AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code	Page of Pages	
	1	64

2. AMENDMENT MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (if applicable)
0011	JUL 10, 2014		

6. ISSUED BY CODE FSA-FS2
United States Department of Education
Federal Student Aid/Mission Support Group
830 First St NE - Suite 91F3
Washington DC 20202

7. ADMINISTERED BY (If other than item 6) CODE

8. NAME AND ADDRESS OF CONTRACTOR (NO., Street, Country, State and ZIP Code)

CODE FACILITY CODE

(x) ☒

9A. AMENDMENT OF SOLICITATION NO.
ED-FSA-13-R-0010

9B. DATED (SEE ITEM 11)
JUL 18, 2013

10A. MODIFICATION OF CONTRACT/ORDER NO.

10B. DATED (SEE ITEM 13)

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☒ The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of offers ☐ is extended, ☒ is not extended.
Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning __1__ copies of amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OR OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
See Schedule

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

Check One	
☐	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
☐	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
☐	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
☐	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor ☐ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible)
Please see the attachment.

...See Continuation Page

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		(Signature of Contracting Officer)	

Continued from Block 14...

The purpose of this amendment is to:

1. Incorporate Phase II Questions and Answers (Q&A) Part 2. If there are any discrepancies between the responses provided in the Q&A and the solicitation, the solicitation takes precedence.

2. Incorporate changes to the following sections-
 a. Section C.3.40 - Organizational Limit on Contracts
 b. Section E.1 - FAR 52.212-1, Section A of Proposal
 c. Section E.2.2 - Evaluation Methodology

The U.S. Department of Education (ED), Office of Federal Student Aid (FSA), is conducting a two-phase solicitation in accordance with the Department of Education Acquisition Regulation (EDAR) Subpart 3415.302-70. This acquisition is issued as a full and open competition and acquired using procedures provided under Federal Acquisition Regulation (FAR) Part 12 in conjunction with the policies and procedures in FAR Part 15 to the maximum extent practicable. The resulting contracts will be funded with non-appropriated funds. The FAR and EDAR will be followed to the maximum extent practicable in accordance with EDAR Subpart 3401.104.

The Government anticipates awarding multiple Indefinite Delivery/Indefinite Quantity (IDIQ) contracts and Task Orders under NAICS code 561440 for default collection services. The resulting IDIQ awards will have a Base Ordering Period of five (5) years with a single, five (5) year optional ordering period. The resulting Task Order 0001 awards will have a Base Period of one (1) year with four (4), one (1) year optional periods. Task Order 0001 will be awarded with initial IDIQ selection. Only those Offerors selected in Phase I are permitted to submit an offer in Phase II.

Section B – Continuation of any block from the SF 1449

B.1 Provisions for Pricing and Payment

A. All task orders under this IDIQ contract will be incrementally funded. Payment shall be made in accordance with the terms in the pricing schedule shown in Section B.2 and with any other supplementary payment scheme that may be otherwise negotiated and specified.

B. The Government shall have the right to unilaterally increase the amount of obligated funds under task orders at any time in order to provide sufficient funds to cover the anticipated volume of services or supplies. The Government shall have the right to unilaterally decrease the amount of obligated funds under task orders at any time in order to reduce obligations that exceed the anticipated volume of services or supplies. Additional funds will be obligated on contract modifications signed by the Contracting Officer.

B.2 Pricing Schedule of Services

The Government shall have the right to unilaterally increase or decrease any part of commission, fees, and/or incentives within 30 days of notice to the Contractor. No claim or request for equitable adjustment shall be made either by the Contractor or the Government in relation to changes in the pricing schedule.

The Government will establish common pricing for all IDIQ contracts before award. The established pricing may be more or less than the Offeror's proposed pricing.

B.2.1 Commission

Commissions and Fees will be fixed for the price categories below and shall apply to the base period and optional ordering period, if applicable.

The Government has the unilateral right to add or remove additional fees from the rehabilitation commission. See Section B.3, Description of Pricing Categories, for more information. Offeror must complete and submit all of the following Pricing Scenario Tables:

Pricing Scenario Table 1A: 5 Year Base Ordering Period	
Price Category	**Commission/Fee**
Regular Collections	
Direct Loan	**___% / Dollar**
Non-Direct Loan	**___% / Dollar**
Administrative Wage Garnishment	**Same as Regular Collections**
Rehabilitation	
Direct Loan including Reasonable and Affordable - Income Based Repayment	**_____% / Principal & Interest (P&I)**
Non-Direct Loan including Reasonable and Affordable - Income Based Repayment	**_____% / P&I**
Consolidation	
Direct Loan	**2.75% / Final Payoff Value**
Non-Direct Loan	**2.75% / Final Payoff Value**
Administrative Resolution (AR)	**$150**

Pricing Scenario Table 1B: 5 Year Optional Ordering Period	
Price Category	**Commission/Fee**
Regular Collections	
Direct Loan	**___% / Dollar**
Non-Direct Loan	**___% / Dollar**
Administrative Wage Garnishment	**Same as Regular Collections**
Rehabilitation	
Direct Loan including Reasonable and Affordable - Income Based Repayment	**_____% / P&I**
Non-Direct Loan including Reasonable and Affordable – Income Based Repayment	**_____% / P&I**
Consolidation	
Direct Loan	**2.75% / Final Payoff Value**
Non-Direct Loan	**2.75% / Final Payoff Value**
Administrative Resolution (AR)	**$150**

Pricing Scenario 2A: 5 Year Base Ordering Period	
Price Category	**Commission/Fee**
Regular Collections	
Direct Loan	**___% / Dollar**
Non-Direct Loan	**___% / Dollar**
Administrative Wage Garnishment	**Same as Regular Collections**
Reasonable and Affordable - Income Based Repayment	**$_____/ Fixed Price per Rehabilitated Borrower**
Consolidation	
Direct Loan	**2.75% / Final Payoff Value**
Non-Direct Loan	**2.75% / Final Payoff Value**
Administrative Resolution (AR)	**$150**

Pricing Scenario 2B: 5 Year Optional Ordering Period	
Price Category	**Commission/Fee**
Regular Collections	
Direct Loan	**___% / Dollar**
Non-Direct Loan	**___% / Dollar**
Administrative Wage Garnishment	**Same as Regular Collections**
Rehabilitation	
Reasonable and Affordable - Income Based Repayment	**$_____/ Fixed Price Per Rehabilitated Borrower**
Consolidation	
Direct Loan	**2.75% / Final Payoff Value**
Non-Direct Loan	**2.75% / Final Payoff Value**
Administrative Resolution (AR)	**$150**

B.2.2 Escalation

The Government has included an escalation methodology based upon the Bureau of Labor Statistics' (BLS) Employment Cost Index (ECI) for Total Compensation, Private Industry, Service Occupations (Not Seasonally Adjusted), to account for significant inflation and/or deflation. When the ECI exceeds 3.0% (plus or minus) in any given year the Government will adjust the established common pricing by any amount in excess of this rate. The calculated rate of escalation will equal the average of the 12-month percent change for the previous four quarters, ending June 30th. This ECI escalation will be applied beginning in September of the same calendar year. Further, this escalation will compound for all remaining years of the Base and Optional Ordering Periods. For example, ECI rate released in June 2010 is 3.6%. The Government will increase unit pricing by .6% for the contract beginning September 1, 2010 and all remaining years of the Base Ordering Period, as well as the Optional Ordering Period. A decreasing rate of inflation would follow the same pattern as above. For example, if the ECI decreases by more than 3.0%, then the unit prices for the remaining out-years will also decrease by the percentage in excess of 3.0%. For example, ECI rate released in June 2010 is -4.2%. The Government will decrease unit pricing by 1.2% for the contract period beginning September 1, 2010 and all remaining years of the Base Ordering Period, as well as the Optional Ordering Period.

