responsibilities that involve relatively high risk of causing damage or realizing personal gain;
- e. policy implementation;
- f. higher level management duties/assignments or major program responsibility; or
- g. independent spokespersons or non-management position with authority for independent action.

Approximate cost of each investigation: \$2,900

2) Moderate Risk (Level 5)

Level 5 Public Trust positions include those involving policymaking, major program responsibility, and law enforcement duties that are associated with a "Moderate Risk." Also included are those positions involving access to or control of unclassified sensitive, proprietary information, or financial records, and those with similar duties through which the incumbent can realize a significant personal gain or cause serious damage to the program or Department.

Responsibilities that would require this level include:

- a. the direction, planning, design, operation, or maintenance of a computer system and whose work is technically reviewed by a higher authority at the High Risk level to ensure the integrity of the system;
- b. systems design, operation, testing, maintenance, and/or monitoring that are carried out under the technical review of a higher authority at the High Risk level;

- c. access to and/or processing of information requiring protection under the Privacy Act of 1974;
- d. assists in policy development and implementation;
- e. mid-level management duties/assignments;
- f. any position with responsibility for independent or semi-independent action; or
- g. delivery of service positions that demand public confidence or trust.

Approximate cost of each investigation: \$2,400

3) Low Risk (Level 1)

Positions having the potential for limited interaction with the agency or program mission, so the potential for impact on the integrity and efficiency of the service is small. This includes computer security impact on AIS.

Approximate cost of each investigation: \$550

The Contractor shall submit the investigative package(s) to DPSS within three (3) days after being advised by the DPSS of the need to submit packages. Investigative packages shall be submitted to the following address:

Centers for Medicare & Medicaid Services
Office of Operations Management
Division of Personnel Security Services (DPSS)
Mail Stop SL-17-06
7500 Security Boulevard
Baltimore, Maryland 21244-1850

The Contractor shall submit a copy of the transmittal letter to the Contracting Officer (CO).

Contractor personnel shall submit a CMS-730A (Request for Badge) to the DPSS (see attachment in Section J). The Contractor and the PO shall obtain all necessary signatures on the CMS-730A prior to any Contractor employee arriving for fingerprinting and badge processing.

The Contractor must appoint a Security Investigation Liaison as a point of contact to resolve any issues of inaccurate or incomplete form(s). Where personal information is involved, DPSS may need to contact the contractor employee directly. The Security Investigation Liaison may be required to facilitate such contact.

DPSS will fingerprint contractor personnel and send their completed investigative package to the Office of Personnel Management (OPM). OPM will conduct the background investigation. Badges will not be provided by DPSS until acceptable finger print results are received; until then the contractor employee will be considered an escorted visitor. The Contractor remains fully responsible for ensuring contract, task order or delivery order performance pending completion of background investigations of contractor personnel.

DPSS shall provide written notification to the CO with a copy to the PO of all suitability decisions. The PO shall then notify the Contractor in writing of the approval of the Contractor's employee(s), at that time the Contractor's employee(s) will receive a permanent identification badge. Contractor personnel

who the DPSS determines to be ineligible may be required to cease working on the contract immediately.

The Contractor shall report immediately in writing to DPSS with copies to the CO and the PO, any adverse information regarding any of its employees that may impact their ability to perform under this contract, task order or delivery order. Reports should be based on reliable and substantiated information, not on rumor or innuendo. The report shall include the contractor employee's name and social security number, along with the adverse information being reported.

Contractor personnel shall be provided an opportunity to explain or refute unfavorable information found in an investigation to DPSS before an adverse adjudication is made. Contractor personnel may request, in writing, a copy of their own investigative results by contacting:

Office of Personnel Management
Freedom of Information
Federal Investigations Processing Center
PO Box 618
Boyers, PA 16018-0618.

At the Agency's discretion, if an investigated contractor employee leaves the employment of the contractor, or otherwise is no longer associated with the contract, task order, or delivery order within one (1) year from the date the background investigation was initiated by CMS, then the Contractor may be required to reimburse CMS for the full cost of the investigation. Depending upon the type of background investigation conducted, the cost could be approximately \$550 to \$2,900. The amount to be paid by the Contractor shall be due and payable when the CO submits a written letter notifying the Contractor as to the cost of the investigation. The Contractor shall pay the amount due within thirty (30) days of the date of the CO's letter by check made payable to the "United States Treasury." The Contractor shall provide a copy of the CO's letter as an attachment to the check and submit both to the Office of Financial Management at the following address:

Centers for Medicare & Medicaid Services
PO Box 7520
Baltimore, Maryland 21207

The Contractor must immediately provide written notification to DPSS (with copies to the CO and the PO) of all terminations or resignations of Contractor personnel working on this contract, task order or delivery order. The Contractor must also notify DPSS (with copies to the CO and the PO) when a Contractor's employee is no longer working on this contract, task order or delivery order.

At the conclusion of the contract, task order or delivery order and at the time when a contractor employee is no longer working on the contract, task order or delivery order due to termination or resignation, all CMS-issued parking permits, identification badges, access cards, and/or keys must be promptly returned to DPSS. Contractor personnel who do not return their government-issued parking permits, identification badges, access cards, and/or keys within 48 hours of the last day of authorized access shall be permanently barred from the CMS complex and subject to fines and penalties authorized by applicable federal and State laws.

Work Performed Outside the United States and its Territories

The contractor, and its subcontractors, shall not perform any activities under this contract at a location outside of the United States, including the transmission of data or other information outside the United States, without the prior written approval of the Contracting Officer. The factors that the Contracting Officer will consider in making a decision to authorize the performance of work outside the United States include, but are not limited to the following:

1. All contract terms regarding system security
2. All contract terms regarding the confidentiality and privacy requirements for information and data protection
3. All contract terms that are otherwise relevant, including the provisions of the statement of work
4. Corporate compliance
5. All laws and regulations applicable to the performance of work outside the United States
6. The best interest of the United States

In requesting the Contracting Officer's authorization to perform work outside the United States, the contractor must demonstrate that the performance of the work outside the United States satisfies all of the above factors. If, in the Contracting Officer's judgment, the above factors are not fully satisfied, the performance of work outside the United States will not be authorized. Any approval to employ or outsource work outside of the United States must have the concurrence of the CMS DPSS Director or designee.

G.23 USE OF GOVERNMENT - DATA (REPORTS/FILES/COMPUTER TAPES or DISCS)

- A. Any data given to the Contractor by the Government shall be used only for the performance of the contract unless the Contracting Officer specifically permits another use, in writing. Should the Contracting Officer permit the Contractor the use of Government-supplied data for a purpose other than solely for performance of this contract and, if such use could result in a commercially viable product, the Contracting Officer and the Contractor must negotiate a financial benefit to the Government. This benefit should most often be in the form of a reduction in the price of the contract; however, the Contracting Officer may negotiate any other benefits he/she determines is adequate compensation for the use of these data.
- B. Upon the request of the Contracting Officer, or the expiration date of this contract, whichever shall come first, the Contractor shall return or destroy all data given to the Contractor by the Government. However, the Contracting Officer may direct that the data be retained by the Contractor for a specific period of time, which period shall be subject to agreement by the Contractor. Whether the data are to be returned, retained, or destroyed shall be the decision of the Contracting Officer with the exception that the Contractor may refuse to retain the data. The Contractor shall retain no data, copies of data, or parts thereof, in any form, when the Contracting Officer directs that the data be returned or destroyed. If the data are to be destroyed, the Contractor shall directly furnish evidence of such destruction in a form the Contracting Officer shall determine is adequate.

G.24 DATA TO BE DELIVERED

- A. Any working papers, interim reports, data given by the Government or first produced by the Contractor under the contract or collected or otherwise obtained by the Contractor under the contract, or results obtained or developed by the Contractor (subcontractor or consultants) pursuant to the fulfillment of this contract are to be delivered, documented, and formatted as directed by the Contracting Officer.
- B. In addition, information and/or data, which are held by the Contractor related to the operation of their business and/or institution and which are obtained without the use of Federal funds, shall be considered "PROPRIETARY DATA" and are not subject data to be delivered under this contract.

G.25 DISSEMINATION, PUBLICATION AND DISTRIBUTION OF INFORMATION

- A. Data and information either provided to the Contractor, or to any subcontractor or generated by activities under this contract or derived from research or studies supported by this contract, shall be used only for the purposes of the contract. It shall not be duplicated, used or disclosed for any purpose other than the fulfillment of the requirements set forth in this contract. This restriction does not limit the Contractor's right to use data or information obtained from a non-restrictive source. Any questions concerning "privileged information" shall be referred to the Contracting Officer.
- B. Some data or information may require special consideration with regard to the timing of its disclosure so that preliminary findings, which could create erroneous conclusions, are not stimulated. Also, some data or information, which relate to policy matters under consideration by the Government, may also require special consideration with regard to the timing of its disclosure so that the open and vigorous debate, within the government, of possible policy options is not damaged.
- C. Any questions about use or release of the data or information or handling of material under this contract shall be referred to the Contracting Officer who must render a written determination. The Contracting Officer's determinations will reflect the results of internal coordination with appropriate program and legal officials.
- D. Written advance notice of at least forty-five (45) days shall be provided to the Contracting Officer of the Contractor's desire to release findings of studies or research or data or information described above. If the Contractor disagrees with the Contracting Officer's determinations, and if the Contractor and the Contracting Officer cannot settle this disagreement in a mutually satisfactory manner, then the issue will be settled pursuant to the Disputes clause.
- E. Any presentation of any report, statistical or analytical material based on information obtained from this contract shall be subject to review by the PO/BFL before dissemination, publication, or distribution. Presentation includes, but is not limited to, papers, articles, professional publications, speeches, testimony or interviews with public print or broadcast media. This does not apply to information that would be available under the Federal Freedom of Information Act.

- F. The PO/BFL review shall cover accuracy, content, manner of presentation of the information, and also the protection of the privacy of individuals. If the review finds that the Privacy Act is or may be violated, the release/use of the presentation shall be denied until the offending materials is removed or until the Contracting Officer makes a formal determination, in writing, that the privacy of individuals is not being violated.
- G. If the review shows that the accuracy, content, or manner of presentation is not correct or is inappropriate in the light of the purpose of the project, the PO/BFL shall immediately inform the Contractor, in writing, of the nature of the problem. If the Contractor disagrees, the PO/BFL may insist that the presentation contain, in a manner of equal importance, materials which show the government's problem with the presentation.
- H. The Contractor agrees to acknowledge support by CMS whenever reports of projects funding, in whole or in part, by this contract are published in any medium. The Contractor shall include in any publication resulting from work under this contract, an acknowledgment substantially, as follows:

“The analyses upon which this publication is based were performed under Contract Number [], entitled, [], sponsored by the Centers for Medicare & Medicaid Services, Department of Health and Human Services.”

NOTE: The Contracting Officer shall approve any deviation from the above legend, in writing.

G.26 WORKING PAPERS

The Contractor shall provide, at the request of the Contracting Officer, all the working papers used by the participating officials and employees of the Contractor in connection with this project.

G.27 eSRS REPORTING

The Contractor shall report all subcontract awards to small, small disadvantaged, women-owned, HUBZones, veteran-owned and service-disabled veteran-owned small business concerns. The reports shall be prepared using the electronic Subcontracting Reporting System (eSRS) via the internet at <http://www.esrs.gov>. The Individual Subcontracting Report (ISR), formerly SF 294, shall be submitted semi-annually for the periods of October 1 through March 31 and April 1 through September 30. The Summary Subcontracting Report (SSR), formerly, SF 295 shall be submitted annually for the period of October 1 through September 30.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1. CONDITIONS FOR PERFORMANCE

In addition to the performance requirements as set forth under Section C, SOW, the Contractor is required to comply with the requirements of any revisions in legislation or regulations which may be enacted or implemented during the contract term as they are directly applicable to the performance requirements. Such requirements shall become a part of this contract effort only through the Contracting Officer's execution of a modification to the contract. The Contracting Officer shall afford the Contractor an opportunity to consult and participate in negotiations which may be necessary to effect the contract modification.

H.2. ORGANIZATIONAL CONFLICT OF INTEREST

- a. General: It is essential that the Contractor and the services provided to Medicare beneficiaries and other Center's for Medicare & Medicaid Services (CMS) constituents under this contract be free, to the greatest extent possible, of all conflicts of interest. Except as provided below, the Contracting Officer shall not enter into a contract with an Offeror or maintain a contract with a Contractor that the Contracting Officer determines has, or has the potential for, an unresolved conflict of interest.
- b. Disclosure: Contractors must disclose all actual, apparent and potential conflicts of interest to the Contracting Officer during the term of the contract in accordance with paragraph H.4.c. below. The Contractor shall have programs in place to identify, evaluate and mitigate all actual, apparent and potential conflicts of interest that preclude, or would appear to preclude, the Contractor from rendering impartial assistance or advice on work performed for this contract, or the Contractor's objectivity in performing the contract work is or might be otherwise impaired, or the Contractor has or obtains an unfair competitive advantage. The Contractor's Organizational Conflict of Interest Certificate, that includes the Contractor's plan to mitigate all actual, apparent and potential conflicts of interest identified during the term of the contract and certification that all work to be performed under this contract is free of unresolved conflicts of interest will be incorporated into the contract after award.
- c. Conflict of interest identification:
 1. Definitions: As used in this subpart, the following definitions apply:
 - (a) Financial relationship means—
 - (1) A direct or indirect ownership or investment interest (including an option or nonvested interest) in any entity that exists through equity, debt, or other means and includes any indirect ownership or investment interest no matter how many levels removed from a direct interest; or
 - (2) A compensation arrangement with an entity.
 - (b) Conflict of interest—

Conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice

to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

For purposes of the Business Program Operations Contractor (BPOC) contract, the activities and relationships described include those of the Offeror or Contractor itself and other business related to it and those of officers, directors (including medical directors), managers, and subcontractors.

(c) Affiliate –

Affiliate means associated business concerns or individuals if, either directly or indirectly—

- (1) One controls or can control the other; or,
- (2) A third party controls or can control both.

For purposes of this contract, affiliate control or influence includes, but is not limited to:

- interlocking management or ownership;
- identity of interests among family members;
- shared facilities and equipment;
- common use of employees; or,
- a business concern organized just prior to or immediately following, the release of a solicitation or request for information, which has the same or similar management, ownership, or principal employees as the offeror or contractor.

Any business concern may be found to be an affiliate, whether or not it is organized for profit or located in the United States or its outlying areas. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

2. Identification of conflict:

(a) The Contracting Officer determines that an Offeror or Contractor has a conflict of interest, or the potential for the conflict exists, if-

- (1) The Offeror or Contractor is an entity described in paragraph H.2.c.2.c of this section; or
- (2) The Offeror or Contractor has a present, or establishes a future, direct or indirect financial relationship with an entity described in paragraph H.2.c.2.c of this section.

(b) A financial relationship may exist either—

- (1) Through an Offeror's or Contractor's parent company, subsidiaries, affiliates, subcontractors, or current clients; or

- (2) From the activities and relationships of the officers, directors (including medical directors), or managers of the Offeror or Contractor and may be either direct or indirect. An officer, director, or manager has an indirect financial relationship if an ownership or investment interest is held in the name of another but provides benefits to the officer, director, or manager.

Examples of indirect financial relationships are, but are not limited to, holdings in the name of a spouse or dependent child of the officer, director, or manager and holdings of other relatives who reside with the officer, director, or manager.

- (c) For the purpose of identifying entities with conflicts of interest above, the entity is one that is engaged in or is affiliated, as that term is defined in H.2.c.1 above, with the –

- (1) Organization that provides group health, no-fault, or workers compensation insurance.
- (2) Organization that is associated to the prime contractor or subcontractor of the MSPIC (Integration Contractor); and,
- (3) Organization that is associated to the prime contractor or subcontractor of the MSP RACs (MSP GHP RAC and MSP ORM RAC).

- (d) The Contracting Officer may determine that an Offeror or Contractor has a conflict of interest, or the potential for a conflict exists, based on the following:

- (1) Apparent conflicts of interest. An apparent conflict of interest exists if a person believes that the Offeror or Contractor would have a conflict of interest in performing the requirements of a contract under this subpart. No inappropriate action by the Offeror or Contractor is necessary for an apparent conflict of interest to exist.
- (2) Other contracts and grants with the Federal Government.

3. Exception. The Contracting Officer may contract with an Offeror or Contractor that has an unresolved conflict of interest if the Contracting Officer determines that it is in the best interest of the Government to do so.
4. Offeror's or Contractor's responsibility with regard to subcontractors. An Offeror or Contractor is responsible for determining whether a conflict of interest exists in any of its proposed or actual subcontractors at any tier and is responsible for ensuring that the subcontractors have mitigated any conflict of interest or potential conflict of interest. The Contracting Officer shall be notified of such identifications for a determination in accordance with H.4.b.

A Contractor shall maintain documentation necessary to support its determination that its subcontractors have mitigated any conflict or potential conflict. A Contractor may require its subcontractors to follow the procedures for identifying, evaluating and disclosing conflicts of interest and potential conflicts of interest as contained herein.

5. Post-award conflicts of interest.

- (a) In addition to the conflicts identified in this section regardless of when such conflict may arise, the Contracting Officer considers that a conflict of interest has occurred if during the term of the contract—
 - (1) The Contractor receives any fee, compensation, gift, payment of expenses, or any other thing of value from any entity that is reviewed or contacted during the normal course of performing activities under the BPOC contract; or
 - (2) The Contracting Officer determines that the Contractor's activities are creating a conflict of interest.
 - (b) In the event the Contracting Officer determines that a conflict of interest exists during the term of the contract, the Contracting Officer may take action including, but not limited to:
 - (1) Not renewing the contract for an additional term;
 - (2) Modifying the contract; or
 - (3) Terminating the contract.
- d. Conflict of interest evaluation:
- 1. Disclosure. Offerors that wish to be eligible for the award of the BPOC contract under this subpart and the BPOC contractor, must submit, at times specified in paragraph H.2.d.2. of this section, an Organizational Conflicts of Interest Certificate. The Certificate must contain the information specified in paragraphs H.2.d.1 (a) through (h) of this section as follows:
 - (a) A description of all business or contractual relationships or activities that the Contractor's compliance officer has determined could be viewed as a conflict of interest.
 - (b) A description of the methods the Offeror or Contractor will apply to mitigate any situations listed in the Certificate that could be identified as a conflict of interest.
 - (c) A description of the Offeror's or Contractor's program to monitor its compliance and the compliance of its proposed and actual subcontractors with the conflict of interest requirements as identified in the relevant solicitation.
 - (d) A description of the Offeror's or Contractor's plans to contract with an independent auditor to conduct an annual conflict of interest audit.
 - (e) A description of all healthcare related contracts both government (local, state or federal) and nongovernment to include contracts with CMS and other government health care agencies held by the Contractor, its parent company, subsidiaries or other affiliated entities.
 - (f) An affirmation, using language provided below, signed and dated by an official authorized to bind the Contractor:

I, (Name and Title), certify that to the best of my knowledge and belief: 1) I am an official authorized to bind the entity; 2) the information contained in the Organizational Conflict of Interest Certificate is true and accurate as of (Date); and 3) I understand that the Contracting Officer may consider any deception or omission in this Certificate to be grounds for non-consideration for contract award, modification or nonrenewal or termination of the current contract, and/or other contract or legal action.

An Offeror shall submit an affirmation certifying the information to be true and accurate as of the date the proposal is submitted. Upon award, the Contractor shall submit an updated affirmation, if necessary, certifying the information to be accurate as of the date of contract award.

(g) Corporate and organizational structure.

(h) Financial interests in other entities, including the following:

- (1) Percentage of ownership in any other entity.
- (2) Income generated from other sources.
- (3) A list of current or known future contracts or arrangements, regardless of size, with any--
 - (i) Insurance organization or subcontractor of an insurance organization; or
 - (ii) Providers or suppliers furnishing health services for which payment may be made under Medicare and other CMS programs.
- (4) In the case of contracts or arrangements identified in accordance with paragraph H.2.3.d.1 (h) (3) of this section, the dollar amount of the contracts or arrangements, the type of work performed, and the period of performance.
 - (i) The following information for all of the Offeror's or Contractor's officers, directors (including medical directors), and managers who would be, or are involved with, the performance of this BPOC contract:
 - (1) The information required under paragraphs H.2.d.1 (a), H.2.d.1 (h) (3) and (4) of this section.
 - (2) The information specified in paragraphs H.2.d.1 (h) (1) and (2) of this section.

2. When disclosure is made. The Organizational Conflict of Interest Certificate is submitted—

- (a) With the Offeror's proposal;
- (b) When the Contracting Officer requests a revision in the Certificate;
- (c) Within 45 days of any change in the information submitted in accordance with paragraph H.2.d.1 of this section.
- (d) As part of the annual conflict of interest certification by an independent auditor. The first annual certification shall be submitted on the anniversary date that the contract became fully operational and annually thereafter.

3. Evaluation. The Contracting Officer evaluates conflicts of interest and potential conflicts, using the information provided in the Conflicts of Interest Certificate, and information from other sources in order to promote the effective and efficient administration of the Medicare program.

For each conflict identified, the Contracting Officer will evaluate the plan proposed to mitigate the conflict to determine if the mitigation plan will allow the Contractor to render impartial assistance or advice to the Government; or the Contractor's objectivity in performing the contract work is not or will not be otherwise impaired; or the Contractor will not or has not obtained an unfair competitive advantage.

4. Protection of proprietary information disclosed.

- (a) CMS protects disclosed proprietary information as allowed under the Freedom of Information Act (5 U.S.C. 552).
- (b) The Contracting Officer requires signed statements from CMS personnel with access to proprietary information that prohibits personal use during the procurement process and term of the contract.

e. Conflict of Interest Resolution: Resolution of a conflict of interest is a determination that:

- (1) The conflict has been mitigated;
- (2) The conflict precludes award of a contract to the Offeror;
- (3) The conflict requires that the Contracting Officer modify an existing contract;
- (4) The conflict requires that the Contracting Officer terminate an existing contract; or
- (5) It is in the best interest of the Government to contract with the Offeror or Contractor even though the conflict exists.

f. Annual Conflict of Interest Compliance Audit

- 1. Overview: The Contractor shall submit an Organizational Conflict of Interest (COI) Certificate to the Contracting Officer annually on **March 31st** of each year (annual COI certificate). An annual COI compliance audit shall be performed by the Government for the period July 1st through March 31st each year. If a conflict(s) of interest exist(s) which are either not disclosed/mitigated or any other change is required in the annual COI Certificate submitted on **March 31st**, the Contractor shall be notified and required to submit:
 - (a) Clarification on the audit findings; and/or
 - (b) A revised Organizational COI Certificate to the Contracting Officer by July 15th.

H.3. CONTRACT VIOLATIONS OR INTEGRITY ISSUES

The Contractor shall disclose to CMS whenever a known, probable or suspected violation of law or rule, or violation of a contract term or provision, is discovered. Disclosures to CMS must be in accordance with the procedures set forth below.

Incidents requiring disclosure to CMS under this provision means a situation, act, or failure to act involving the following:

- (1) a matter that a reasonable person would consider a violation of criminal, civil or administrative laws applicable to any Medicare contract or Federal health care program; or
- (2) integrity violations, including any known, probable or suspected violation of any Medicare contract term or provision. An incident requiring disclosure to CMS may be the result of an isolated event or a series of occurrences. Incidents that are subject to disclosure to CMS under these procedures include any situation, act or failure to act that occurs at the Contractor or any of its subcontractors, consultants, vendors or agents.

If a Contractor discovers, through any means, a known, probable or suspected incident requiring disclosure to CMS, the Contractor must provide to CMS a written disclosure within 30 days of discovering the incident. Within 45 days of the date of the initial disclosure, the Contractor must provide to CMS a written final investigative disclosure on the incident. If a Contractor is unable to complete its investigation within this 45-day period, the Contractor must provide to CMS a written request for an extension of time to complete its investigation and submit its final disclosure. The request for an extension of time must specify the reasons for the request.

The written disclosure must include the following information:

- (1) If the incident is the result of a probable or possible violation of criminal, civil or administrative law or a violation of a contract term or provision, the disclosure must describe the incident with as much specificity as possible, including the following:
 - (i) The law, regulation or contract term implicated.
 - (ii) The persons involved and the department(s) within the Contractor operation that is (are) affected.
 - (iii) The time period of the incident.
 - (iv) A determination as to whether the incident has affected, or is affecting performance under the contract.
 - (v) Any corrective action taken, or intended to be taken, by the Contractor.
- (2) If the incident results in an overpayment, relating to either Trust Fund payments or administrative costs, the disclosure must describe the overpayment with as much specificity as possible as of the time of the due date for the submission of the disclosure, including the following:
 - (i) The amount of the overpayment. If the overpayment has not yet been quantified, the Contractor must provide its best estimate of the amount of the overpayment.
 - (ii) The nature of the overpayment and the reason for the overpayment.
 - (iii) The time period of the overpayment.
 - (iv) Any corrective action taken, or intended to be taken, by the Contractor.
 - (v) Repayment of the overpayment, which must be done in accordance with CMS policies and procedures.

The final written disclosure must include the following information:

- (1) The disclosure must address all the required information for the initial written disclosure, as described above.
- (2) A statement as to whether the Contractor considered changing any policies and procedures or retraining of employees to prevent the recurrence of this or other similar incidents. If policies and procedures were changed, or retraining occurred, or will occur, the Contractor must describe the changes and/or the training that has been done or will be done in the future.

- (3) A corrective action plan prepared in accordance with CMS policies and procedures.
- (4) A statement that the Contractor's internal investigative file on the incident is available to CMS for audit, inspection or reproduction.
- (5) The name(s) of the person(s) who conducted the investigation.

Both the initial and final disclosures shall be submitted to the CMS Contracting Officer and the CMS Compliance Office of the Office of Acquisition and Grants Management.

H.4 COMPLIANCE PROGRAM

The Contractor shall have in place a CMS approved Compliance Program Plan. The Compliance Program Plan shall cover the terms and conditions of the contract and shall describe in detail the processes and procedures that the Contractor will follow to ensure that the Contractor any of its subcontractors is in compliance with all appropriate statutes, regulations and BPOC contractual requirements. In addition, the Compliance Program Plan shall address how the Contractor will ensure compliance with its program. If changes to the Compliance Program Plan occur, the Contractor shall update and submit the changes within 45 days to the Contracting Officer for review approval.

The Compliance Program Plan shall include the following, at a minimum (if items below are contained in the Conflict of Interest Program submission, they do not need to be duplicated in the Compliance Program but referenced where applicable):

- (a) Written compliance policies and procedures;
- (b) Position descriptions for the Compliance Officer and other members of the Compliance Department;
- (c) Code of Conduct;
- (d) Compliance training materials used or developed in the last year;
- (e) Names and positions of the Board of Directors and/or Compliance Committee members charged with oversight of the compliance program;
- (f) Charters for the Board and/or Executive Compliance Committees;
- (g) Conflict of interest questionnaire(s) (blank) that are completed by employees, managers, officers and Board members;
- (h) Risk assessment protocol(s) developed by the Compliance Department; and
- (i) Internal audit plan.

Note to Offerors: Failure to submit the required documentation above may deem the Offeror's proposal to be non-responsive to this solicitation.

H.5. GENERAL MAILING REQUIREMENTS

The Contractor shall submit all contract deliverables, reports, general correspondence...etc, through the process identified in Section F.2. Hard copy (non-electronic mail) contract products shall be submitted utilizing the most cost efficient method (e.g., regular mail, 1st class mail, etc.). The Contractor shall not submit items such as ongoing monthly reports, annual subcontracting reports, etc., by overnight/priority type service. Items such as these shall be submitted utilizing the most cost efficient means. Contractors will be required to demonstrate the cost reasonableness of utilizing overnight mail for contract products other than those authorized.

H.6. HIPAA BUSINESS ASSOCIATE PROVISION

Definitions

All terms used herein and not otherwise defined shall have the same meaning as in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA," 42 U.S.C. sec. 1320d) and the corresponding implementing regulations. Provisions governing the Contractor's duties and obligations under the Privacy Act (including data use agreements) are covered elsewhere in the contract.

"Business Associate" shall mean the Contractor.

"Covered Entity" shall mean CMS's Medicare fee-for-service program and/or Medicare's Prescription Drug Discount Care and Transitional Assistance Programs.

"Secretary" shall mean the Secretary of the Department of Health and Human Services or the Secretary's designee.

Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or disclose Protected Health Information ("PHI"), as defined in 45 C.F.R. § 160.103, created or received by Business Associate from or on behalf of Covered Entity other than as permitted or required by this Contract or as required by law.
- (b) Business Associate agrees to use safeguards to prevent use or disclosure of PHI created or received by Business Associate from or on behalf of Covered Entity other than as provided for by this Contract. Furthermore, Business Associate agrees to use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information ("E PHI"), as defined in 45 C.F.R. 160.103, it creates, receives, maintains or transmits on behalf of the Covered Entity to prevent use or disclosure of such E PHI.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Contract.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure involving PHI it receives/maintains from/on behalf of the Covered Entity that is not provided for by this Contract of which it becomes aware. Furthermore, Business Associate agrees to report to Covered Entity any security incident involving E PHI of which it becomes aware.

- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Contract to Business Associate with respect to such information. Furthermore, Business Associate agrees to ensure that its agents and subcontractors implement reasonable and appropriate safeguards for the PHI received from or on behalf of the Business Associate.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, to PHI received by Business Associate in the course of contract performance, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
- (g) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 upon request of Covered Entity.
- (h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to Covered Entity, or to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the various rules implementing the HIPAA.
- (i) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.
- (j) Business Associate agrees to provide to Covered Entity, or an individual identified by the Covered Entity, information collected under this Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Contract, Business Associate may use or disclose PHI on behalf of, or to provide services to, Covered Entity for purposes of the performance of this Contract, if such use or disclosure of PHI would not violate the HIPAA Privacy or Security Rules if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

Obligations of Covered Entity

- (a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy or Security Rules.