B.2.3 Commission

Commissions shall be paid to the Contractor on dollars collected under the contract at the rates specified in Section B.2.1 above.

The dollars eligible for Contractor commissions are those deposited net dollars (total deposit less any returned checks). The Contractor shall receive commission on any payment received eight (8) calendar days or more after the date the account is transferred to the Contractor and up to fourteen (14) calendar days after the date the account is returned to the Government.

The Contractor shall also receive commissions on an account that was approved for compromise and the dollars (certified funds, money order, etc.) were posted and deposited up to thirty (30) calendar days from the date the account is returned.

The Contractor shall not be paid a commission for the following:

1) Dollars received by the Government within seven (7) calendar days after the Government transferred the account to the Contractor.
2) School, lender or other third party payments. Such payments are not considered repayments from the borrower, but reimbursements of a portion of debts paid by the Government. Should a borrower pay the school or lender fifteen (15) calendar days after the date of the transfer to the Contractor, the Contractor shall provide complete documentation of that account before any commission may be paid.
3) Lender repurchases of FFEL debts.
4) Unidentified payments. Such payments, not posted to the account of any borrower are not subject to commission payment.
5) Any adjustment to the outstanding balance of accounts through administrative resolution including amounts waived through write-off, compromise, cancellation or closure due to the borrower's death, disability, bankruptcy, or incarceration.
6) Dollars collected in excess of an individual's balance, resulting in overpayment by the borrower.
7) Dollars received on any account fifteen (15) calendar days or later from the date the account was returned to the Government.
8) Dollars received through any Federal, State or local government salary offset, refund, garnishment (with the exception of administrative wage garnishment initiated by the Contractor), cancellations (i.e. teacher, military, Peace Corp, etc.), or other administrative action that results in the reduction or elimination of the debt in a manner beyond the scope of the Contractor's performance.

B.2.4 Commission Adjustment

Nonstandard Compromises—Subject to the limitations in this paragraph, the Contractor may, without prior approval from the Government, offer a borrower a compromise that goes beyond the current compromise standards set by the Government. A Contractor is limited to no more than 3 nonstandard compromises in any single quarter. (Unused allowances do not carry over to subsequent quarters.) The Government may, at its sole discretion, set further limits on the use of nonstandard compromises. If the borrower accepts a nonstandard compromise offer, the Contractor is responsible for the netback difference between the nonstandard compromise settlement and the applicable compromise standard set by the Government. The Contractor must properly notify ED when providing a nonstandard compromise. The Government shall reduce the Contractor's commissions on any nonstandard compromise settlement made by the Contractor. In instances where the Contractor offered a nonstandard compromise amount, the commission adjustment shall be based on the netback dollars to the Government. Example:

Borrower's total balance is $13,125. The Contractor compromises in conflict with the Government's current compromise standards and collects $8,000 and is initially paid a commission fee of $1,400 (17.5%). The Government recovers $6,600.

Under the applicable compromise standards, the Contractor would only have accepted a compromise agreement under which the borrower pays $10,500. The resultant netback to the Government would have been $8,662.50. The Government has lost $2,025 ($8,662.50 minus $6,600 = $2,062.50); therefore, the Government will deduct $2,062.50 from the Contractor's next commission payment.

Bankruptcy- In the case of bankruptcy, where the Contractor fails to forward the bankruptcy documents to the Litigation Branch within three (3) calendar days from the date of receipt of the documentation, the Government shall reduce the Contractor's overall commission by an amount equal to the amount the Government would have recovered in the course of the bankruptcy adjudication.

B.2.5 Administrative Resolution Fee

The Contractor shall be paid a fixed fee for each administrative resolution performed under this contract, as defined in the Statement of Work. The Contractor must have completed the requirements stated within the Statement of Work and, if applicable, the accounts have been systematically returned on the ED Collections System before the Contractor will be eligible to be paid the administrative resolution fee.

B.3 Description of Pricing Categories

B.3.1 Regular Collections
The Contractor shall be paid the commission on regular Direct Loan payments and commission on regular Non-Direct Loan payments as outlined in Section B.2.1.

B.3.2 Administrative Wage Garnishment (AWG)
The Contractor shall be paid the commission on payments received as a result of AWG for Direct Loans and for Non-Direct Loans as outlined in Section B.2.1.

B.3.3 Rehabilitation

The Contractor will be paid the commission rate on the final transfer value of Direct Loan debts rehabilitated provided the borrower meets all regulatory and statutory requirements and on the final payoff amount of non-Direct loans rehabilitated as outlined in Section B.2.1.

In addition under this Pricing Category, the borrower must make nine (9) voluntary (to be considered "timely," a borrower's payment must be received within 20 days of the monthly due date) payments equal to the minimum required percentage of the final payoff or transfer value (i.e. combined principal, interest, and fees). The government has the unilateral right to add or remove any and/or all fees from the rehabilitation commission.

For Direct Loan and FFEL Rehabilitations, if a borrower can prove they are unable to make minimum payments in respect to the minimum required percentage to resolve the account, Contractors shall then utilize the financial information in the IBR calculator to determine the borrower's ability to pay. A copy of the borrower's previous year's tax return or a signed alternative documentation of income (ADOI) that documents the borrower's income for the previous year is required to be scanned and submitted. If the borrower's account is rehabilitated and the nine (9) timely payments are less than the minimum percentage requirements or not in accordance with the Reasonable and Affordable Income Based Repayment amount, the account will be considered an "Administrative Rehabilitation" and the Contractor will be paid based on the administrative resolution units applicable to an Administrative Rehabilitation.

B.3.4 Consolidation

The Contractor will be paid the commission rate as outlined in Section B.2.1 on the final payoff value of the debts consolidated provided the borrower meets all regulatory and statutory requirements, as well as any additional requirements set by Federal Student Aid (FSA), the consolidation lender or that lender's guarantor. The consolidated debt includes principal, interest, and fees. The government has the unilateral right to add or remove any and/or all fees from the rehabilitation commission.

B.3.5 Administrative Resolution (AR)

The Contractor will be paid for each Administrative Resolution completed by the Contractor as outlined in Section B.2.1. The Government shall have the unilateral right to change the pricing. The Government may exercise its right to change AR pricing by the Contracting Officer giving written notice to the Contractor at least 15 days before the effective date of the change. The Government may exercise its right to change Pricing Alternatives as many times as it chooses. The types of administrative resolution are outlined in the Statement of Work.

ED reserves the right to adjust the Administrative Resolution to best meet the needs of the Government. Adjustments may occur due to changes in cost, volume production, regulations, state requirements, documentation mandates, etc.

B.3.6 Accounts Not Eligible for Commission or Fee

1. No commission will be paid for any consolidation or rehabilitation where any of the borrower's voluntary monthly payments do not equal or exceed the required amounts.
2. No commission will be paid for any consolidation or rehabilitation where it is determined that, at the request of the Contractor, effective dates of the required payments have been changed or altered.
3. No commission shall be paid for any consolidation or rehabilitation where the borrower, prior to consolidation or rehabilitation, qualified for write-off of the loan for reasons including, but not limited to, permanent and total disability, fraud, bankruptcy, death, and close school and false certification claims.
4. No commission will be paid if the Contractor has not counseled the borrower on his or her eligibility for such write-offs, both orally and in writing. Written counseling must be done via a Department-approved or created letter, and oral counseling must be documented on the Department of Education (ED) system.
5. The Contractor will not be paid a commission fee on any defaulted Consolidation Loan that has been re-consolidated.