Term of Provision

- (a) The term of this Provision shall be effective as of the effective date of the contract, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach or end the violation consistent with the termination terms of this Contract. Covered Entity may terminate this Contract for default if the Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or
 - (2) Consistent with the terms of this Contract, terminate this Contract for default if Business Associate has breached a material term of this Contract and cure is not possible; or
 - (3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (c) Effect of Termination.
 - (1) Except as provided in paragraph (2) of this Section, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon such notice that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Contract to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

Miscellaneous

- (a) A reference in this Contract to a Section in the Rules issued under HIPAA means the section as in effect or as amended.
- (b) The Parties agree to take such action as is necessary to amend this Contract from time to time as is necessary for Covered Entity to comply with the requirements of the Rules issued under HIPAA.
- (c) The respective rights and obligations of Business Associate under paragraph (c) of the Section entitled "term of Provision" shall survive the termination of this Contract.
- (d) Any ambiguity in this Contract shall be resolved to permit Covered Entity to comply with the Rules implemented under HIPAA.

H.7. SECTION 508 ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY

- A. This contract is subject to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended by the Work Force Investment Act of 1998 (P.L. 105-220). Specifically, subsection 508(a)(1) requires that when the Federal Government procures Electronic and Information Technology (EIT), the EIT must allow Federal employees and individuals of the public with disabilities comparable access to and use of information and data that is provided to Federal employees and individuals of the public without disabilities.
- B. The EIT accessibility standards at 36 CFR Part 1194 were developed by the Architectural and Transportation Barriers Compliance Board ("Access Board") and apply to contracts and task/delivery orders awarded under indefinite quantity contracts on or after June 25, 2001.
- C. Each EIT product or service furnished under this contract shall comply with the Electronic and Information Technology Accessibility Standards (36 CFR 1194), as specified in the contract, as a minimum. If the Contracting Officer determines any furnished product or service is not in compliance with the contract, the Contracting Officer will promptly inform the Contractor in writing. The Contractor shall, without charge to the Government, repair or replace the non-compliant products or services within the period of time to be specified by the Government in writing. If such repair or replacement is not completed within the time specified, the Government shall have the following recourses:
 - 1. Cancellation of the contract, delivery or task order, purchase or line item without termination liabilities; or
 - 2. In the case of custom EIT being developed by a Contractor for the Government, the Government shall have the right to have any necessary changes made or repairs performed by itself or by another firm for the noncompliant EIT, with the Contractor liable for reimbursement to the Government for any expenses incurred thereby.
- D. The Contractor must ensure that all EIT products that are less than fully compliant with the accessibility standards are provided pursuant to extensive market research and are the most current compliant products or services available to satisfy the contract requirements.

E. For every EIT product or service accepted under this contract by the Government that does not comply with 36 CFR 1194, the Contractor shall, at the discretion of the Government, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, on either a contract specified refresh cycle for the product or service, or on a contract effective option/renewal date; whichever shall occur first.

H.8. REHABILITATION ACT, SECTION 508, ACCESSIBILITY STANDARDS

The Contractor shall comply with the Rehabilitation Act, Section 508, Accessibility Standards as referenced below.

Federal Government Standards

Rehabilitation Act, Section 508, Accessibility Standards

29 U.S.C. 794d (Rehabilitation Act as amended)

36 CFR 1194 (508 standards)

508 Standards: <http://www.access-board.gov/sec508/standards.htm>

Guide to Standards: <http://www.access-board.gov/sec508/guide/index.htm>

508 guide: http://cmsnet.cms.hhs.gov/hpages/cmm/dmsd/508Ref_Guide.doc

H.9. PRIVACY ACT (JAN 2006)

This contract requires the Contractor to perform one or more of the following: (a) Design; (b) develop; or (c) operate a Federal agency system of records to accomplish an agency function in accordance with the Privacy Act of 1974 (Act)

(5 U.S.C. 552a (m) (1)) and applicable agency regulations. The term “system of records” means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Violations of the Act by the Contractor and/or its employees may result in the imposition of criminal penalties (5 U.S.C. 552a (i)). The Contractor shall ensure that each of its employees knows the prescribed rules of conduct and that each employee is aware that he/she is subject to criminal penalties for violation of the Act to the same extent as HHS employees. These provisions also apply to all subcontracts awarded under this contract which require the design, development or operation of the designated system(s) of records (5 U.S.C. 552a (m) (1)). The contract work statement: (a) identifies the system(s) of records and the design, development, or operation work to be performed by the Contractor; and (b) specifies the disposition to be made of such records upon completion of contract performance.

H.10. FEDERAL INFORMATION SECURITY MANAGEMENT ACT (FISMA)

This clause applies to all organizations possessing or using Federal information, or who operate, use or have access to Federal information systems (whether automated or manual), on behalf of CMS.

Technical oversight responsibilities relating to this clause may be delegated to the Contracting Officer’s Technical Representative and other CMS personnel. For purposes of this clause, the term “authorized representative” may include an HHS or CMS contractor whose statement of work requires the contractor to test, review, or audit the information systems security compliance of Medicare Administrative Contractors.

The central tenet of the CMS Information Security (IS) Program is that all CMS information and information systems shall be protected from unauthorized access, disclosure, duplication, modification, diversion, destruction, loss, misuse, or theft—whether accidental or intentional. The security safeguards

to provide this protection shall be risk-based and business-driven with implementation achieved through a multi-layered security structure. All information access shall be limited based on a least-privilege approach and a need-to-know basis, i.e., authorized user access is only to information necessary in the performance of required tasks. Most of CMS' information relates to the health care provided to the nation's Medicare and Medicaid beneficiaries, and as such, has access restrictions as required under legislative and regulatory mandates.

The CMS IS Program has a two-fold purpose:

To enable CMS' business processes to function in an environment with commensurate security protections, and

To meet the security requirements of federal laws, regulations, and directives.

The principal legislation for the CMS IS Program is Public Law (P.L.) 107-347, Title III, Federal Information Security Management Act of 2002 (FISMA), <http://csrc.nist.gov/drivers/documents/FISMA-final.pdf>. FISMA places responsibility and accountability for IS at all levels within federal agencies as well as those entities acting on their behalf. FISMA directs Office of Management and Budget (OMB) through the Department of Commerce, National Institute of Standards and Technology (NIST), to establish the standards and guidelines for federal agencies in implementing FISMA and managing cost-effective programs to protect their information and information systems. As a contractor acting on behalf of CMS, this legislation requires that **the Contractor shall:**

Establish senior management level responsibility for IS,

Define key IS roles and responsibilities within their organization,

Comply with a minimum set of controls established for protecting all Federal information, and

Act in accordance with CMS reporting rules and procedures for IS.

Additionally, the following laws, regulations and directives and any revisions or replacements of same have IS implications and are applicable to all CMS contractors.

P.L. 93-579, The Privacy Act of 1974, <http://www.usdoj.gov/oip/privstat.htm> , (as amended);

P.L. 99-474, Computer Fraud & Abuse Act of 1986, www.usdoj.gov/criminal/cybercrime/ccmanual/01ccma.pdf P.L. 104-13, Paperwork Reduction Act of 1978, as amended in 1995, U.S. Code 44 Chapter 35, www.archives.gov/federal-register/laws/paperwork-reduction;

P.L. 104-208, Clinger-Cohen Act of 1996 (formerly known as the Information Technology Management Reform Act), http://www.cio.gov/Documents/it_management_reform_act_Feb_1996.html;

P.L. 104-191, Health Insurance Portability and Accountability Act of 1996 (formerly known as the Kennedy-Kassenbaum Act) <http://aspe.hhs.gov/admsimp/pl104191.htm>;

OMB Circular No. A-123, Management's Responsibility for Internal Control, December 21, 2004, http://www.whitehouse.gov/omb/circulars/a123/a123_rev.html;

OMB Circular A-130, Management of Federal Information Resources, Transmittal 4, November 30, 2000, <http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html>;

NIST standards and guidance, <http://csrc.nist.gov/>; and,

OMB Memorandum M-07-16,
<http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>; and,

Department of Health and Human Services (DHHS) regulations, policies, standards and guidance
<http://www.hhs.gov/policies/index.html>

These laws and regulations provide the structure for CMS to implement and manage a cost-effective IS program to protect its information and information systems. Therefore, the Contractor shall monitor and adhere to all IT policies, standards, procedures, directives, templates, and guidelines that govern the CMS IS Program, <http://www.cms.hhs.gov/informationsecurity> and the CMS System Lifecycle Framework, <http://www.cms.hhs.gov/SystemLifecycleFramework>.

Contractors must follow NIST standards and guidelines unless otherwise stated by OMB. For legacy information systems, agencies are expected to be in compliance with NIST standards and guidelines within one year of the publication date unless otherwise directed by OMB. The one year compliance date for revisions to NIST publications applies only to the new and/or updated material in the publications. For information systems under development or for legacy systems undergoing significant changes, agencies are expected to be in compliance with the NIST publications immediately upon deployment of the information system.

Contractors are also required to comply with Federal Information Processing Standards (FIPS), the "Special Publications 800 series" guidelines published by NIST, and the requirements of FISMA.

- 1) Homeland Security Presidential Directive (HSPD-12), "Policy for a Common Identification Standard for Federal Employees and Contractors", August 27, 2004..
- 2) OMB Memorandum M-04-04, "E-Authentication Guidance for Federal Agencies."
- 3) FIPS PUB 199, "Standards for Security Categorization of Federal Information and Information Systems."
- 4) FIPS PUB 200, "Minimum Security Requirements for Federal Information and Information Systems."
- 5) FIPS PUB 140-2, "Security Requirements for Cryptographic Modules."
- 6) NIST Special Publication 800-18 Rev 1, "Guide for Developing Security Plans for Federal Information Systems."
- 7) NIST Special Publication 800-30, "Risk Management Guide for Information Technology Security Risk Assessment Procedures for Information Technology Systems."
- 8) NIST Special Publication 800-34, "Contingency Planning Guide for Information Technology Systems."
- 9) NIST Special Publication 800-37, Revision 1, "Guide for Applying the Risk Management Framework to Federal Information Systems."

- 10) NIST Special Publication 800-39, "Managing Information Security Risk: Organization, Mission, and Information System View,"
- 11) NIST Special Publication 800-47, "Security Guide for Interconnecting Information Technology Systems."
- 12) NIST Special Publication 800-53 Revision 3, "Recommended Security Controls for Federal Information Systems."
- 13) NIST Special Publication 800-53A, "Guide for Assessing the Security Controls in Federal Information Systems."
- 14) NIST Special Publication 800-63, "Electronic Authentication Guidance,"
- 15) NIST Special Publication 800-88, "Guidelines for Media Sanitization."

While contractors are required to follow NIST standards and guidelines in accordance with OMB policy, there is flexibility within NIST's guidelines (specifically in the 800-series) in how agencies apply them. However, NIST Federal Information Processing Standards (FIPS) publications are mandatory. Unless specified by additional implementing policy by OMB, NIST guidelines generally allow agencies latitude in their application. Consequently, the application of NIST guidelines by contractors can result in different security solutions that are equally acceptable and compliant with the guidelines.

The Contractor shall comply with the CMS IS Program requirements by performing, but not limited to, the following:

- 1) Implement their own IS program that adheres to CMS IS policies, standards, procedures, and guidelines, as well as industry best practices;
- 2) Participate and fully cooperate with CMS IS audits, reviews, evaluations, tests, and assessments of contractor systems, processes, and facilities;
- 3) Provide upon request results from any other audits, reviews, evaluations, tests and/or assessments that involve CMS information or information systems;
- 4) Report and process corrective actions for all findings, regardless of the source, in accordance with CMS procedures;
- 5) Document its compliance with CMS security requirements and maintain such documentation in the systems security profile;
- 6) Prepare and submit in accordance with CMS procedures, an incident report to CMS of any suspected or confirmed incidents that may impact CMS information or information systems; and
- 7) Participate in CMS IT information conferences as directed by CMS.

If the contractor believes that an updated IS-related requirement posted to the CMS website may result in a significant cost impact, the contractor may submit a request for equitable cost adjustment before implementing change. Additionally, the contractor shall have the capability to provide the following:

Asset Management: upon request by the government or authorized representative, the contractor shall use any available automated tools to provide an inventory of all information technology (IT) assets, (computers, servers, routers, etc...) that are processing government owned information/data. It is anticipated that this inventory information will be required to be produced at least quarterly. The contractor shall be capable of providing detailed IT asset inventory information, to include IP address, machine name, operating system level, and security patch level. When requested by the government, the contractor shall provide the results of the IT inventory accountability using automated tools to the government within 48 hours. If the contractor is currently not capable of providing an inventory of all IT assets using automated tools, the contractor shall provide the percentage of IT assets that this inventory information can currently be provided for using automated tools. The contractor shall work towards ultimately maintaining a capability to provide an inventory of 100% of its IT assets using automated tools.

Configuration Management: upon request by the government or authorized representative, the contractor shall use available automated tools to provide visibility into the security configuration compliance status of all information technology (IT) assets, (computers, servers, routers, etc...) that are processing government owned information/data. Compliance will be measured using IT asset and system security configuration guidance provided by the government, for a number of specific IT assets. The automated tools will compare the installed configuration to the government specific security configuration guidance. It is anticipated that this IT asset security configuration information will be required to be produced at least quarterly. When requested by the government, the contractor shall provide the results of the IT asset security configuration compliance status using automated tools to the government within 48 hours. If the contractor is currently not capable of providing security configuration compliance details for the specified IT assets using automated tools, the contractor shall provide the percentage of IT assets that this security configuration compliance information can currently be provided for using automated tools. The contractor shall work towards ultimately maintaining a capability to provide security configuration compliance information for 100% of IT assets using automated tools.

Vulnerability Management: upon request by the government or authorized representative, the contractor shall use automated tools to detect any security vulnerabilities in all information technology (IT) assets, (computers, servers, routers, etc...) that are processing government owned information/data. It is anticipated that this IT asset security vulnerability information will be required to be produced at least quarterly. When requested by the government, the contractor shall provide the results of the IT asset security vulnerability scans using automated tools to the government within 48 hours. If the contractor is currently not capable of providing security vulnerability scanning results for IT assets using automated tools, the contractor shall provide the percentage of IT assets that this security vulnerability scanning information can currently be provided for using automated tools. The contractor shall work towards ultimately maintaining a capability to provide security vulnerability scanning information for 100% of IT assets using automated tools.

Data Protection: Current federal government security guidance requires that sensitive government information that is stored on laptops and other portable computing and storage devices shall be encrypted using FIPS140-2 validated encryption. Upon request by the government, the contractor shall provide the percentage of portable IT assets that are equipped with FIPS 140-2 validated encryption, to encrypt all sensitive government information.

Remote Access: Current federal government security guidance requires that two factor authentication be utilized when remotely accessing sensitive government owned information/data on IT systems (both government owned, and contractor owned systems). Additional federal government security guidance when remotely accessing government owned information/data include the following: connections shall utilize FIPS140-2 validated encryption; connections shall be capable of assessing and correcting system

configurations upon connection; connections shall be capable of scanning for viruses and malware upon connection; connections shall prohibit split tunneling; and connections shall require timeout after 15 minutes of inactivity. Upon request by the government (each quarter), the contractor shall provide the following information about the contractor's remote access solutions to government owned sensitive information/data: percentage of current connections that allow connection using only a password; percentage of connections that require the use of a government provided personal identity verification (PIV) card as part of a two factor solution; percentage of connections that require the use of other two factor authentication solutions; percentage of connections that utilize 140-2 encryption; percentage of connections that assess and correct system configurations upon connection; percentage of connections that scan for viruses and malware upon connection; percentage of connections that prohibit split tunneling; and percentage of connections that require timeout after 15 minutes of inactivity

Incident Management: upon direction from the government or authorized representative, the contractor shall install critical security patches or take other security remediation action as directed to federal agencies by the Department of Homeland Security (DHS) to resolve weaknesses in systems processing government owned information/data. The contractor shall report status and when the directed action has been completed. It is anticipated that this type of urgent security remediation action may be necessary.

End of Section H

PART II

SECTION I - CONTRACT CLAUSES

I.1. CONTRACT CLAUSES

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 address:

<https://www.acquisition.gov/comp/far/index.html>

A. Federal Acquisition Regulations (FAR) (48 CFR Chapter 1) Contract Clauses

<u>Clause No.</u>	<u>Title and Date</u>
52.202-1	Definitions (JUL 2004) (See I.1.C. Authorized Deviation)
52.203-3	Gratuities ((APR 1984)
52.203-5	Covenant Against Contingent Fees (APR 1984)
52.203-6	Restrictions on Subcontractor Sales to the Government (SEPT 2006)
52.203-7	Anti-Kickback Procedures (OCT 2010)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal Or Improper Activity (JAN 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)
52.203-14	Display of Hotline Poster(s) (DEC 2007)
52.204-4	Printing/Copying Double-Sided on Recycled Paper (AUG 2000)
52.204-7	Central Contractor Registration (APR 2008)
52.204-9	Personal Identity Verification of Contractor Personnel (JAN 2011)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2010)
52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (DEC 2010)
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters (JAN 2011)
52.215-2	Audit and Records-Negotiation (OCT 2010)
52.215-8	Order of Precedence—Uniform Contract Format (OCT 1997)
52.215-10	Price Reduction for Defective Cost or Pricing Data (OCT 2010)
52.215-11	Price Reduction for Defective Cost or Pricing Data—Modifications (OCT 2010)
52.215-12	Subcontractor Cost or Pricing Data (OCT 2010)

52.215-13	Subcontractor Cost or Pricing Data—Modifications (OCT 2010)
52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)
52.215-17	Waiver of Facilities Capital Cost of Money (OCT 1997)
52.215-18	Reversions or Adjustments of Plans for Postretirement Benefits (PRB) Other than Pensions (JUL 2005)
52.215-19	Notification of Ownership Changes (OCT 1997)
52.215-21	Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications (OCT 2010) Alternate III (OCT 1997)
52.215-23	Limitations on Pass-Through Charges—Identification of Subcontract Effort (OCT 2009)
52.216-7	Allowable Cost and Payment (DEC 2002)
52.216-8	Fixed Fee (MAR 1997)
52.217-8	Option to Extend Services (NOV 1999)
52.217-9	Option to Extend the Term of the Contract (MAR 2000) (60) (1 yr)
52.219-8	Utilization of Small Business Concerns (JAN 2011)
52.219-9	Small Business Subcontracting Plan (JAN 2011) Alternate II (OCT 2001)
52.219-16	Liquidated Damages—Subcontracting Plan (JAN 1999)
52.222-2	Payment for Overtime Premiums (JUL 1990) (a) \$0—No Overtime is Authorized.
52.222-3	Convict Labor (JUN 2003)
52.222-21	Prohibition of Segregated Facilities (FEB 1999)
52.222-26	Equal Opportunity (MAR 2007)
52.222-35	Equal Opportunity for Veterans (SEPT 2010)
52.222-36	Affirmative Action for Workers with Disabilities (OCT 2010)
52.222-37	Employment Reports on Veterans (SEPT 2010)
52.222-40	Notification of Employee Rights Under the National Labor Rights Act (DEC 2010)
52.222-41	Service Contract Act of 1965, As Amended (NOV 2007)
52.222-50	Combating Trafficking in Persons (FEB 2009)
52.222-54	Employment Eligibility Verification (JAN 2009)
52.223-5	Pollution Prevention and Right-to-Know Information (AUG 2003)
52.223-6	Drug-Free Workplace (MAY 2001)
52.223-14	Toxic Chemical Release Reporting (AUG 2003)
52.223-18	Contractor Policy to Ban Text Messaging While Driving (SEP 2010)
52.224-1	Privacy Act Notification (APR 1984)
52.224-2	Privacy Act (APR 1984)
52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)
52.227-3	Patent Indemnity (APR 1984)
52.227-17	Rights in Data—Special Works (DEC 2007)
52.229-10	State of New Mexico Gross Receipts and Compensating Tax (APR 2003)
52.230-2	Cost Accounting Standards (OCT 2010)
52.230-3	Disclosure and Consistency of Cost Accounting Practices (OCT 2008)

52.230-6	Administration of Cost Accounting Standards (JUN 2010)
52.232-17	Interest (OCT 2010)
52.232-20	Limitation of Cost (APR 1984)
52.232-22	Limitation of Funds (APR 1984)
52.232-23	Assignment of Claims (JAN 1986)
52.232-25	Prompt Payment (OCT 2008)
52.232-33	Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003)
52.233-1	Disputes (JUL 2002) Alternate I (DEC 1991)
52.233-3	Protest After Award (AUG 1996) Alternate I (JUN 1985)
52.233-4	Applicable Law for Breach of Contract Claim (OCT 2004)
52.237-3	Continuity of Service (JAN 1991)
52.242-1	Notice of Intent to Disallow Costs (APR 1984)
52.242-3	Penalties for Unallowable Costs (MAY 2001)
52.242-4	Certification of Final Indirect Costs (JAN 1997)
52.242-13	Bankruptcy (JUL 1995)
52.243-2	Changes—Cost-Reimbursement (AUG 1987) Alternate I (APR 1984)
52.244-2	Subcontracts (OCT 2010) Alternate I (JUN 2007) (e) over \$3,000
52.244-5	Competition in Subcontracting (DEC 1996)
52.244-6	Subcontracts for Commercial Items (DEC 2010)
52.245-1	Government Property (AUG 2010)
52.245-9	Use and Charges (AUG 2010)
52.246-25	Limitation of Liability—Services (FEB 1997)
52.249-6	Termination (Cost Reimbursement) (MAY 2004)
52.249-14	Excusable Delays (APR 1984)
52.251-1	Government Supply Sources (AUG 2010)
52.253-1	Computer Generated Forms (JAN 1991)

B. Department of Health and Human Services Acquisition Regulations (HHSAR) (48 CFR Chapter 3) Clauses <http://www.hhs.gov/policies/hhsar/>

<u>Clause No.</u>	<u>Title and Date</u>
352.201-70	Paperwork Reduction Act (JAN 2006)
352.202-1	Definitions (JAN 2006)
352.203-70	Anti-Lobbying (JAN 2006)
352.216-70	Additional Cost Principles (JAN 2006)
352.222-70	Contractor Cooperation in Equal Opportunity Investigations (OCT 2009)
352.224-70	Privacy Act (JAN 2006)
352.227-70	Publications and Publicity (JAN 2006)
352.228-7	Insurance—Liability to Third Persons (DEC 1991)
352.233-71	Litigation and Claims (JAN 2006)
352.239-71	Standard for Encryption Language (OCT 2009)
352.239-72	Security Requirements for Federal Information Technology Resources (OCT 2009)
352.242-71	Tobacco Free Facilities (JAN 2006)

- 352.242-73 Withholding of Contract Payments (JAN 2006)
- 352.242-74 Final Decisions on Audit Findings (APR 1984)
- 352.270-1 Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities (JAN 2001)
- 352.270-6 Publication and Publicity (JAN 2006)

C. Department of Health and Human Services Acquisition Regulation Authorized FAR Deviations

As prescribed in HHSAR 302.201, FAR 52.202-1 is modified as follows:

Substitute the following as paragraph (a):

“(a) The term “Secretary” or “Head of the Agency” (also called “Agency Head”) means the Secretary, Deputy Secretary, or any Assistant Secretary, Administrator or Commissioner of the Department of Health and Human Services; and the term “his/her duly authorized representative” means any person, persons, or board authorized to act for the Secretary.”

Add the following paragraph (h):

“(h) The term “Contracting Officer’s Representative” means the person who monitors the technical aspects of contract performance. The Contracting Officer’s Representative is not authorized to issue any instructions or directions which cause any increase or decrease in the Statement of Work/Performance Work Statement/Specifications which would result in the increase or decrease in the price of this contract, or changes in the delivery schedule or period of performance of this contract. If applicable, the Contracting Officer’s Representative is not authorized to receive or act upon any notification or revised cost estimate provided by the Contractor in accordance with the Limitation of Cost or Limitation of Funds clauses of this contract.”

I.2 52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters. (JAN 2011)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database at <http://www.ccr.gov>.

(b)(1) The Contractor will receive notification when the Government posts new information to the Contractor’s record.

(2) The Contractor will have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, *i.e.*, for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3)(i) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

As required by section 3010 of Public Law 111-212, all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(End of clause)

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

- (a) The Government may extend the term of this contract by written notice to the Contractor within 60 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 60 months.

(End of clause)

**I.4 FAR 52.222-42 Statement of Equivalent Rates for Federal Hires
(MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for information only and is not a Wage Determination.

Employee Class	Monetary Wage -- Fringe Benefits
Program Director	GS 15 or above

(End of Section I)

SECTION J – LIST OF ATTACHMENTS

- J1 Business Program Operations Contractor (BPOC) Statement of Work /w
 - Appendix #1- Available CMS/COB&R Systems List
 - Appendix #2- BPOC Deliverables
 - Appendix #3- BPOC Statistical Information
 - Appendix #4- COBA ID List
 - Appendix #5- COB&R Organization
 - Appendix #6- MSP Integration Contractor (MSPIC) SOW (informational Purposes Only)
 - Appendix #7- BPOC Monthly Status Report Components
 - Appendix #8- MSP Recovery Policy
- J2 BPOC Award Fee Plan
- J3 Small Business Subcontracting Plan
- J4 Organizational Conflict of Interest Certificate
- J5 Consent to Subcontract Checklist
- J6 Non-Disclosure Statement
- J7 Billing Instructions
- J8 Intent to Submit a Proposal
- J9 Wage Determination(s) – Reserved
- J10 Government Furnished Property-Reserved

EXHIBITS

- Exhibit E-1 Business Proposal Spreadsheet
- Exhibit E-2 Travel Spreadsheet
- Exhibit E-3 Other Direct Costs Spreadsheet

(End of Section J)

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS

K.1 TO BE COMPLETED BY THE OFFEROR: [THE REPRESENTATIONS AND CERTIFICATIONS MUST BE EXECUTED BY AN INDIVIDUAL AUTHORIZED TO BIND THE OFFEROR]

The offeror makes the following Representations and Certifications as part of its proposal (check or complete all appropriate boxes or blanks on the following pages).

(Name of Offeror)

(RFP No.)

(Signature of Authorized Individual)

(Date)

(Typed Name of Authorized Individual)

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

K.2 FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

<https://www.acquisition.gov/comp/far/index.html>

- | | |
|-----------|---|
| 52.203-2 | CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985) |
| 52.203-11 | CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS (APR 1991) |
| 52.204-5 | WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999) |
| 52.222-38 | COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS. (SEP 2010) |
| 52.223-4 | RECOVERED MATERIAL CERTIFICATION (OCT 1997) |

K.3 FAR 52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

a) Definitions.

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) The offeror must submit the information required in paragraphs (d) through (f) 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 IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) 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.

(d) *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.

(e) *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 _____.

(f) *Common parent.*

___ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

___ Name and TIN of common parent:

Name _____

TIN _____

K.4 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (NOV 2011)

(a)

(1) The North American Industry classification System (NAICS) code for this acquisition is **524298**.

(2) The small business size standard is **\$7.0 Million**

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)

(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certification in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

☐ (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)

(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation. This provision applies to solicitations using funds appropriated in fiscal years 2008, 2009, or 2010.

(vi) 52.209-5; Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vii) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA- designated items.

(xvi) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvii) 52.225-4, Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225- 3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-- Certification. This provision applies to all solicitations.

(xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran—Representation and Certification. This provision applies to all solicitations.

(xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

___ (i) 52.219-22, Small Disadvantaged Business Status.

___ (A) Basic.

___ (B) Alternate I.

___ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

___ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

___ (iv) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services--Certification.

___ (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

___ (vi) 52.227-6, Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

___ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov> . After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within 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 the changes identified below *[offeror to insert changes, identifying change by clause number, title, date]*. 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.

FAR Clause	Title	Date	Change

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 on ORCA.

(End of Provision)

K.5 FAR 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)

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

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

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

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

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

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

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

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

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

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

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

K.6 FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JAN 2011)

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

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

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

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

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

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

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

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204-7).

(End of provision)

K.7 FAR 52.215-6 PLACE OF PERFORMANCE (OCT 1997)

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, ___ intends, ___ does not intend (*check applicable box*) to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks in paragraph (a) of this provision, it shall insert in the following ☐ intends ☐ spaces the required information:

PLACE OF PERFORMANCE
(STREET ADDRESS, CITY,
STATE, COUNTY, ZIP CODE)

NAME AND ADDRESS OF OWNER
AND OPERATOR OF THE PLANT
OR FACILITY IF OTHER THAN OFFEROR

**K.8 FAR 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS
(May 2004)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 524298.

(2) The small business size standard is NOT TO EXCEED **\$7 MILLION**

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is: N/A

(b) Representations.

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

(2) *[Complete only if the offeror represented itself as a small business concern in paragraph (b) (1) of this provision.]* The offeror represents, for general statistical purposes, that it ___ is, ___ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

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

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

(5) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b) (4) of this provision.]* The offeror represents as part of its offer that it ___ is, ___ is not a service-disabled veteran-owned small business concern.

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

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

(ii) It ___ is, ___ is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(I) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(c) *Definitions.* As used in this provision--
"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 the size standard in paragraph (a) of this provision.

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

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

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

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

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

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

(d) *Notice.*

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

K.9 FAR 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that--

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

(b) It ___ has, ___ has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

K.10 FAR 52.226-2 HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION. (MAY 2001)

(a) Definitions. As used in this provision -

"Historically Black College or University" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority Institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k, including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act (20 U.S.C. 1101a)).