6. No commission shall be paid on any account consolidated where a wage garnishment payment had posted in the 90 days prior to certification. This does not include voluntary payments miscoded by the Department as wage garnishment payments.
7. No commission shall be paid in excess of 3 nonstandard compromises per CPCS period. Unused limits do not carry over to subsequent CPCS periods.
8. Unless ED approves an exception, no commission or fee will be paid for any consolidation, rehabilitation or administrative resolution where the DCS contractor or the borrower did not meet any material (as determined by the Government) written requirement established by the Government.
9. No commission shall be paid on any compromise payment where compromise procedures were not followed (i.e., the compromise agreement letter is not sent to the borrower, the compromise information is not documented on the ED notepad, etc.).
10. The pricing schedule does not include any incentive fees. Refer to Section C - Contractor Performance Incentives.

If, in any of the above instances, the Department inadvertently pays a commission, the Department reserves the right to subsequently recover any such commission from the Contractor.

B.4 Contract Line Item Numbers

The following Contract Line Item Numbers (CLINs) are hereby incorporated into the IDIQ contract:

CLIN No.	Description	Estimated Quantity	Commission/Fee	Total Estimated Price
0001	Regular Collections – Direct Loan			
0002	Regular Collections – Non-Direct Loan			
0003	Administrative Wage Garnishment (AWG)			
0004	Rehabilitation – Direct Loan			
0005	Rehabilitation – Non-Direct Loan			
0006	Consolidation – Direct Loan			
0007	Consolidation – Non-Direct Loan			
0008	Administrative Resolution (AG)			
0009	Borrower Record Collection (TOP)			

The IDIQ contract minimum is $1,000.00. The total estimated IDIQ contract maximum ceiling is $2,000,000,000.00. The estimated quantities will be identified before contract award.

B.5 Accounting and Appropriation Data –

Accounting and Appropriation Data will be provided at the time of obligations under this contract.

The contract funding to be provided at the time of obligations under this contract will be using non-appropriated funds.

B.6 Period of Performance

This Indefinite Delivery Indefinite Quantity contract will have a five (5) year base ordering period with an optional ordering period of five (5) years. The total Ordering Period, including any option periods exercised, will not exceed 120 months from the date of initial data transfer, or April 1, 2014, whichever is later.

The following Federal Holidays are observed under this contract: New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

B.7 In-Repayment Retention Period

1) Each contractor may continue to work on accounts it retains during the In-Repayment Retention Period. Upon expiration of each Task Order Ordering Period of Performance, the in-repayment retention period may begin. If the Government issues more than one task order, the In-Repayment Retention Period may begin subsequent to the last task order awarded. The in-repayment retention period may run for up to twenty-four (24) months, except that upon return, recall or transfer of all accounts from this contract, the in-repayment retention period will end. During the in-repayment retention period, the Contractor may retain, except as provided in paragraph (3) below, accounts that remain in repayment in accordance with the PWS. No transfer of accounts to the Contractor may occur during the in-repayment retention period. The Contractor shall not be eligible for any commissions/fees on rehabilitations that occur after the Contractor's in-repayment retention period has ended.
2) Prior Private Collection Agency (PCA) Task Orders—If the Contractor holds a prior Task Order (e.g. one awarded in the year 2009) with ED for debt collection services, at any time during the in-repayment retention period of that prior Task Order, ED may transfer any or all accounts from that prior Task Order to this contract. Accounts transferred under this provision are subject to the prices and terms of this contract, except that the transferred accounts may *not* be included in the Competitive Performance and Continuous Surveillance (CPCS) performance indicators.
3) Subsequent PCA Task Orders—If the Contractor enters into a subsequent contract with ED for debt collection services, at any time during the in-repayment retention period of this IDIQ contract, ED may transfer any or all accounts from this IDIQ contract to the new Task Order or contract. Accounts transferred under this provision will be subject to the prices and terms of the Task Order or contract to which the accounts are transferred.

B.8 Invoice Procedures

FSA 32-1 Invoice Clause (Mar 2012) (Tailored)

The Contractor must submit an invoice via mail, fax, or e-mail for this contract in order to be paid for products and/or services rendered. For Prompt Payment Act purposes, Invoices received after 3 p.m. will be processed on the next business day.

Federal Student Aid's "Designated Billing Office" (DBO) is:

US Department of Education
Union Center Plaza
Federal Student Aid Administration
830 First Street, NE – Suite 54B1
Washington, D.C. 20201-0001
E-mail: InvoiceAdmin @ed.gov
Fax: (202) 275-3477

A contractor shall also simultaneously submit copies of the invoice to the Contracting Officer (CO) and one to the Contracting Officer's Representative (COR). The CO and COR should receive copies via the same means as the invoice sent to the DBO.

When submitting an invoice via mail, the Contractor shall submit the original invoice and two copies of the

invoice.

At a minimum the following items must be addressed in order for the invoice to be considered "proper" for payment:

(1) Name and Address of the Contractor.
(2) Invoice Number and Invoice Date.
(3) The Contract number, contract line item, and if applicable, the order number.
(4) Description, quantity, unit of measure, unit price, and extended price of the delivered item or service, as defined in the contract or order.
(5) Terms of any offered prompt payment discount.
(6) Name, title, and phone number of persons to be notified in event of a defective invoice.
(7) The period of time covered by the invoice.
(8) Totals, supported by subtotals, and subtotals should be supported by detail (i.e. documentation for categories of labor, hours performed, unit prices) and deliverables provided.
(9) If required by this contract or order, receipts must be provided to support documentation of "other direct costs" (ODCs) or materials.
(10) The Government will provide the contractor with borrower payment posting reports.

(11) SPECIAL INSTRUCTIONS FOR FINANCE PAYMENTS:

Invoices for finance payments shall specifically and prominently identify the payment request as follows:
REQUEST FOR FINANCING PAYMENT
Finance payments are not subject to the Prompt Payment Act. Failure to identify the invoice as a request for financing may result in delay of payment. Invoices that are identified as Requests for Finance Payments shall only include the finance payments listed in the contract. Requests for finance payments shall not be combined with other types of invoice payments.

(12) In addition to the contractor's invoice, the contractor shall submit the Invoice Template referenced in Section D herein.

B.9 Treasury Offset Program

Treasury Offset Program (TOP) services provide for TOP alias name records and ED borrower record corrections. The contractor shall add alias records to the U.S. Department of Treasury's certified borrower files and correct ED borrower records, thereby increasing the number of debts successfully offset and collected. Accurately obtain, research, and validate TOP-certified borrower name changes and to add those names to certified borrower files. Research and identify correct data points for certain borrower records, including but not limited to: Social security number, date of birth, address, phone number, and date of death.

Section C – Contract Terms and Conditions

C.1 Addendum to 52.212-4 – Contract Terms and Conditions – Commercial Items (Sept 2013) - Tailored

(c)(1) *Changes*. The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:
(i) Description of services to be performed.
(ii) Time of performance (i.e., hours of the day, days of the week, etc.).
(iii) Place of performance of the services.
(2)If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
(3)The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.
(4)If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.
(5)Failure to agree to any adjustment shall be a dispute under the Disputes clause.
However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

C.2 52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Jan 2014)

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

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

____ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

[Contracting Officer check as appropriate.]

__X_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

__X_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

___ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub L. 111-5) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).