(b) Representation. The offeror represents that it -

___ is ___ is not a Historically Black College or University;

___ is ___ is not a Minority Institution.

K.11 52.227-15 REPRESENTATION OF LIMITED RIGHTS DATA and RESTRICTED COMPUTER SOFTWARE (MAY 1999)

(a) This solicitation sets forth the work to be performed if a contract award results, and the Government's known delivery requirements for data (as defined in FAR 27.401). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16 of the FAR, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data - General clause at 52.227-14 that is to be included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(b) As an aid in determining the Government's need to include Alternate II or Alternate III in the clause at 52.227-14, Rights in Data - General, the offeror shall complete paragraph (c) of this provision to either state that none of the data qualify as limited rights data or restricted computer software, or identify, to the extent feasible, which of the data qualifies as limited rights data or restricted computer software. Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(c) The offeror has reviewed the requirements for the delivery of data or software and states [*offeror check appropriate block*] -

[] None of the data proposed for fulfilling such requirements qualifies as limited rights data or restricted computer software.

[] Data proposed for fulfilling such requirements qualify as limited rights data or restricted computer software and are identified as follows:

Note: "Limited rights data" and "Restricted computer software" are defined in the contract clause entitled "Rights in Data - General."

K.12 FAR 52.230-1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (OCT 2008)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT - COST ACCOUNTING PRACTICES AND CERTIFICATION

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement--Cost Accounting Practices and Certification

- (a) Any contract in excess of \$500,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.
- (b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

- (c) Check the appropriate box below:

___ (1) *Certificate of Concurrent Submission of Disclosure Statement.*
The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:

- (i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and
- (ii) One copy to the cognizant Federal auditor. (Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement:

_____ Name and Address of Cognizant
ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

- ____ (2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____ Name and
Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

- ____ (3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

- ____ (4) *Certificate of Interim Exemption.* The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost

accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c) (1) or (c) (2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards--Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

___ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

___ Yes ___ No

K.13 52.230-7 PROPOSAL DISCLOSURE-COST ACCOUNTING PRACTICE CHANGES (APR 2005)

The offeror shall check "yes" below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

___ Yes ___ No

If the offeror checked "Yes" above, the offeror shall—

- (1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and
- (2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

K.14 REPRESENTATIONS AND INSTRUCTIONS FINANCIAL

SECTION K - PART II: Financial Information

1. Contractor: _____

Address:* _____

Telephone No. _____

Individual(s) to contact regarding this proposal:

Dun & Bradstreet, Data Universal Numbering System (DUNS)

No. _____

(See FAR 52.204-6 -- Data Universal Numbering System (DUNS) Number)

*If financial records are maintained at some other location, show the address of the place where the records are kept.

2. Cognizant Government Audit Agency:

Address: _____

Auditor: _____

Telephone No. _____

3. Sales:

a. Work Distribution for the Last Complete Fiscal Accounting Period

Government cost reimbursement type prime contracts and subcontracts:

\$ _____

Government fixed price prime contracts and subcontract: \$ _____

Commercial Sales: \$ _____

Total Sales: \$ _____

b. Total Sales for First and Second Fiscal Years Immediately Proceeding Last Completed Fiscal Year

Total sales for first preceding fiscal year: \$ _____

Total sales for second preceding fiscal year: \$ _____

4. Is company a separate entity or division? _____ If a division or subsidiary corporation, name parent company:

5. Date company organized: _____

6. Manpower:

Total employees: _____

Direct: _____

Indirect: _____

Standard Work Week (Hours): _____

7. Commercial Products:

8. Attach a current organizational chart of the company.
9. Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks).

	Estimated/ Actual Cost	Standard Cost
	=====	=====
Estimating System	_____	_____
Job Order	_____	_____
Process	_____	_____
Accumulating System	_____	_____
Job Order	_____	_____
Process	_____	_____

Has your cost estimating system been approved by any Government agency?

Yes _____ No _____

If yes, give name and location of agency:

10. What is your fiscal year period? (Give month-to-month dates) _____

What were the indirect cost rates for your last completed fiscal year?

Basis of Fiscal Year _____ Indirect Cost Rates Allocation

Fringe Benefits _____
Overhead _____
G & A Expense _____
Other _____

11. Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency?

If yes, give name and location of the Government agency:

Date of last preaward audit review by a Government agency:

12. Cost estimating is performed by:

- () accounting department
- () contract department
- () other (describe) _____

13. Has system of control of Government property been approved by a Government agency?

If yes, give name and location of agency:

*If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G & A must be furnished.

14. Purchasing Procedures:

Are purchasing procedures written? Yes ____ No ____

Has your purchasing system been approved by a Government agency?

Yes ____ No ____

If yes, give name and location of agency:

15. Does your firm have an established written incentive compensation or bonus plan?

Yes ____ No ____

(End of Section K)

SECTION L – PROPOSAL INSTRUCTIONS

L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

This solicitation is applicable to the provisions stated in 52.252-1, SOLICITATION PROVISIONS INCORPORATED BY REFERENCE and is hereby incorporated by reference with the same force and effect as if provided in full text. Upon request, the Contracting Officer will make the full text available. Also, the full text of a solicitation provision may be accessed electronically at this address:

www.arnet.gov/far/

Federal Acquisition Regulation (FAR) Clauses:

52.204-6	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)
52.215-16	FACILITIES CAPITAL COST OF MONEY (JUN 2003)
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (OCT 2010), Alternate III (OCT 1997) – Submit the cost proposal IAW Section L.8.
52.215-22	Limitations on Pass-Through Charges—Identification of Subcontract Effort (OCT 2009)
52.222-24	PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (FEB 1999)
52.222-46	EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES (FEB 1993)
52.237-10	IDENTIFICATION OF UNCOMPENSATED OVERTIME (OCT 1997)
352.232-75	INCREMENTAL FUNDING (JAN 2006)

Any resultant contract shall include the FAR clauses applicable to the selected Offeror's organization and type of contract award. Copies of the FAR clauses may be obtained by visiting Internet Web Site www.arnet.gov/far/ or by contacting the Contracting Officer. Any additional clauses required by public law, executive order, or acquisition regulations, in effect at the time of execution of the proposed contract, will be included at time of award.

L.2 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE AND SMALL BUSINESS STANDARD

- a. The NAICS code for this acquisition is 524298.
- b. The small business size standard is \$7 million.

L.3 FAR 52.215-1 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (JAN 2004), Alternate 1 (OCT 1997)

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

"Discussions" are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the Offeror being allowed to revise its proposal.

"In writing," "writing," or "written" means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

"Proposal modification" is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

"Proposal revision" is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

"Time," if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) *Amendments to solicitations.* If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) *Submission, modification, revision, and withdrawal of proposals.*

(1) The first page of the proposal must show-

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the Offeror (and electronic address if available);

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

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the Offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

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

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

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

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

(3) It is the only proposal received.

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

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

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

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an Offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the Offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the

provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) *Offer expiration date.* Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the Offeror).

(e) *Restriction on disclosure and use of data.*

(1) The proposal submitted in response to this request may contain data (trade secrets; business data, e.g., commercial information, financial information, and cost and pricing data; and technical data) which the Offeror, including its prospective subcontractor(s), does not want used or disclosed for any purpose other than for evaluation of the proposal. The use and disclosure of any data may be so restricted; provided, that the Government determines that the data is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the Offeror marks the cover sheet of the proposal with the following statements, specifying the particular portions of the proposal which are to be restricted: "Unless disclosure is required by the Freedom of Information Act, 5 U.S.C. 552, as amended, (the Act) as determined by Freedom of Information (FOI) officials of the Department of Health and Human Services, data contained in the portions of this proposal which have been specifically identified by page number, paragraph, etc. by the Offeror as containing restricted information shall not be used or disclosed except for evaluation purposes. The Offeror acknowledges that the Department may not be able to withhold a record (data, document, etc.) nor deny access to a record requested pursuant to the Act and that the Department's FOI officials must make that determination. The Offeror hereby agrees that the Government is not liable for disclosure if the Department has determined that disclosure is required by the Act. If a contract is awarded to the Offeror as a result of, or in connection with, the submission of this proposal, the Government shall have the right to use or disclose the data to the extent provided in the contract. Proposals not resulting in a contract remain subject to the Act. The Offeror also agrees that the Government is not liable for disclosure or use of unmarked data and may use or disclose the data for any purpose, including the release of the information pursuant to requests under the Act. The data subject to this restriction are contained in pages (insert page numbers, paragraph designations, etc. or other identification)."

(2) In addition, the Offeror must mark each page of data it wishes to restrict with the following statement:

“Use or disclosure of data contained on this page is subject to the restriction on the cover sheet of this proposal or quotation.”

(3) Offerors are cautioned that proposals submitted with restrictive statements or statements differing in substance from those cited above may not be considered for award. The Government reserves the right to reject any proposal submitted with nonconforming statement(s).

(f) *Contract award.*

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible Offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government's interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) The Government intends to evaluate proposals and award a contract without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.
- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the Offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.
- (7) Exchanges with Offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be

rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful Offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) If a post-award debriefing is given to requesting Offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed Offeror's offer.

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

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

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful Offeror.

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

L.4 FAR 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government anticipates the award of a single Cost-Plus-Award-Fee (CPAF) contract resulting from this solicitation. However, the Contracting Officer reserves the right to choose another contract type if it is in the best interest of the Government to do so.

L.5 HHSAR 352.232-70 INCREMENTAL FUNDING (JUNE 2010)

The Government intends to negotiate and award a cost-reimbursement contract using Incremental funding as described in the clauses at FAR 52.232–22, “Limitation of Funds,” and 352.232-71, “Estimated Cost – Incrementally Funded Contract.” The initial obligation of funds under the contract is expected to cover date of award through September 30, 2012. The Government intends to obligate additional funds up to and including the full estimated cost of the contract for the remaining years of performance by unilateral contract modification. However, the Government is not required to reimburse the Contractor for costs incurred in

excess of the total amount obligated, nor is the Contractor required to perform beyond the level supported by the total amount obligated.

L.6 FAR 52.233-2 SERVICE OF PROTEST (SEP 2006)

- a. Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer,

Centers for Medicare and Medicaid Services
OAGM/ASG/DPIFMC
Attn: Mr. Edward M. Rutherford, Contracting Officer
7500 Security Boulevard, M/S B3-30-03
Baltimore, MD 21244-1850

by obtaining written and dated acknowledgment of receipt from Mr. Edward M. Rutherford located at the above address.

- a. The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

L.7 FAR 52.252-3 ALTERATIONS IN SOLICITATION (APR 1984)

Portions of this solicitation are altered as follows:

[X] None at this time.

L.8 SMALL BUSINESS SUBCONTRACTING PLAN

If the proposed contract exceeds a total estimated cost of \$500,000 for the entire period of performance, the apparent successful Offeror shall be required to submit a subcontracting plan in accordance with the terms of the clause entitled "Small Business Subcontracting Plan," FAR 52.219-9, incorporated herein by reference in the Solicitation. Attachment J3 to this solicitation is an example of such a plan. The small business plan shall cover the entire contract period. The plan shall be submitted for the base year and each option period separately (Base Year, Option Year 1, etc.).

- a) THIS PROVISION DOES NOT APPLY TO SMALL BUSINESS CONCERNS.
- b) The term "subcontract" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for the performance of the original contract or subcontract.
- c) CMS recommends the following goals for subcontracting opportunities:

Overall, for the total dollars subcontracted, 33% should go to Small Businesses

As a subset of the 33%, the following goals are recommended:

- Small Disadvantaged Businesses – 5.00%
- Women-owned Small Businesses – 5.00%
- HUBZone Businesses – 3.00%
- Service Disabled Veteran Owned Business - 3.00%

d) The Offeror understands that:

- (1) No contract will be awarded unless and until an acceptable plan is negotiated with the Contracting Officer which plan will be incorporated into the contract, as a material part thereof.
- (2) An acceptable plan must, in the determination of the Contracting Officer, provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged persons to participate in the performance of the contract.
- (3) If a subcontracting plan acceptable to the Contracting Officer is not negotiated within the time limits prescribed by the contracting activity and such failure arises out of causes within the control and with the fault or negligence of the Offeror, the Offeror shall be ineligible for an award. The Contracting Officer shall notify the Contractor in writing of the reasons for determining a subcontracting plan unacceptable early enough in the negotiation process to allow the Contractor to modify the plan within the time limits prescribed.
- (4) Prior compliance of the Offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the Offeror for award of the contract.
- (5) It is the Offeror's responsibility to develop a satisfactory subcontracting plan with respect to both small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals and that each such aspect of the Offeror's plan will be judged independent of the other.
- (6) The Offeror will submit, as required by the Contracting Officer, subcontracting reports in accordance with the instructions thereon and as further directed by the Contracting Officer. Subcontractors will also submit these reports to the Government's Contracting Officer or as otherwise directed, with a copy to the prime Contractor's designated small and disadvantaged business liaison.

L.9 GENERAL INSTRUCTIONS

- A. **Award Description:** The Government anticipates issuance of a cost plus award fee type contract with four (4) option years. Payment terms for this cost plus award fee type contract will be based on the negotiated not-to-exceed ceiling amount and the payment schedule outlined in Section B.3 Estimated Cost-Plus-Award-Fee.

B. **General Procedure:** The offeror's proposal shall be submitted in three (3) separate volumes:

- a. Volume I-Business (Cost) Proposal
- b. Volume II-Written Technical Proposal
- c. Volume III-Organizational Conflict of Interest (OCI) and Compliance Program

Each of these parts shall be separate and complete in and of itself so that the evaluation of one may be accomplished independently of the evaluation of the other. The written technical proposal must not contain reference to price/cost, however, resource information such as data concerning labor hours and categories, materials, and subcontracts may be contained in the technical proposal so that the understanding of the scope of work may be evaluated.

Each proposal submitted on a CD-ROM shall be submitted in Microsoft Office Word, unless otherwise noted. Signed documents such as conflict of interest may be submitted in Adobe Acrobat or "PDF" format. Organizational charts may be provided in PowerPoint. Cost proposal spreadsheets shall be submitted in Microsoft Excel.

C. **When/Where/How Many to Submit:** Please submit one (1) hard copy and eight (8) Compact Disk (CDs) of each volume **no later than 11:00 AM** (local prevailing time (Baltimore) **on January 23, 2012** to:

CMS, OAGM/ASG/DPIFMC
Attn: Joanne Day, Contract Specialist,
7500 Security Blvd, Mailstop B3-30-03,
Baltimore, MD 21244.
Ref: RFP-CMS-2011-0048
Email: Joanne.Day@cms.hhs.gov
Phone: 410-786-5166

Hand carried proposals may be delivered **no later than 11:00 AM on January 23, 2012**, local prevailing time (Baltimore) to:

CMS, OAGM/ASG/DPIFMC
Attn: Joanne Day, Contract Specialist
7111 Security Blvd.
Baltimore MD 21244
Ref: RFP-CMS-2011-0048
Email: Joanne.Day@cms.hhs.gov
Phone: 410-786-5166

The Centers for Medicare and Medicaid Services (CMS) is located in a secure building. Therefore, when hand-delivering proposals in response to CMS solicitations, Offeror's should allow ample time to obtain parking and building passes from the Security Guards. Offeror's are advised that the CMS mailroom only accepts mail from the U.S. Postal Service. When utilizing overnight mail carriers you are cautioned that you must allow ample time for the proposal to be delivered to the Contract Specialist by the overnight carrier by the time specified in the RFP since they are not accepted in the CMS mailroom.

Emailed submission of your proposal will not be accepted.

- D. **Proposals Included in the Official Contract File:** The offeror is advised that its proposal may become part of the official contract file.
- E. **Section M, Evaluation Factors for Award:** The Government will evaluate proposals in accordance with the evaluation criteria set forth in Section M, Evaluation Factors for Award, of this solicitation.
- F. **Costs for Proposal Submission:** This solicitation does not commit the Government to pay any cost for the preparation and submission of a proposal. In addition, the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed acquisition.
- G. **Late Proposals:** Late proposals will be handled in accordance with FAR 52.215-1, Instructions to Offerors – Competitive Acquisition. For this provision, a proposal includes **all** proposal submissions from the contractor and its subcontractors (i.e., electronic copies/submissions) to **all** recipients identified in this solicitation. If any portion of the proposal (Prime Contractor AND Subcontractor) is not received by the above specified date and time, you will be contacted and advised that the proposal is not accepted for consideration.
- H. **Compact Disk:** CMS is transitioning to a paperless environment for this procurement; therefore, all volumes (**with the exception of 1 hard copy**) shall be submitted in an electronic format. Electronic format, as it pertains to this solicitation, means compact disc (CD). Each proposal shall be compatible with Microsoft Office Suite 2003. Offeror's shall submit proposals as follows:
- Each CD shall clearly identify each volume, copy number (i.e., copy 2 of 4), solicitation number, Offeror's name, address and contact information.
 - If the material for a volume requires more than one CD, than that volume shall be labeled with the name and number of the volume and CD number (i.e., Technical Proposal, Part I, CD 1 of 2). The original of each Volume shall be marked **ORIGINAL** and all other copies shall be marked **COPY # ____ of ____**.
 - Offerors shall label boxes/envelopes with the Offeror's name, and box ____ of ____.
 - CMS will not be liable for the inability to read and/or evaluate a proposal that is incompatible with Microsoft Office Suite 2003.
 - **Signatures:** The proposal documents requiring a signature(s) shall be submitted electronically (e.g. scanned)
 - The Offeror is encouraged to include language regarding the distribution and/or permissions of individual electronic signatures.
 - **IT Security:** The Offeror shall certify that each electronic submission (CD) has been checked for viruses using a current version (no older than 6 months) of virus detection software and, is virus free. The certification shall identify the virus detection software and version.
 - CMS will not be liable for the failure to read and/or evaluate a proposal that contains a virus and/or similar problem.
- I. **Labeling:** Each submission shall have an exterior label with the Offeror's name, the solicitation number, proposal volume/title, date of submission and version i.e. original or

final revised (when applicable). In addition, to the exterior label, each volume shall include a file illustrating the table of contents which, clearly identifies each file on the CD as well as the contents of each file.

J. Amendment/Cancellation: CMS reserves the right to amend or cancel the solicitation as necessary to meet CMS requirements.

K. Page Size, Typing, Spacing and Page Numbering:

1. Page size shall be 8.5 by 11 inches unless otherwise indicated.
2. The proposal shall be page numbered.
3. Type size shall not be less than 12-point font type Times New Roman. Charts, graphs, and tables may be no less than 8-point font Times New Roman.
4. Each page shall be single-spaced and shall not be compressed. Each page shall have a 1" margin on all 4 sides; header and footer information may be contained within the 1" area.
5. For Excel charts the scaling may not be lower than 75%.

L. Award without Discussion: Offerors are advised that award may be made without discussions (See also FAR 52.215-1, Instructions to Offerors – Competitive Acquisition (Solicitation Section L.3.)). Accordingly, proposals should be submitted initially on the most favorable terms from a price/cost and technical standpoint.

M. Intent to Submit a Proposal

The Offeror shall indicate its intent to submit a proposal for this solicitation no later than **December 13, 2011**. This notice shall be submitted via e-mail to the following address: Joanne.Day@cms.hhs.gov. The intent to submit a proposal is not binding. It is for planning purposes only. Failure to indicate intent to submit a proposal does not preclude an Offeror from submitting a proposal. At a minimum, the Offerors shall provide the name of the company/entity intending to submit a proposal, appropriate point of contact including name, title, address, e-mail and phone number.

L.10 ORAL PRESENTATIONS:

Oral Presentations will be conducted for this requirement. The sole purpose of the oral technical proposal presentation and question and answer session is to discern an Offeror's understanding of and approach to the work that the Government will require under the prospective contract. The Offeror must demonstrate their ability to achieve, accomplish, carry out and fulfill ALL the SOW requirements. The Offeror must describe and explain how they will accomplish the SOW requirements including processes and procedures, providing their understanding of regulations and knowledge of the work. CMS is looking for the Offeror to describe the details of HOW they plan to perform the requirements as set forth under the SOW.

L.11 Solicitation Questions

All questions concerning this formal Request for Proposal shall be submitted electronically and shall be received by **Joanne Day, Contract Specialist, by 3:00PM Eastern Time on December 16, 2011**. Answers to questions that CMS determines to be necessary for proposal preparation will

be conveyed in the form of a solicitation amendment and posted on the Federal Business Opportunities website (www.fedbizopps.gov or www.fbo.gov) on or about **January 5, 2012**.
Technical questions submitted by telephone or verbally will not be honored.

The Offeror shall put in the Subject Line of the e-mail "BPOC Solicitation Question(s)." Please group your questions by RFP contract sections and submit each group of questions as a Microsoft Word document attachment to the following address: Joanne.Day@cms.hhs.gov.

Submission of questions shall include at a minimum, company name, address, point of contact, phone number and:

EACH question submitted by the Offeror shall be numbered and include:

1. Identification of reference of one of the following:
General
Solicitation
SOW
2. Statement of Work (SOW) section number and/or title (including subparagraph designations) and title being referenced, as applicable.
3. Solicitation section number and/or title (including subparagraph designations) being referenced, as applicable.
4. Complete description of the question

NOTE: Questions submitted in chart or graph format will not be accepted.

L.12. Proposal Organization

A. **CD #1 - VOLUME I - BUSINESS PROPOSAL**: The Business Proposal is **unlimited** in page count. Please follow the below format to the best degree possible and the Business Proposal shall consist of the following elements, at a minimum:

- TAB A. Table of Contents
- TAB B. Contract Forms, and Representations and Certifications (Prime only)
- TAB C. Indirect Cost Rate Agreement and Rate History
- TAB D. Other Administrative Data:
 - TAB D.1. General
 - TAB D.2. Statement on the Offeror's Financial Capability
 - TAB D.3. Financial Statements
 - TAB D.4. Disclosure Statement
 - TAB D.5. Adequate Accounting and Estimating Systems
 - TAB D.6. Uncompensated Overtime
 - TAB D.7. Total Compensation Plan
 - TAB D.8. Subcontracts
 - TAB D.9. Business Proposal Assumptions

TAB D.10 Proposal Checklist (Exhibit E.1. through Exhibit E.3) (The business proposal spreadsheets shall be set up to print on standard letter size paper (8.5 x 11)).

TAB E. Small Business Subcontracting Plan

TAB F. Copy of determination of accounting system adequacy by their cognizant Government Contracting Officer. It is not the responsibility of CMS to request a copy of this determination from either internal or external sources

B. **CD #2 – VOLUME II – TECHNICAL PROPOSAL**

The written Technical Proposal is **limited** to 25 pages. Offerors must adhere to the page limits. ***Pages provided beyond the limit will be discarded and not reviewed or evaluated.*** Please follow the below format to the best degree possible and TAB AND LABEL EACH SECTION INCLUDING THE TITLE. The written Technical Proposal shall consist of the following ONLY:

Volume II, Section 1

- TAB A. Table of Contents
- TAB B. Technical Approach
- TAB C. Management Approach
- TAB D. Corporate Characteristics & Experience
- TAB E. Transition Planning
- TAB F. Subcontracting/Teaming

The following requirements do not count against the 25 page limitation

Volume II, Section 2

Tab A. Organization Chart - The Offeror shall provide an organization chart sufficient to provide an understanding of the roles and responsibilities or placement of proposed personnel, as well as the amount of FTEs for each labor category. In the event that the Offeror utilizes subcontractors, the organization chart shall identify which staff are subcontractors. In summary, the organization chart shall identify the organization of work for the effort, to include, at a minimum, the following:

- Hierarchy of responsibility;
- Names of Individuals responsible for each Division of Work;
- Designation as to whether the identified positions are prime or subcontracted staff; and, Number of FTEs associated with each division of work.

Tab B. Work Breakdown Structure - The Offeror shall provide a Work Breakdown Structures (WBS) that addresses all related tasks

required for this contract. The WBS is for aiding in evaluating the contractor's knowledge and understanding of the SOW requirements. The WBS shall be in Microsoft Project, Microsoft Excel or an equivalent software application. Offeror's are advised to include dates/time frames in the WBS for completing the SOW requirements.

Tab C. Resumes – The Offeror shall submit resumes for all Key Personnel and may include additional resumes other than key personnel as may be warranted. Individual resumes shall not exceed three (3) pages each.

Tab D. Letters of Commitment - The Offeror shall provide a resume and letter of commitment for each key personnel not currently employed by the Offeror. Letters of commitment shall include the date of availability, the salary accepted, how long the individual's commitment is binding, and be signed by the individual and the Offeror's corporate authorized official. Letters of Commitment shall not exceed one (1) page.

TAB E. Past Performance - The Offeror shall provide relevant references for their past performance supporting the same or similar requirements delineated in the Statement of Work (SOW) ATTACHMENT J1.

A minimum of three (3) references are required for the number of past performance references for the prime and each subcontractor. However, the Offeror and its subcontractors may provide additional references to demonstrate their capability to perform the SOW.

References other than those identified by the Offeror may be contacted by the Government with the information received used in the evaluation of the Offeror's past performance.

CMS utilizes the Contractor Performance and Reporting System (CPARS) for recording and storing all CMS contractor performance evaluations as well as the Federal Awardee Performance and Integrity Information System (FAPIIS). CMS will access the CPARSPPIRS and FAPIIS for all relevant CMS performance history. Therefore, an Offeror who has performed the same or similar requirements SOW may use the data in CPARS/PPIRS and FAPIIS.

When providing CPARS/PPIRS and/or FAPIIS information, the Offeror shall provide the following within:

- Name of Contracting Activity
- Contract Number & Task Order Number, if applicable
- Contract Type
- Period of Performance
- Total Contract Value
- Brief Contract Description
- Contracting Officer/Contact Person, Address and Telephone
- Program Manager and Telephone
- Information on Problems Encountered and Offeror's Corrective Action (if applicable)
- A copy of each Performance Evaluation
- The Offeror shall identify the methods and outcomes of its evaluation of proposed subcontractors.

An Offeror who chooses to demonstrate their ability to perform the SOW from CPARS and/or FAPIIS (i.e. previous CMS experience) may provide further detail(s) in their Limited Written Technical Proposal.

If no organization past performance history exists, CMS will consider references from major and/or significant subcontractor arrangement and, in the case of a joint venture, constituent companies for more information).

- C. **CD#3 – VOLUME III – COI/COMPLIANCE PROGRAM:** Please follow the below format to the best degree possible and TAB AND LABEL EACH SECTION INCLUDING TITLE. Volume III should include both the prime contractor and its subcontractor(s) COI/Compliance program submission.

TAB A. Conflict of Interest
TAB B. Compliance Program
TAB C. Contract Integrity/Misconduct

L.13 Other Administrative Data

1. **General:** The Offeror's proposal must stipulate that it is predicated upon all the terms and conditions of this RFP. In addition, it must contain a statement to the effect that it is firm for a period of at least **240 days** from the date specified for receipt of offers by the Government.
2. **Statement on the Offeror's Financial Capability:** The Offeror's proposal must indicate whether it has the necessary financial capacity, working capital, and

other resources to perform the contract without assistance from any outside source (If not, indicate the amount required and the anticipated source).

3. **Financial Statements:** Include a copy of your audited financial statements for the past 2 fiscal years. If an audited financial statement is not available, provide the most recent revised, compiled or internally prepare financial statement. Offeror's that are newly formed shall submit the financial statements of the "parent" company (ies).
4. **Small Business Subcontracting Plan:** All Offerors (except Small Businesses) are required to submit a Small Business Subcontracting Plan (See Attachment J3).
5. **Disclosure Statement:** **Offerors (other than small business) shall submit a Disclosure Statement in accordance with FAR Part 30 (See also K.5). An Offeror, other than a small business, is not excluded from this requirement.** If your CAS Disclosure Statement has previously been considered adequate, please indicate this by providing the following information: Approving agency, Point of Contact and phone number, and the date of the determination.
6. **Adequate Accounting and Estimating Systems:** Offerors shall have accounting and estimating systems that are in compliance with applicable Contract Cost Principles and Procedures of FAR Part 31, Contract Cost Principles and Procedures, as well as FAR Appendix A, Cost Accounting Standards (CAS) in order to be considered for award of a Cost type task order. Offerors shall state if their practices used in estimating costs are consistent with their cost accounting practices used in accumulating, segregating and reporting costs.

The Contractor shall state whether or not they have a government approved accounting system as identified in Section K. In the event that the Contractor does not have a government approved accounting system and/or have never had a government cost reimbursement contract, the following information is required:

- a. A Provisional Indirect Rate Submission package shall be prepared in accordance with (b) below. It should include all schedule detail and explanation for the basis and rational of the indirect rates proposed.
- b. The schedule and detail prescribed in the Publication DCAAP 7641.90 dated January 2001, titled 'Information for Contractors' published by the Defense Contract Audit Agency. This publication is only a guide and the specific contractor's situation must be used in preparing the Provisional Rate Package. Specific examples of the detail required are covered in Chapter 5 of the aforementioned document. Failure to comply with this requirement will result in the proposed provisional indirect rates being classified as "deferrable allowable cost" reimbursable pending validation of the indirect rates.

- c. Provide information that describes the basis and relationships of the proposed indirect expense rates including overhead, general and administrative, material and fringe benefits amounts, if applicable. (Source: DCAAP 7641.90, pp. 25)

7. Uncompensated Overtime (FAR 52.237-10) – The Offeror is required to include a copy of its policy on “uncompensated overtime” with its proposal. Uncompensated overtime is defined as “hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act.”

8. Total Compensation Plan (FAR 52.222-46) - The Offeror shall submit a total compensation plan setting forth proposed salaries and fringe benefits for professional employees working on the contract. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public and private organizations, used in establishing the total compensation structure

B. Indirect Cost Rate Agreement and Rate History

1. The Offeror shall provide a rate history for direct and indirect rates for the last two fiscal years. If they are not available or do not exist, a statement to this effect shall be made. The Contractor shall also provide a copy of any forward pricing rate agreements and government approved indirect cost rate agreements used in pricing herein.
2. If the Contractor has no prior history of government approved indirect cost rates, then support documentation consisting of; prior 2 years and a current year operating budget; and, a forecast covering the anticipated period of performance shall be submitted. The budget should also detail the indirect expenses and show the relationship of direct labor (or other indirect expenses allocation bases) to sales projections. (Source: DCAAP 7641.90)
3. Indirect Cost Rates: In accordance with FAR 42.707, entitled “Cost Sharing Rates and Limitations on Indirect Cost Rates,” CMS will establish indirect cost ceilings in the contract. The indirect cost ceilings will be established at 5% above the indirect rates negotiated prior to award.