__X_ (4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

___ (6) 52.204-14, Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

__X_ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

__X_ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) (31 U.S.C. 6101 note).

__X_ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

___ (10) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (May 2012) (section 738 of Division C of Public Law 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

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

___ (12) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the Offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

___ (13) [Reserved]

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

___ (ii) Alternate I (Nov 2011).

___ (iii) Alternate II (Nov 2011).

___ (15) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

___ (ii) Alternate I (Oct 1995) of 52.219-7.

___ (iii) Alternate II (Mar 2004) of 52.219-7.

__X_ (16) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)).

__X_ (17) (i) 52.219-9, Small Business Subcontracting Plan (Jul 2013) (15 U.S.C. 637 (d)(4)).

___ (ii) Alternate I (Oct 2001) of 52.219-9.

__X_ (iii) Alternate II (Oct 2001) of 52.219-9.

___ (iv) Alternate III (July 2010) of 52.219-9.

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

___ (19) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).

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

___ (21) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

___ (ii) Alternate I (June 2003) of 52.219-23.

___ (22) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (23) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (24) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).

___ (25) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

___ (26) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).

___ (27) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).

__X_ (28) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

___ (29) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jan 2014) (E.O. 13126).

__X_ (30) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

__X_ (31) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

__X_ (32) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

__X_ (33) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

__X_ (34) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

__X_ (35) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

__X_ (36) 52.222-54, Employment Eligibility Verification (Aug 2013). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

___ (37) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

___ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

___ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

___ (39) (i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

___ (ii) Alternate I (Dec 2007) of 52.223-16.

___ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011).

___ (41) 52.225-1, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

___ (42) (i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (Nov 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

___ (ii) Alternate I (Mar 2012) of 52.225-3.

___ (iii) Alternate II (Mar 2012) of 52.225-3.

___ (iv) Alternate III (Nov 2012) of 52.225-3.

___ (43) 52.225-5, Trade Agreements (Nov 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

__X_ (44) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2303 Note).

___ (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

___ (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

__X_ (50) 52.232-33, Payment by Electronic Funds Transfer— System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (51) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (52) 52.232-36, Payment by Third Party (Jul 2013) (31 U.S.C. 3332).

__X_ (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (54) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

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

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

[*Contracting Officer check as appropriate*.]

__X_ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*).

__X_ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

__X_ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

___ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*).

___ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*).

__X_ (7) 52.222-17, Nondisplacement of Qualified Workers (Jan 2013) (E.O. 13495).

___ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247).

___ (9) 52.237-11, Accepting and Dispensing of $1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

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

(e)

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Nondisplacement of Qualified Workers (Jan 2013) (E.O. 13495). Flow down required in accordance with paragraph (1) of FAR clause 52.222-17.

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

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

(viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), (41 U.S.C. 351, *et seq*.)

(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, *et seq*.)

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*)

(xii) 52.222-54, Employment Eligibility Verification (Aug 2013).

(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

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

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

(End of clause)

C.3 Additional Contract Terms and Conditions

C.3.1 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/far/

Clause	Title	Date
52.203-3	Gratuities	Apr 1984
52.203-5	Covenant Against Contingent Fees	Apr 1984
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper	May 2011
52.204-9	Personal Identity Verification of Contractor Personnel	Jan 2011
52.224-1	Privacy Act Notification	Apr 1984
52.224-2	Privacy Act	Apr 1984
52.237-3	Continuity of Services	Jan 1991
52.242-13	Bankruptcy	Jul 1995
52.242-15	Stop-Work Order	Aug 1989
52.245-9	Use and Charges	Apr 2012
52.253-1	Computer Generated Forms	Jan 1991

C.3.2 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 block] 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 “intends” in paragraph (a) of this provision, it shall insert in the following 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 or Respondent

C.3.3 52.216-18 Ordering (Oct 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Effective date of IDIQ through 5 years after effective date of IDIQ with an optional 5 year extension, plus 6 month option to extend services.
(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

C.3.4 52.216-19 Order Limitations (Oct 1995)

(a) *Minimum order*. When the Government requires supplies or services covered by this contract in an amount of less than the transfer of 2 accounts, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.
(b) *Maximum order*. The Contractor is not obligated to honor --

(1) Any order for a single item in excess of 5,000,000 account transfers;
(2) Any order for a combination of items in excess of 5,000,000 account transfers; or
(3) A series of orders from the same ordering office within 2 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within __2__ days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

C.3.5 52.216-22 Indefinite Quantity (Oct 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after expiration of the period of performance.

C.3.6 52.217-8 Option to Extend Services (Nov 1999)

The Government may require continued performance of any services within the limits and at the rates specified in

the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 1 day prior to expiration of the period of performance.

C.3.7 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 1 day prior to expiration of the period of performance*;* provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 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 10 years, 6 months.

C.3.8 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:
It is not a Wage Determination

Employee Class	**Monetary Wage -- Fringe Benefits**
None Identified	

C.3.9 52.232-40 Providing Accelerated Payment to Small Business Subcontractors (December 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of clause)

C.3.10 52.245-1 Government Property (Apr 2012)

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

"Cannibalize" means to remove parts from Government property for use or for installation on other Government property.

"Contractor-acquired property" means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

"Contractor inventory" means—
(1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;
(2) Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and
(3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

“Contractor's managerial personnel” means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—
(1) All or substantially all of the Contractor's business;
(2) All or substantially all of the Contractor's operation at any one plant or separate location; or
(3) A separate and complete major industrial operation.

“Demilitarization” means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

“Discrepancies incident to shipment” means any differences (*e.g.*, count or condition) between the items documented to have been shipped and items actually received.

“Equipment” means a tangible item that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use. Equipment does not include material, real property, special test equipment or special tooling.

“Government-furnished property” means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract. Government-furnished property includes, but is not limited to, spares and property furnished for repair, maintenance, overhaul, or modification. Government-furnished property also includes contractor-acquired property if the contractor-acquired property is a deliverable under a cost contract when accepted by the Government for continued use under the contract.

“Government property” means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property. Government property includes material, equipment, special tooling, special test equipment, and real property. Government property does not include intellectual property and software.

“Loss of Government Property” means unintended, unforeseen or accidental loss, damage or destruction to Government property that reduces the Government’s expected economic benefits of the property. Loss of Government property does not include purposeful destructive testing, obsolescence, normal wear and tear or manufacturing defects. Loss of Government property includes, but is not limited to—
(1) Items that cannot be found after a reasonable search:
(2) Theft:
(3) Damage resulting in unexpected harm to property requiring repair to restore the item to usable condition; or
(4) Destruction resulting from incidents that render the item useless for its intended purpose or beyond economical repair.

“Material” means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end item. Material does not include equipment, special tooling, special test equipment or real property.

“Nonseverable” means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

“Precious metals” means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

“Production scrap” means unusable material resulting from production, engineering, operations and maintenance, repair, and research and development contract activities. Production scrap may have value when re-melted or reprocessed, e.g., textile and metal clippings, borings, and faulty castings and forgings.

“Property” means all tangible property, both real and personal.

“Property Administrator” means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

“Property records” means the records created and maintained by the contractor in support of its stewardship responsibilities for the management of Government property.

“Provide” means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

“Real property.” See Federal Management Regulation 102-71.20 (41 CFR 102-71.20).

“Sensitive property” means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

“Unit acquisition cost” means—
(1) For Government-furnished property, the dollar value assigned by the Government and identified in the contract; and
(2) For contractor-acquired property, the cost derived from the Contractor’s records that reflect consistently applied generally accepted accounting principles.

(b) *Property management.*

(1) The Contractor shall have a system of internal controls to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective and efficient control of Government property. The Contractor shall disclose any significant changes to its property management system to the Property Administrator prior to implementation of the changes. The Contractor may employ customary commercial practices, voluntary consensus standards, or industry-leading practices and standards that provide effective and efficient Government property management that are necessary and appropriate for the performance of this contract (except where inconsistent with law or regulation).