Reimbursement will be limited to the negotiated indirect cost ceilings established in the contract. The Government has no obligation to pay any additional amount to the contractor should the final indirect cost rates exceed the negotiated ceilings as stated in the contract.

D. Subcontract Checklist (Attachment J4)

- d. A copy of the subcontract agreement which includes, at a minimum:

- (1) The supplies or services to be subcontracted with identification of associated SOW tasks for the specific task order;
- (2) Identification of the type of subcontract to be used (e.g. Time and Material, Firm Fixed Price);
- (3) Proposed subcontract price; and,
- (4) Flow down of appropriate FAR and prime contract clause from prime contractor.

e. Certificate of Current Cost or Pricing Data; as appropriate,

f. Subcontract Negotiation Memorandum reflecting:

- (1) The principal elements of the subcontract price negotiations;
- (2) The most significant considerations controlling establishment of initial or revised prices;
- (3) The reason cost or pricing data were or were not required;
- (4) The extent, if any, to which the Offeror relied on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
- (5) The extent to which it was recognized in the negotiation that the subcontractor's cost and pricing data were not accurate, complete or current; the action taken by the Offeror and the subcontract; and the effect of any such defective data on the total price negotiated;
- (6) The reasons for any significant difference between the Offeror's price objective and the price negotiated; and,
- (7) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decision used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

g. Extent to which adequate price competition was obtained, or justification for its absence.

h. Statement as to whether the proposed subcontractor is on the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

L.14. Business Proposal Spreadsheet Instructions

The Offeror shall use the business proposal spreadsheet (see Exhibit E.1) provided. The business proposal spreadsheet indicates the levels of proposed costs that are to be provided to the extent that an Offeror's accounting system is able to capture cost data for that particular section. The Offeror shall not make the business proposal spreadsheets submitted "Read Only."

Offerors shall refer to Exhibit E.1, Summary Tab for instructions in completing this exhibit.

The Offeror and the subcontractor shall use the business proposal spreadsheet (including all tabs in the spreadsheet) for all pricing and include the following:

- **Labor:** Offerors shall provide labor rates for all labor categories that are expected to be used in the performance of the contract. For each labor category please show the “number of labor hours times hourly labor rate equals resultant total dollar amount” by year. ***Subcontract direct labor shall be shown in the same manner (“number of labor hours times hourly labor rate equals resultant total dollar amount”), however, under the subcontract line item.*** Such labor rates shall be projected for the base year and all option years. Please also note that there is a column for Full Time Equivalent (FTE) levels. This is to help CMS understand the total number of FTES when multiple staff is accommodated in one line item. *Please also provide the productive labor hours (yearly) for exempt and non-exempt employees used to calculate FTES.*
- **Travel** - All travel costs proposed shall be reimbursed on a cost reimbursement basis in accordance with the Federal Travel Regulation (FTR). The Contractor shall consolidate travel costs into one line item. However, a separate schedule (tab within Exhibit E.2) shall be provided for travel cost breakdown of proposed travel expenses consisting of the following: “From” and “To” cities, number, types and purpose of trips, number of travelers including labor category title and head count if known, duration of trip for each destination, mileage, per diem, air fare, and miscellaneous expenses.
- **Other Direct Costs (ODCs):** These include materials, equipment, etc. The Offeror shall consolidate ODCs into one line item. However, a separate schedule (tab within Exhibit E.3) shall be provided to breakdown ODCs. The separate schedule shall provide a detailed itemization of each ODC.
- **Subcontracts:** The Offeror shall provide subcontract cost information per subcontractor as prescribed above under “Labor.” **In addition, all proposed subcontractors shall submit a separate and complete business proposal spreadsheet in the same format as the Offeror’s business proposal spreadsheet no matter the dollar value.** Subcontractors may submit their business proposal spreadsheet showing the breakdown of costs to CMS in a separately sealed package.
- **Indirect Rates:** The Offeror shall provide the indirect rates as applicable along with the relative percentages on the business proposal spreadsheet.
- **Fee:** The Offeror shall provide each fee separately along with the relative percentages on the business proposal spreadsheet.
- **Summary Rollup of All Costs:** In addition to the individual contract line item summaries the Offeror shall include a summary sheet inclusive of all costs, FTES, hours and place of performance (tab within Exhibit E.1).

Business Proposal Narrative Instructions

The business proposal narratives shall include the following:

TAB 1: Table of Contents

Offerors shall include a Table of Contents that identifies and clearly labels the various business proposal narrative sections.

TAB 2: Business Proposal Assumptions

Offerors shall provide all proposal assumptions in detail that are used in preparing their business proposal spreadsheet submission. Assumptions should include rationale for all business proposal elements. For example, why was the labor category chosen, why the number of FTEs proposed for that labor category, etc.

The business proposal narratives shall be used to support the business proposal spreadsheet and include, at a minimum, the following:

Labor:

- The Offeror's proposed labor rates shall be supported with payroll information, letters of intent or salary survey information.
- If the labor rates are escalated, the Offeror shall provide the escalation rate and the rationale for the proposed escalation rate.
- The Offeror's productive labor hours for exempt and non-exempt employees used to calculate the FTEs.
- The Offeror shall provide detailed labor rationale **by labor category and should describe how the basis of the hours was determined** (e.g. historical data, technical experience, etc.).

Travel:

- The Offeror shall provide the basis of the estimate and detailed rationale for all travel including the detailed rationale for the chosen labor categories traveling. CMS should be able to understand from this narrative the reason for, rationale for and importance of the travel. The Offeror shall submit a copy of their corporate travel policy.
- The Contractor shall provide a brief explanation of how travel costs are reimbursed to employees within its organization, i.e. per diem allowance versus submitting receipts, etc.

ODCs:

The Offeror shall provide the basis of estimate and detailed rationale for each item of ODC.

Fee:

The Offeror shall provide the basis of estimate and detailed rationale for each proposed fee. The Offeror shall also disclose if any fees are added to the subcontractors.

Indirect Rates (Overhead Rate, General & Administrative, Fringe, etc. as appropriate):

- The Contractor shall provide the indirect cost rate percentages used for

the task order assumption and what the rate is applied to, i.e. Fringe is applied to Direct Labor.

Equipment and Property

(a) Equipment to be purchased: If additional equipment must be acquired, you must include in your business proposal the description and estimated cost of each item and whether you propose to furnish the item with your own funds.

(b) Government Property:

- a. It is the Department of Health and Human Services' (HHS) policy that contractors provide all equipment and facilities necessary for performance of the contract; however, in some instances, an exception may be granted to furnish government owned property or to authorize a purchase with contract funds.
- b. You must identify all government-owned property in your possession and all property acquired from federal funds, to which you have title, which is proposed to be used in the performance of the prospective contract.
- c. The management and control of government property must be in accordance with HHS Publication OS-686 entitled, "Contractor's Guide to Control of Government Property" (2007)

2. Oral Technical Proposal

- a. Purpose: The purpose of conducting oral presentations is to streamline the procurement process and enable the Technical Evaluation Panel (TEP) to assess each Offeror's understanding of and approach to the Statement of Work requirements. Although not all inclusive, the Offeror's oral presentation must demonstrate that they 1) understand the SOW requirements – their knowledge of the specific requirements; 2) have an effective approach to accomplishing the SOW requirements – how they plan to accomplish the SOW requirements; 3) are familiar with the kinds of anticipated problems/risks that may develop during performance; and 4) are capable of developing practical and effective solutions to those anticipated problems/risks. The presentation should also emphasize unique, relevant capabilities that the Offeror brings to this project and any other advantages that the Offeror may provide.
- b. Time Allowed for Presentation: The Offeror shall be allotted two (2) hours to complete the oral technical proposal presentation. The amount of time allocated to each of the requirements is at the discretion of the Offeror provided that the total amount of time for the oral presentation does not exceed two (2) hours. Two ten-minute breaks are requested to be taken during the contractor's presentation, but will not count in the presentation time allotted. The Contracting Officer or Contract Specialist will tell the Offeror when to start its presentation, keep time, and stop the presentation at the end of two hours whether or not the Offeror has finished. There is no standard format for

the oral presentation and is left to the discretion of the Offeror. However, the contractor should cover only one area at a time and announce the topic area being addressed in order to allow for effective evaluation by the TEP.

Following the Offeror's two hour oral technical proposal presentation, the Government will initiate a question and answer (Q&A) session. The Offeror should allow for an unlimited time period for questions from the TEP.

- c. Participation and Attendance: An offeror may send no more than 15 persons to the presentation. However, the Government will entertain requests for oral presentation participation of more than 15 persons only if the Offeror is proposing more than 15 key and essential personnel. Only members of the Offeror's or subcontractor's in-house staff shall participate in the oral presentation. The only exception is individuals who are proposed as Key Personnel or managers on the contract, but are not currently employed by the contractor/subcontractor who may participate in the presentation. Offerors may not use consultants to make any part of the oral presentation. Company (or subcontractor) senior or general managers or other employees who are not key personnel, managers or otherwise proposed on this contract may not participate in the oral presentation in any area other than the introduction. The Government will not consider substitution of key personnel or managers for (presenting or non-presenting) company or subcontractor officials. The Contractor's key personnel or managers shall address, as part of the oral presentation, each area identified in the topics described in paragraph h. below.
- d. Schedule: The Government reserves the right to reschedule any Offeror's presentation at the discretion of the Contracting Officer. The Contracting Officer or Contract Specialist will schedule the oral presentations after receipt of proposals. The Offeror will be notified by electronic mail of the scheduled date, time and location of its presentation. Oral presentations are not subject to the rules for the late submission of proposals in FAR 52.215-1. However, if the Offeror, due to its own fault, is delayed in starting its oral presentation at the allotted time, the 2 hour time period commences at the appointed time. Offeror delays go against the allotted 2 hour time period. For example, if a contractor is scheduled to begin its oral presentation at 9:00 a.m. and is delayed in starting because of traffic, etc. and does not begin until 9:15 a.m., the contractor will have 1.75 hours to complete its oral presentation.
- e. Presentation Materials: The Offeror shall provide and be responsible for all equipment, materials, etc., necessary for its presentation. The only written information that may be submitted during oral presentations is copies of power point slides or other form of presentation handout. No additional information submitted in writing will be considered in scoring the oral presentation. The Offeror should assume that at least twelve (12) copies of the presentation materials will be necessary and shall be brought the day of the oral presentation.

*There is no limitation on the number of slides that an Offeror may use. However, the production and use of an excessive number of slides may be detrimental to an Offeror's interests. **When reviewing and evaluating the oral presentations, the Government will***

not review or evaluate any slide that was not projected and adequately addressed during the presentation.

- f. Question and Answer Session: The question and answer session that follows the Oral Presentation will not constitute “discussions” as described in the Federal Acquisition Regulation (FAR). The key personnel and/or the individual performing the specific activities related to the question must answer questions during the question and answer period. The question and answer session will focus on technical issues from the oral presentation and/or the written technical proposal.
 - g. Audience: Members of the TEP, personnel from the Program Office, the Contracting Officer and the Contract Specialist may be in attendance.
 - h. Topics: During the oral technical proposal presentation, the Offeror shall demonstrate its understanding of and approach to the work as described below for the SOW– see also Section M. The material provided in the written Technical Proposal will be reviewed and scored with the respective sections of the Oral Technical Proposal Presentation. The Offeror should cover only one area at a time and announce the topic area being addressed in order to allow for effective evaluation by the TEP. The Offeror shall assume that the written technical proposal has been reviewed prior to the oral presentation.
- 1. **Introduction**: The Offeror shall provide information about its organization, history, products and services.
 - 2. At a minimum, the Offeror shall present its oral technical proposal in response to each of the factors and sub-factors identified in Section M. The flow of the Oral Technical Proposal Presentation shall be as follows:
 - 1. Technical Approach
 - a. MSP Data Collection
 - b. MSP Recovery
 - c. Call Center
 - d. Correspondence Processing
 - e. COBA
 - 2. **Management Approach**
 - a. Personnel & Staffing
 - b. Customer Service
 - c. Quality Assurance
 - d. Innovation & CQI
 - e. Internal Controls
 - 3. Past Performance
 - a. Quality
 - b. Timeliness
 - c. Business Relationships
 - d. Cost Controls

4. Corporate Characteristics & Experience

5. Transition Planning

6. Subcontracting/Teaming

3. Conclusion: The Offeror should summarize the main points of its presentation and state why the Government should select the Offeror for contract award.

L.15 CONFLICT OF INTEREST AND COMPLIANCE PROGRAM INSTRUCTIONS

The Conflict of Interest and Compliance Program, Volume III, shall be comprised of the following elements:

A. Conflict of Interest

In order to be eligible for award of a contract the Government must ensure that an Offeror and its proposed subcontractors are free, to the greatest extent possible, of all conflicts of interest. Therefore, the Offeror and its subcontractors are required to submit the disclosure of information contained in contract section H.2 Conflict of Interest, in order to be considered for award. Failure to submit the required information may deem an Offeror's proposal to be non-responsive to the solicitation.

In addition to the requirements in the contract at Section H.2, Conflict of Interest, an offeror's proposed mitigation plan shall:

- **Prevent any other entity from having absolute control or improper influence, or give the appearance of absolute control or improper influence, over the offeror's day-to-day operations; and,**
- **Ensure that the offeror remains impartial in identifying payment or processing errors.**

B. Compliance Program

In order to be eligible for award of a contract, the Offeror must have in place a compliance program that is acceptable to CMS. The compliance program shall be submitted in accordance with Section H.4, Compliance Program.

C. Contractor Integrity/Misconduct

CMS will review any and all available information relating to integrity violations, and contractual or administrative misconduct. Offerors shall disclose any and all known False Claims Act, Civil Monetary Penalties, criminal investigations and/or indictments, qui tam lawsuits or other administrative misconduct of the Offeror and/or of any parent or affiliated company of the Offeror whose conduct

SECTION M – EVALUATION FACTORS FOR AWARD

M.1 GENERAL PROCEDURES FOR AWARD OF CONTRACTS

General: A single award of Cost-Plus-Award-Fee contract will be made in accordance with this solicitation.