(2) The Contractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, sale (as surplus property), or other disposition, or via a completed investigation, evaluation, and final determination for lost property. This requirement applies to all Government property under the Contractor's accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this clause).

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(4) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness and shall perform periodic internal reviews, surveillances, self assessments, or audits. Significant

findings or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(c) *Use of Government property*.

(1) The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer.

(2) Modifications or alterations of Government property are prohibited, unless they are—

(i) Reasonable and necessary due to the scope of work under this contract or its terms and conditions;
(ii) Required for normal maintenance; or
(iii) Otherwise authorized by the Contracting Officer.

(3) The Contractor shall not cannibalize Government property unless otherwise provided for in this contract or approved by the Contracting Officer.

(d) *Government-furnished property*.

(1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.

(i) If the property is not delivered to the Contractor by the dates stated in the contract, the Contracting Officer shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.
(ii) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Contracting Officer shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Contracting Officer shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).
(iii) The Government may, at its option, furnish property in an “as-is” condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(3)(i) The Contracting Officer may by written notice, at any time—
(A) Increase or decrease the amount of Government-furnished property under this contract;
(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or
(C) Withdraw authority to use property.

(ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.

(e) *Title to Government property*.

(1) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as “Government property”), is subject to the provisions of this clause. The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Title vests in the Government for all property acquired or fabricated by the Contractor in accordance with the financing provisions or other specific requirements for passage of title in the contract. Under fixed price type contracts, in the absence of financing provisions or other specific requirements for passage of title in the contract, the Contractor retains title to all property acquired by the Contractor for use on the contract, except for property identified as a deliverable end item. If a deliverable item is to be retained by the Contractor for use after inspection and acceptance by the Government, it shall be made accountable to the contract through a contract modification listing the item as Government-furnished property.

(3) *Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts*.

(i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—
(A) Issuance of the property for use in contract performance;
(B) Commencement of processing of the property for use in contract performance; or
(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (e)(3)(iii) (collectively referred to as “Government property)”, are subject to the provisions of this clause.

(f) *Contractor plans and systems*.

(1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) *Acquisition of Property*. The Contractor shall document that all property was acquired consistent with its engineering, production planning, and property control operations.

(ii) *Receipt of Government Property*. The Contractor shall receive Government property and document the receipt, record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (*e.g.*, stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) *Government-furnished property*. The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if

overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) *Contractor-acquired property*. The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) *Records of Government property*. The Contractor shall create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

(*1*) The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition) and other data elements as necessary and required in accordance with the terms and conditions of the contract.
(*2*) Quantity received (or fabricated), issued, and balance-on-hand.
(*3*) Unit acquisition cost.
(*4*) Unique-item identifier or equivalent (if available and necessary for individual item tracking).
(*5*) Unit of measure.
(*6*) Accountable contract number or equivalent code designation.
(*7*) Location.
(*8*) Disposition.
(*9*) Posting reference and date of transaction.
(*10*) Date placed in service (if required in accordance with the terms and conditions of the contract).

(B) *Use of a Receipt and Issue System for Government Material*. When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) *Physical inventory*. The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (*e.g.*, overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) *Subcontractor control*.

(A) The Contractor shall award subcontracts that clearly identify items to be provided and the extent of any restrictions or limitations on their use. The Contractor shall ensure appropriate flow down of contract terms and conditions (*e.g.*, extent of liability for loss of Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

(vi) *Reports*. The Contractor shall have a process to create and provide reports of discrepancies, loss of Government property, physical inventory results, audits and self-assessments, corrective actions, and other property related reports as directed by the Contracting Officer.

(vii) *Relief of stewardship responsibility and liability*. The Contractor shall have a process to enable the prompt recognition, investigation, disclosure and reporting of loss of Government property, including losses that occur at subcontractor or alternate site locations.

(A) This process shall include the corrective actions necessary to prevent recurrence.

(B) Unless otherwise directed by the Property Administrator, the Contractor shall investigate and report to the Government all incidents of property loss as soon as the facts become know, Such reports shall, at a minimum, contain the following information:

(1) Date of incident (if known).
(2) The data elements required under paragraph (f)(1)(iii)(A) of this clause.
(3) Quantity.
(4) Accountable contract number.
(5) A statement indicating current or future need.
(6) Unit acquisition cost, or if applicable, estimated sales proceeds, estimated repair or replacement costs.
(7) All known interests in commingled material of which includes Government material.
(8) Cause and corrective action taken or to be taken to prevent recurrence.
(9) A statement that the Government will receive compensation covering the loss of Government property, in the event the Contractor was or will be reimbursed or compensated.
(10) Copies of all supporting documentation.
(11) Last know location.
(12) A statement that the property did or did not contain sensitive, export controlled, hazardous, or toxic material, and that the appropriate agencies and authorities were notified.

(C) Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility and liability for property when—

(1) Such property is consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator;
(2) Property Administrator grants relief of responsibility and liability for loss of Government property;
(3) Property is delivered or shipped from the Contractor’s plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or
(4) Property is disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) *Utilizing Government property*.

(A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government material with material not owned by the Government.

(ix) *Maintenance*. The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) *Property closeout*. The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss of Government property cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(26 The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions, loss of Government property, and disposition of material and equipment.

(g) *Systems analysis*.

(1) The Government shall have access to the contractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor's property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property. This access includes all site locations and, with the Contractor’s consent, all subcontractor premises.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be appropriately safeguarded.

(3) Should it be determined by the Government that the Contractor's (or subcontractor’s) property management practices are inadequate or not acceptable for the effective management and control of Government property under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan when requested by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.

(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) *Contractor Liability for Government Property*.

(1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss of Government property furnished or acquired under this contract, except when any one of the following applies—

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205-19.

(ii) Loss of Government property that is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss of Government property due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss of Government property occurred while the Contractor had adequate property management practices or the loss did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

(2) The Contractor shall take all reasonable actions necessary to protect the property from further loss. The Contractor shall separate the damaged and undamaged property, place all the affected property in the best possible order, and take such other action as the Property Administrator directs.

(27 The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss of Government property.

(4) The Contractor shall reimburse the Government for loss of Government property, to the extent that the Contractor is financially liable for such loss, as directed by the Contracting Officer.

(5) Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(i) *Equitable adjustment*. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.
(2) Delivery of Government-furnished property in a condition not suitable for its intended use.
(3) An increase, decrease, or substitution of Government-furnished property.
(4) Failure to repair or replace Government property for which the Government is responsible.

(j) *Contractor inventory disposal*. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer or authorizing official.

(1) *Predisposal requirements*.

(i) If the Contractor determines that the property has the potential to fulfill requirements under other contracts, the Contractor, in consultation with the Property Administrator, shall request that the Contracting Officer transfer the property to the contract in question, or provide authorization for use, as appropriate. In lieu of transferring the property, the Contracting Officer may authorize the Contractor to credit the costs of Contractor-acquired property (material only) to the losing contract with the corresponding cost, when such material is needed for use on another contract. Property no longer needed shall be considered contractor inventory.

(ii) For any remaining Contractor-acquired property, the Contractor may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier’s customary practices.)

(2) *Inventory disposal schedules*.

(i) Absent separate contract terms and conditions for property disposition, and provided the property was not reutilized, transferred, or otherwise disposed of, the Contractor, as directed by the Plant Clearance Officer or authorizing official, shall use Standard Form 1428, Inventory Disposal Schedule or electronic equivalent, to identify and report—
(A) Government-furnished property that is no longer required for performance of this contract;
(B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and
(C) Termination inventory.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government, in the event that the property is offered for sale.