- a. Award will be made to the Offeror(s) whose proposal contains the combination of criteria offering the best overall value to the Government. This will be determined by a trade-off technique that allows the Government to consider award to other than the lowest priced/cost Offeror or other than the highest technically rated Offeror. It permits tradeoffs among cost/price and non-cost/price evaluation factors. In making this comparison the Government is more concerned with obtaining superior technical/management features than with making an award at the lowest overall cost to the Government. However, the Government will not make an award at a significantly higher overall cost to the Government to achieve slightly superior technical or management features. All evaluation factors other than cost or price, when combined, are significantly more important than cost or price.
- b. Technical Evaluation: The Technical Evaluation Panel (TEP) will evaluate and score each technical proposal (written technical proposal and oral presentation) by each criterion, applying the weighted technical criteria set forth in Section M.2 below. The evaluation will produce adjectival scores for each Offeror based upon the information contained in the technical proposal. Therefore, the technical proposal shall provide all information necessary to properly evaluate the proposals in accordance with the evaluation criteria.
- c. Business Evaluation: The business proposal will be analyzed and evaluated to determine the reasonableness of the proposed cost/price. The purpose of this cost realism analysis will be to determine if the Offeror's proposed costs reflect the Offeror's understanding of the Government's requirements and if the proposed costs are consistent with the various elements of the Offeror's technical proposal. In addition, although not all inclusive, other areas of the Business Proposal, such as Past Performance, Conflict of Interest certificates, Offeror responsibility determinations, IAW FAR 9, etc., will also be evaluated for award.
- d. Past Performance: The Offeror will be evaluated on the performance of work on contracts completed or currently in progress for same or similar work as described in the SOW, no older than January 1, 2008. In accordance with FAR 9.104-1, General standards, the Offeror must have a satisfactory performance record in order to be considered for award. See also FAR 9.104-3(b), Satisfactory Performance Record, and FAR 42.15, Contractor Performance Information.

- e. Source Selection: Source selection will be made in accordance with the guidelines of the Federal Acquisition Regulation (FAR), the Department of Health and Human Services Acquisition Regulations (HHSAR), and this solicitation. Award of contract under this solicitation shall be made to an Offeror whose proposal is determined to provide the best value to the Government.

An Offeror should not assume that the Contracting Officer will independently obtain information necessary to evaluate its proposal and should therefore supply all information required to evaluate its proposal. Failure to provide the information required in order to evaluate a proposal could result in rejection of the proposal as being technically unacceptable.

However, the Contracting Officer reserves the right to make award of a contract without regard to discussions with an Offeror. Therefore, it is in the best interest of the Offeror to submit the most advantageous proposal to the Government with the initial submission.

- f. Amendment or Cancellation of Solicitation: CMS reserves the right to amend or cancel this solicitation as necessary to meet CMS requirements.

M.2 TECHNICAL EVALUATION CRITERIA – The Offeror will be evaluated as follows.

a. GENERAL PROCEDURE

The Government will conduct a comprehensive evaluation of each proposal utilizing the “tradeoff” process to determine which proposal offers the best combination of technical capabilities and estimated cost/price to the Government. **CMS reserves the right to award based upon initial receipt of proposals.**

The proposal will be scored utilizing the following evaluation criteria:

Evaluation Criteria

A. Technical Approach

1. MSP Data Collection

In general, the Offeror shall demonstrate its understanding of the MSP collection, assessment, and recovery processes through explanation of its technical/management approach to accomplishing all SOW requirements in an efficient and effective manner.

- Does the Offeror demonstrate an understanding and ability support the variety of MSP data collection processes , including;
 - MMSEA Section 111 Mandatory Insurer Reporting
 - Voluntary Data Sharing Agreements
 - Initial Enrollment Questionnaire
 - IRS/SSA/CMS Data Match
 - Self Reporting, 411.25, and Secondary Claim

- Is the Offeror able to convey an understanding and ability to support the necessary interactions with CMS internal customers, such as Medicare Administration Contractors (MACs)?
- Does the Offeror demonstrate an understanding of Part D provision of the Medicare Modernization Act (MMA) and the implication related to MSP data collection activities?
- Does the Offeror demonstrate the ability to support error correction activities related to the posting failures to CWF?
- Can the Offeror demonstrate an understanding of the workload activities associated with the processing of ECRS MSP Inquiries and Assistance Requests?

2. MSP Recovery

The Offeror shall demonstrate its understanding of the MSP recovery determination and debt collection processes through explanation of its technical/management approach. The demonstration should encompass all aspects required by the SOW related to the recovery processes

- Can the Offeror demonstrate the ability to support debt collection and experience with referring and recalling debt(s) to/from the Department of Treasury
- Does the Offeror demonstrate the ability to process unsolicited refunds?
- Can the Offeror demonstrate the ability and understanding to reconcile bank deposits and disbursements?
- Will the Offeror be able to provide the required medical service expertise in making determinations as to whether claims should or shouldn't be associated MSP occurrence based on diagnosis codes and/or cause of injury information?
- Can the Offeror demonstrate the ability to perform Accounts Receivable trending analysis to make determinations as to the best method and processes to recover debt.
- Does the Offeror understand the processes related to appeals and waiver requests?
- Can the Offeror perform workload trending analysis to define processes that are effective and efficient?
- Does the Offeror understand the requirement related to protecting privacy and using authorizations related to disseminating information?

3. Call Center

The Offeror shall demonstrate their ability to provide a call center operation capable of handling the expected call volumes and the attainment of service level agreements as defined within the SOW.

- Can the Offeror provide the necessary call center infrastructure and software to

meet requirements defined within the SOW? Including the ability required to generate all necessary reports and metrics.

- Does the Offeror have the ability to provide automated telephone functions, including IVR, speech recognition, and various Computer Telephone Integration (CPI) functions?
- Can the Offeror support and react to substantial volume increases due to unexpected activities or situations and minimize the impact on service level agreements?
- Does the Offeror provide a solution that aspires to achieve first call resolution?

4. Correspondence Processing

The Offeror shall discuss its technical approach to processing and handling written correspondence. The approach should address the following items:

- Does the Offeror have plans related to imaging of all submitted correspondence? These plans should also detail the planned processes related to triaging correspondence, optical character recognition (OCR), and tracking of images.
- Does the offeror have a plan to monitor and manage workloads to ensure compliance with the SOW stated deliverables and key performance indicators?
- Does the Offeror have the ability to create correspondence that is in compliance with 508 requirements?
- Does the Offeror have awareness of the requirements of the US Postal Service and other national mail carrier systems as well as cost saving methods.
- Will the Offeror have the ability to perform all printing and mail handling operations as indicated in the SOW.

5. Coordination Of Benefits Agreement (COBA)

The offeror shall demonstrate that it has an understanding of and an ability to perform the required COBA operational processes and requirements.

- Does the Offeror demonstrate applied experience in the areas of Medicare Part A and B claims processing (including DMEPOS claims)?
- Does the Offeror demonstrate an understanding of the national COBA process, including its aims and objectives?
- Does the Offeror demonstrate that it has a plan to further market and execute COBAs in the targeted manner prescribed by CMS?
- Does or will the Offeror have the ability to provide support to well over 300 insurance or health plan entities related to electronic file transfers for COBA? (NOTE: This ability needs to include, at a minimum, an understanding of EDI processes as well as HIPAA ANSI X12 837 claim standards.)
- Does the Offeror have the ability to support the needs of COBA related to monthly

invoicing and financial management to include regular disbursement of monies collected?

B. Management Approach

1. Personnel & Staffing

The Offeror shall, at a minimum, demonstrate its ability to assemble and organize a highly qualified staff, of sufficient size, and experience to begin work immediately upon contract award. In this regard, the Offeror shall demonstrate the following:

- Through its proposed labor mix, is the Offeror able to manage all aspects of the SOW requirements, including technical performance, and to accomplish tasks effectively and on time? Was this illustrated in an organization chart(s)?
- Are key and non-key personnel appropriately qualified (including required license or certification) to meet all the requirements of the SOW (Note: The Offeror shall include resumes for its proposed key staff personnel, and describe how their qualifications, experience, and background will contribute to success)?
- Does the Offeror have a staffing plan/strategy that can quickly accomplish hiring and training of new staff with the least amount of disruption to contracted work activities as possible?
- Does the Offeror's staffing plan provide clear lines of authority, responsibility, and communication?
- Does the Offeror's staffing model promote flexibility in the handling of shifting workload volumes, contingencies and requirements?
- Will the staff have access to continuing educational opportunities specific to changes and developments related to MSP?
- As required, how does the Offeror conduct background investigations and obtain needed security clearances as part of its processes for hiring key and non-key staff to work under this contract?

2. Customer Service

The Offeror shall demonstrate its understanding of the SOW requirements related to Customer Service and provide its technical/management approach for:

- How will the Offeror meet or exceed the requirements for customer service functions, as documented in the SOW, particularly in the area of call management operations, and in the processing and handling of written inquiries?
- How will the Offeror provide customer service functions for internal customers (MACs, Regional Offices, CMS, etc.)?
- Does the Offeror have the ability to provide bi-lingual (English/Spanish) speaking customer service representatives?
- Does the Offeror have the ability or experience to work with a wide array of external customers and backgrounds, including healthcare organizations, attorneys, Medicare beneficiaries, insurers and employers?
- Will the Offeror have the capability to provide continuous training on subject

materials for customer service staff as well as for newly hired employees?

3. Quality Assurance

The Offeror shall provide information related to their ability to implement and maintain Quality Assurance activities.

- Can the Offeror demonstrate applied skill and experience in developing, instituting, and monitoring compliance with respect to quality assurance?
- Does the Offeror have a plan for the implementation of quality assurance and what functions within the SOW does the Offeror expect to apply QA efforts?
- Does the Offeror's general plan for QA reflect a proper balance between resource utilization and quality assurance enforcement?

4. Innovation and Continuous Quality Improvement

The Offeror shall discuss approaches to improve the processes related to MSP collection, MSP recovery, and continual improvement to business functions. The approach should address, at minimum, the following areas:

- Does the Offeror have the ability to attain and/or maintain CMMI-SVC level 3?
- Can the Offeror demonstrate experience using technology and process improvement techniques to improve business functions and performance.
- Does the Offeror have prior experience with the implementation or performance with a process improvement methodology (i.e. ISO, CMMI, Six Sigma, etc.)

5. Internal Controls

The Offeror shall maintain effective internal controls for assurance of quality work processes and products, as well as continuity of business operations. At a minimum, the Offeror shall demonstrate whether it has or is able to perform the following:

- Can the Offeror demonstrate applied experience in developing, documenting, implementing, standard operating procedures, as well as training staff in the application of these procedures?
- Will the Offeror be able to maintain and, if necessary, activate a business continuity plan?
- Can the Offeror demonstrate applied skill and experience in developing, instituting, and monitoring compliance with Federal rules and regulations?
- Does the Offeror have knowledge of and ability to adhere to 508 compliance requirements?
- Does the Offeror have the ability to develop and implement corrective action plans as needed?
- Can the Offeror present plans to identify, address, and mitigate risk to successful performance of operations?
- Can the Offeror provide proficient technical understanding of, and adherence to, all Federal systems security requirements (FISMA, BPSSM & NIST) as well as the requirements of HIPAA privacy regulations?

- Does the Offeror have an understanding of Physical Security requirements, and can control confidential information, and support the Privacy Act?

C. Past Performance

In general, the Offeror shall demonstrate its past performance on contracts or projects in which it performed work of a similar nature as outlined within the SOW. Past performance should be limited to no older than 4 years (FY2008 - 10/01/2008). CMS will evaluate the Offeror's past performance based on the following criteria:

1. Quality

Did the Offeror demonstrate the execution of quality efforts resulted in effective performance outcomes for work activities and processes that are similar to those discussed within this SOW?

2. Timeliness

Did the Offeror demonstrate the ability to consistently meet project milestones and deliverables on time as specified in the SOW or in response to provided technical direction?

3. Business Relationships

Did the Offeror demonstrate a past track record of notifying its contractors/customers of problems, remaining flexible and reliable, and being responsive to contract requirements and recommending solutions?

4. Cost Control

Did the Offeror demonstrate the ability to ensure costs were within budget, recognize the relationship between negotiated and actual costs, and identify efficiencies and savings? In addition, invoices complied with FAR, and Agency-specific requirements, were complete and accurate. Disclosed and performed practices were reasonable, allowable, and allocable.

Note: CMS shall utilize information obtained from references listed within the proposal, other customers known to the Government, NIH-CPS, CPARS, Federal Reporting.Gov, and other sources which may have useful and relevant information. If no specific Offeror organizational history exists, CMS will consider references for the individual constituent company parties, major subcontractors, key personnel, and predecessor entities.

D. Corporate Characteristics & Experience

The Offeror shall, at a minimum, demonstrate that its corporate characteristics and experience enable it to successfully fulfill the requirements of this SOW:

- Availability of corporate facilities, including sufficient space for staff and operations, and the infrastructure necessary to perform all contract requirements.
- Ability to expand or alter facilities to support changes or expansion to meet future SOW changes or technical direction.
- Ability to provide appropriate physical security as necessitated by the BPSSM, HIPAA, and other federally required tenets related to the SOW.
- Availability of an appropriate accounting system (DCAA-compliant).

E. Transition Planning

The Offeror's transition plan shall address how it will:

- Implement the required facilities, and equipment, so as to be able to commence operations per schedule.
- Provide evidence of the planning and scheduling of all requirements to maximize successful go-live, and minimize risk (milestone and/or time phasing charts).
- Work with CMS in effecting change of BPOC operations as applicable.
- Partner with CMS in effecting transfer of equipment, systems interfaces (as applicable), and in-process and non-worked proposals as applicable.

Subcontracting/Teaming

Pass/Fail

If the Offeror will use subcontractors or teaming arrangements to meet the requirements of the SOW, the Offeror shall, at a minimum, identify and/or demonstrate the following for each subcontractor chosen:

- What is the rationale for selection of the subcontractor?
- Does the Offeror have a plan/agreement for subcontracting/teaming?
- What was the subcontractor's past performance, in meeting SOW requirements?
- What are the subcontractor's technical and management approach to accomplishing their related SOW requirements?
- What is the Offeror's ability or experience as a prime contractor related to oversight/control of subcontractor performance and quality?
- Are the Offeror's subcontractor personnel types and experience appropriate?
- Can the Offeror ensure the subcontractor's availability should a task order not be issued or delayed related to the subcontractor's area of performance.
- Can the Offeror Address the subcontractor's commitment to continue work with the Prime Contractor?
- Did the Offeror address the subcontractor's listing in the Central Contract Registration.

All evaluation factors, other than cost or price, when combined are approximately equal to cost or price. However, as the degree of technical quality increases between proposals, cost/price will be more important.

M.3 TECHNICAL ORDER OF IMPORTANCE

Technical Approach is more important than Management Approach, Past Performance, Corporate Characteristics & Experience and Transition Planning.

Management Approach is more important than Past Performance, Corporate Characteristics & Experience and Transition Planning, however, less important than Technical Approach.

Past Performance is more important than Corporate Characteristics & Experience and Transition Planning, however, less important than Technical Approach and Management Approach.

Corporate Characteristics & Experience is more important than Transition Planning, however, less important than Technical Approach, Management Approach and Past Performance.

Transition Planning is less important than Technical Approach, Management Approach, Corporate Characteristics & Experience, and Past Performance.

M.4 BUSINESS PROPOSAL EVALUATION

The business proposal will be analyzed and evaluated, but not assigned an adjectival rating to determine the reasonableness and the realism of the proposed cost. The purpose of this cost realism analysis will be to determine what the Government should realistically pay for the proposed effort, if the Offeror's proposed costs reflect the Offeror's understanding of the Government's requirements, and if the proposed costs are consistent with the various elements of the Offeror's technical proposal. The proposed cost for the base period requirements will be added to the proposed cost of the four, options periods to come up with a total proposed estimated cost.

End of Section M)