(iii) Separate inventory disposal schedules are required for aircraft in any condition, flight safety critical aircraft parts, and other items as directed by the Plant Clearance Officer

(iv) The Contractor shall provide the information required by FAR 52.245-1(f)(1)(iii) along with the following:

(A) Any additional; information that may facilitate understanding of the property's intended use.

(B) For work-in-progress, the estimated percentage of completion.

(C) For precious metals in raw or bulk form, the type of metal and estimated weight.

(D) For hazardous material or property contaminated with hazardous material, the type of hazardous material.

(E) For metals in mill product form, the form, shape, treatment, hardness, temper, specification (commercial or Government) and dimensions (thickness, width and length).

(v) Property with the same description, condition code, and reporting location may be grouped in a single line item.

(vi) Scrap should be reported by "lot" along with metal content, estimated weight and estimated value.

(3) *Submission requirements*.

(i) The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—

(A) 30 days following the Contractor's determination that a property item is no longer required for performance of this contract;

(B) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(C) 120 days, or such longer period as may be approved by the Termination Contracting Officer, following contract termination in whole or in part.

(ii) Unless the Plant Clearance Officer determines otherwise, the Contractor need not identify or report production scrap on inventory disposal schedules, and may process and dispose of production scrap in accordance with its own internal scrap procedures. The processing and disposal of other types of Government-owned scrap will be conducted in accordance with the terms and conditions of the contract or Plant Clearance Officer direction, as appropriate.

(4) *Corrections*. The Plant Clearance Officer may—

(i) Reject a schedule for cause (*e.g.*, contains errors, determined to be inaccurate); and

(ii) Require the Contractor to correct an inventory disposal schedule.

(5) *Postsubmission adjustments*. The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.

(6) *Storage*.

(i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage area shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(7) *Disposition instructions.*

(i) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. Unless otherwise directed by the Contracting Officer or by the Plant Clearance Officer, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal.

(ii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(8) *Disposal proceeds*. As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.

(9) *Subcontractor inventory disposal schedules*. The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(3) of this clause.

(k) *Abandonment of Government property*.

(1) The Government shall not abandon sensitive property or termination inventory without the Contractor's written consent.

(2) The Government, upon notice to the Contractor, may abandon any nonsensitive property in place, at which time all obligations of the Government regarding such property shall cease.

(3) Absent contract terms and conditions to the contrary, the Government may abandon parts removed and replaced from property as a result of normal maintenance actions, or removed from property as a result of the repair, maintenance, overhaul, or modification process.

(4) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) *Communication*. All communications under this clause shall be in writing.

(m) *Contracts outside the United States*. If this contract is to be performed outside of the United States and its outlying areas, the words “Government” and “Government-furnished” (wherever they appear in this clause) shall be construed as “United States Government” and “United States Government-furnished,” respectively.

C.3.11 EDAR 3452.201-70 Contracting Officer's Representative (COR) (Mar 2011)

(a) The Contracting Officer's Representative (COR) is responsible for the technical aspects of the project, technical liaison with the contractor, and any other responsibilities that are specified in the contract. These responsibilities include inspecting all deliverables, including reports, and recommending acceptance or rejection to the contracting officer.

(b) The COR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes that affect the contract price, terms, or conditions. Any contractor requests for changes shall be submitted in writing directly to the contracting officer or through the COR. No such changes shall be made without the written authorization of the contracting officer.

(c) The COR's name and contact information:

Name: TBD
Contracting Officer Representation (COR)
U.S. Department of Education
Office of Federal Student Aid
Address: TBD
Phone Number: TBD

(d) The COR may be changed by the Government at any time, but notification of the change, including the name and address of the successor COR, will be provided to the contractor by the contracting officer in writing.

C.3.12 EDAR 3452.202-1 Definitions—Department of Education (Mar 2011)

(a) The definitions at FAR 2.101 are appended with those contained in Education Department Acquisition Regulations (EDAR) 3402.101.

(b) The EDAR is available via the Internet at *http://www.ed.gov/policy/fund/reg/clibrary/edar.html.*

C.3.13 EDAR 3452.208-71 Printing (Mar 2011)

Unless otherwise specified in this contract, the contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract; except that performance involving the duplication of fewer than 5,000 units of any one page, or fewer than 25,000 units in the aggregate of multiple pages, shall not be deemed to be printing. A unit is defined as one side of one sheet, one color only (with black counting as a color), with a maximum image size of $10\frac{3}{4}$ by $14\frac{1}{4}$ inches on a maximum paper size of 11 by 17 inches. Examples of counting the number of units: black plus one additional color on one side of one page counts as two units. Three colors (including black) on two sides of one page count as six units.

C.3.14 EDAR 3452.208-72 Paperwork Reduction Act (Mar 2011)

(a) The Paperwork Reduction Act of 1995 applies to contractors that collect information for use or disclosure by the Federal government. If the contractor will collect information requiring answers to identical questions from 10 or more people, no plan, questionnaire, interview guide, or other similar device for collecting information may be used without first obtaining clearance from the Chief Acquisition Officer (CAO) or the CAO's designee within the Department of Education (ED) and the Office of Management and Budget (OMB). Contractors and Contracting

Officers' Representatives shall be guided by the provisions of 5 CFR part 1320, Controlling Paperwork Burdens on the Public, and should seek the advice of the Department's Paperwork Clearance Officer to determine the procedures for acquiring CAO and OMB clearance.

(b) The contractor shall obtain the required clearances through the Contracting Officer's Representative before expending any funds or making public contacts for the collection of information described in paragraph (a) of this clause. The authority to expend funds and proceed with the collection shall be in writing by the contracting officer. The contractor must plan at least 120 days for CAO and OMB clearance. Excessive delay caused by the Government that arises out of causes beyond the control and without the fault or negligence of the contractor will be considered in accordance with the Excusable Delays or Default clause of this contract.

C.3.15 EDAR 3452.209-71 Conflict of Interest (Mar 2011)

(a)(1) The contractor, subcontractor, employee, or consultant, has certified that, to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational or personal conflict of interest (*see* FAR Subpart 9.5 for organizational conflicts of interest) (or apparent conflict of interest) for the organization or any of its staff, and that the contractor, subcontractor, employee, or consultant has disclosed all such relevant information if such a conflict of interest appears to exist to a reasonable person with knowledge of the relevant facts (or if such a person would question the impartiality of the contractor, subcontractor, employee, or consultant). Conflicts may arise in the following situations:

(i) *Unequal access to information* —A potential contractor, subcontractor, employee, or consultant has access to non-public information through its performance on a government contract.

(ii) *Biased ground rules* —A potential contractor, subcontractor, employee, or consultant has worked, in one government contract, or program, on the basic structure or ground rules of another government contract.

(iii) *Impaired objectivity* —A potential contractor, subcontractor, employee, or consultant, or member of their immediate family (spouse, parent, or child) has financial or other interests that would impair, or give the appearance of impairing, impartial judgment in the evaluation of government programs, in offering advice or recommendations to the government, or in providing technical assistance or other services to recipients of Federal funds as part of its contractual responsibility. “Impaired objectivity” includes but is not limited to the following situations that would cause a reasonable person with knowledge of the relevant facts to question a person's objectivity:

(A) Financial interests or reasonably foreseeable financial interests in or in connection with products, property, or services that may be purchased by an educational agency, a person, organization, or institution in the course of implementing any program administered by the Department;

(B) Significant connections to teaching methodologies that might require or encourage the use of specific products, property, or services; or

(C) Significant identification with pedagogical or philosophical viewpoints that might require or encourage the use of a specific curriculum, specific products, property, or services.

(2) Offerors must provide the disclosure described above on any actual or potential conflict (or apparent conflict of interest) of interest regardless of their opinion that such a conflict or potential conflict (or apparent conflict of interest) would not impair their objectivity.

(3) In a case in which an actual or potential conflict (or apparent conflict of interest) is disclosed, the Department will take appropriate actions to eliminate or address the actual or potential conflict (or apparent conflict of interest), including but not limited to mitigating or neutralizing the conflict, when appropriate, through such means as ensuring a balance of views, disclosure with the appropriate disclaimers, or by restricting or modifying the work to be performed to avoid or reduce the conflict. In this clause, the term "potential conflict" means reasonably foreseeable conflict of interest.

(b) The contractor, subcontractor, employee, or consultant agrees that if "impaired objectivity", or an actual or potential conflict of interest (or apparent conflict of interest) is discovered after the award is made, it will make a full disclosure in writing to the contracting officer. This disclosure shall include a description of actions that the contractor has taken or proposes to take, after consultation with the contracting officer, to avoid, mitigate, or neutralize the actual or potential conflict (or apparent conflict of interest).

(c) *Remedies.* The Government may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid the appearance of a conflict of interest. If the contractor was aware of a potential conflict of interest prior to award or discovered an actual or potential conflict (or apparent conflict of interest) after award and did not disclose or misrepresented relevant information to the contracting officer, the Government may terminate the contract for default, or pursue such other remedies as may be permitted by law or this contract. These remedies include imprisonment for up to five years for violation of 18 U.S.C. 1001 and fines of up to $5,000 for violation of 31 U.S.C. 3802. Further remedies include suspension or debarment from contracting with the Federal government. The contractor may also be required to reimburse the Department for costs the Department incurs arising from activities related to conflicts of interest. An example of such costs would be those incurred in processing Freedom of Information Act requests related to a conflict of interest.

(d) In cases where remedies short of termination have been applied, the contractor, subcontractor, employee, or consultant agrees to eliminate the organizational conflict of interest, or mitigate it to the satisfaction of the contracting officer.

(e) The contractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions that conform substantially to the language of this clause, including specific mention of potential remedies and this paragraph (e).

C.3.16 EDAR 3452.224-70 Release of Information Under the Freedom of Information Act (Mar 2011)

By entering into a contract with the Department of Education, the contractor, without regard to proprietary markings, approves the release of the entire contract and all related modifications and task orders including, but not limited to:

(1) Unit prices, including labor rates;
(2) Statements of Work/Performance Work Statements generated by the contractor;
(3) Performance requirements, including incentives, performance standards, quality levels, and service level agreements;
(4) Reports, deliverables, and work products delivered in performance of the contract (including quality of service, performance against requirements/standards/service level agreements);
(5) Any and all information, data, software, and related documentation first provided under the contract;
(6) Proposals or portions of proposals incorporated by reference; and
(7) Other terms and conditions.

C.3.17 EDAR 3452.227-70 Publication and Publicity (Mar 2011)

(a) Unless otherwise specified in this contract, the contractor is encouraged to publish and otherwise promote the results of its work under this contract. A copy of each article or work submitted by the contractor for publication shall be promptly sent to the contracting officer's representative. The contractor shall also inform the representative when the article or work is published and furnish a copy in the published form.

(b) The contractor shall acknowledge the support of the Department of Education in publicizing the work under this contract in any medium. This acknowledgement shall read substantially as follows:

"This project has been funded at least in part with Federal funds from the U.S. Department of Education under contract number [Insert number]. The content of this publication does not necessarily reflect the views or policies of the U.S. Department of Education nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

C.3.18 EDAR 3452.227-71 Advertising of Awards (Mar 2011)

The contractor agrees not to refer to awards issued by, or products or services delivered to, the Department of Education in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed by the Federal government or is considered by the Federal government to be superior to other products or services.

C.3.19 EDAR 3452.227-72 Use and Non-Disclosure Agreement (Mar 2011)

(a) Except as provided in paragraph (b) of this clause, proprietary data, technical data, or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure may not be provided to third parties unless the intended recipient completes and signs the use and non-disclosure agreement in paragraph (c) of this clause prior to release or disclosure of the data.

(1) The specific conditions under which an intended recipient will be authorized to use, modify, reproduce, release, perform, display, or disclose proprietary data or technical data subject to limited rights, or computer software subject to restricted rights must be stipulated in an attachment to the use and non-disclosure agreement.

(2) For an intended release, disclosure, or authorized use of proprietary data, technical data, or computer software subject to special license rights, modify paragraph (c)(1)(iv) of this clause to enter the conditions, consistent with the license requirements, governing the recipient's obligations regarding use, modification, reproduction, release, performance, display, or disclosure of the data or software.

(b) The requirement for use and non-disclosure agreements does not apply to Government contractors that require access to a third party's data or software for the performance of a Government contract that contains the 3452.227-73 clause, Limitations on the use or disclosure of Government-furnished information marked with restrictive legends.

(c) The prescribed use and non-disclosure agreement is:

USE AND NON-DISCLOSURE AGREEMENT

The undersigned,_____(Insert Name)_____, an authorized representative of the__(Insert Company Name), (which is hereinafter referred to as the "recipient") requests the Government to provide the recipient with proprietary data, technical data, or computer software (hereinafter referred to as "data") in which the Government's use, modification, reproduction, release, performance, display, or disclosure rights are restricted. Those data are identified in an attachment to this agreement. In consideration for receiving such data, the recipient agrees to use the data strictly in accordance with this agreement.

(1) The recipient shall—

(i) Use, modify, reproduce, release, perform, display, or disclose data marked with Small Business Innovative Research (SBIR) data rights legends only for government purposes and shall not do so for any commercial purpose. The recipient shall not release, perform, display, or disclose these data, without the express written permission of the contractor whose name appears in the restrictive legend (the contractor), to any person other than its subcontractors or suppliers, or prospective subcontractors or suppliers, who require these data to submit offers for, or perform, contracts with the recipient. The recipient shall require its subcontractors or suppliers, or prospective subcontractors or suppliers, to sign a use and non-disclosure agreement prior to disclosing or releasing these data to such persons. Such an agreement must be consistent with the terms of this agreement.

(ii) Use, modify, reproduce, release, perform, display, or disclose proprietary data or technical data marked with limited rights legends only as specified in the attachment to this agreement. Release, performance, display, or disclosure to other persons is not authorized unless specified in the attachment to this agreement or expressly permitted in writing by the contractor.

(iii) Use computer software marked with restricted rights legends only in performance of contract number *[insert contract number(s)]*. The recipient shall not, for example, enhance, decompile, disassemble, or reverse engineer the software; time share; or use a computer program with more than one computer at a time. The recipient may not release, perform, display, or disclose such software to others unless expressly permitted in writing by the licensor whose name appears in the restrictive legend.

(iv) Use, modify, reproduce, release, perform, display, or disclose data marked with special license rights legends [To be completed by the contracting officer. *See* paragraph (a)(2) of this clause. Omit if none of the data requested is marked with special license rights legends].

(2) The recipient agrees to adopt or establish operating procedures and physical security measures designed to protect these data from inadvertent release or disclosure to unauthorized third parties.

(3) The recipient agrees to accept these data "as is" without any Government representation as to suitability for intended use or warranty whatsoever. This disclaimer does not affect any obligation the Government may have regarding data specified in a contract for the performance of that contract.

(4) The recipient may enter into any agreement directly with the contractor with respect to the use, modification, reproduction, release, performance, display, or disclosure of these data.

(5) The recipient agrees to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorney's fees, court costs, and expenses arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of data received from the Government with restrictive legends by the recipient or any person to whom the recipient has released or disclosed the data.

(6) The recipient is executing this agreement for the benefit of the contractor. The contractor is a third party beneficiary of this agreement who, in addition to any other rights it may have, is intended to have the rights of

direct action against the recipient or any other person to whom the recipient has released or disclosed the data, to seek damages from any breach of this agreement, or to otherwise enforce this agreement.

(7) The recipient agrees to destroy these data, and all copies of the data in its possession, no later than 30 days after the date shown in paragraph (8) of this agreement, to have all persons to whom it released the data do so by that date, and to notify the contractor that the data have been destroyed.

(8) This agreement shall be effective for the period commencing with the recipient's execution of this agreement and ending upon ____(Insert Date)_____. The obligations imposed by this agreement shall survive the expiration or termination of the agreement.

_____
Recipient's Business Name

_____
Authorized Representative Signature

_____
Date

_____
Representative's Typed Name and Title

C.3.20 EDAR 3452.227-73 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (Mar 2011)

(a) For contracts under which data are to be produced, furnished, or acquired, the terms *limited rights* and *restricted rights* are defined in the rights in data—general clause (FAR 52.227-14).

(b) Proprietary data, technical data, or computer software provided to the contractor as Government-furnished information (GFI) under this contract may be subject to restrictions on use, modification, reproduction, release, performance, display, or further disclosure.

(1) *Proprietary data with legends that serve to restrict disclosure or use of data.* The contractor shall use, modify, reproduce, perform, or display proprietary data received from the Government with proprietary or restrictive legends only in the performance of this contract. The contractor shall not, without the express written permission of the party who owns the data, release, or disclose such data or software to any person.

(2) *GFI marked with limited or restricted rights legends.* The contractor shall use, modify, reproduce, perform, or display technical data received from the Government with limited rights legends or computer software received with restricted rights legends only in the performance of this contract. The contractor shall not, without the express written permission of the party whose name appears in the legend, release or disclose such data or software to any person.

(3) *GFI marked with specially negotiated license rights legends.* The contractor shall use, modify, reproduce, release, perform, or display proprietary data, technical data, or computer software received from the Government with specially negotiated license legends only as permitted in the license. Such data or software may not be released or disclosed to other persons unless permitted by the license and, prior to release or disclosure, the intended recipient has completed the use and non-disclosure agreement. The contractor shall modify paragraph

(c)(1)(iii) of the use and non-disclosure agreement (3452.227-72) to reflect the recipient's obligations regarding use, modification, reproduction, release, performance, display, and disclosure of the data or software.

(c) Indemnification and creation of third party beneficiary rights.

(1) The contractor agrees to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of proprietary data, technical data, or computer software received from the Government with restrictive legends by the contractor or any person to whom the contractor has released or disclosed such data or software.

(2) The contractor agrees that the party whose name appears on the restrictive legend, in addition to any other rights it may have, is a third party beneficiary who has the right of direct action against the contractor, or any person to whom the contractor has released or disclosed such data or software, for the unauthorized duplication, release, or disclosure of proprietary data, technical data, or computer software subject to restrictive legends.

C.3.21 EDAR 3452.237-71 Observance of Administrative Closures (Mar 2011)

(a) The contract schedule (Section B.6) identifies all Federal holidays that are observed under this contract. Contractor performance is required under this contract at all other times, and compensated absences are not extended due to administrative closures of Government facilities and operations due to inclement weather, Presidential decree, or other administrative issuances where Government personnel receive early dismissal instructions.

(b) In cases of contract performance at a Government facility when the facility is closed, the vendor may arrange for performance to continue during the closure at the contractor's site, if appropriate.

C.3.22 EDAR 3452.239-70 Internet Protocol Version 6 (Mar 2011)

(a) Any system hardware, software, firmware, or networked component (voice, video, or data) developed, procured, or acquired in support or performance of this contract shall be capable of transmitting, receiving, processing, forwarding, and storing digital information across system boundaries utilizing system packets that are formatted in accordance with commercial standards of Internet protocol (IP) version 6 (IPv6) as set forth in Internet Engineering Task Force (IETF) Request for Comments (RFC) 2460 and associated IPv6-related IETF RFC standards. In addition, this system shall maintain interoperability with IPv4 systems and provide at least the same level of performance and reliability capabilities of IPv4 products.

(b) Specifically, any new IP product or system developed, acquired, or produced must—

(1) Interoperate with both IPv6 and IPv4 systems and products; and

(2) Have available contractor/vendor IPv6 technical support for development and implementation and fielded product management.

(c) Any exceptions to the use of IPv6 require the agency's CIO to give advance, written approval.

C.3.23 EDAR 3452.239-72 Department Security Requirements (Mar 2011)

(a) The contractor and its subcontractors shall comply with Department security policy requirements as set forth in the "Bidder's Security Package: Security Requirements for Contractors Doing Business with the Department of Education" at *http://www.ed.gov/fund/contract/about/bsp.html*.

(b) The following are the contractor employee positions required under this contract and their designated risk levels:

High Risk (HR): [Specify HR positions.]
Moderate Risk (MR): [Specify MR positions.]
Low Risk (LR): [Specify LR positions.]

(c) All contractor employees must undergo personnel security screening if they will be employed for 30 days or more, in accordance with Departmental Directive OM:5-101, "Contractor Employee Personnel Security Screenings." The type of screening and the timing of the screening will depend upon the nature of the contractor position, the type of data to be accessed, and the type of information technology (IT) system access required. Personnel security screenings will be commensurate with the risk and magnitude of harm the individual could cause.

(d) The contractor shall—

(1) Ensure that all non-U.S. citizen contractor employees are lawful permanent residents of the United States or have appropriate work authorization documents as required by the Department of Homeland Security, Bureau of Immigration and Appeals, to work in the United States.

(2) Ensure that no employees are assigned to high risk designated positions prior to a completed preliminary screening.

(3) Submit all required personnel security forms to the contracting officer's representative (COR) within 24 hours of an assignment to a Department contract and ensure that the forms are complete.

(4) Ensure that no contractor employee is placed in a higher risk position than that for which he or she was previously approved, without the approval of the contracting officer or the COR, the Department personnel security officer, and the Department computer security officer.

(5) Ensure that all contractor employees occupying high-risk designated positions submit forms for reinvestigation every five years for the duration of the contract or if there is a break in service to a Department contract of 365 days or more.

(6) Report to the COR all instances of individuals seeking to obtain unauthorized access to any departmental IT system, or sensitive but unclassified and/or Privacy Act protected information.

(7) Report to the COR any information that raises an issue as to whether a contractor employee's eligibility for continued employment or access to Department IT systems, or sensitive but unclassified and/or Privacy Act protected information, promotes the efficiency of the service or violates the public trust.

(8) Withdraw from consideration under the contract any employee receiving an unfavorable adjudication determination.

(9) Officially notify each contractor employee if he or she will no longer work on a Department contract.

(10) Abide by the requirements in Departmental Directive OM:5-101, "Contractor Employee Personnel Security Screenings."

(e) Further information including definitions of terms used in this clause and a list of required investigative forms for each risk designation are contained in Departmental Directive OM:5-101, "Contractor Employee Personnel Security Screenings" available at the Web site listed in the first paragraph of this clause.

(f) Failure to comply with the contractor personnel security requirements may result in a termination of the contract for default.

C.3.24 EDAR 3452.242-71 Notice to the Government of Delays (Mar 2011)

The contractor shall notify the contracting officer of any actual or potential situation, including but not limited to labor disputes, that delays or threatens to delay the timely performance of work under this contract. The contractor shall immediately give written notice thereof, including all relevant information.

C.3.25 EDAR 3452.242-73 Accessibility of Meetings, Conferences, and Seminars to Persons with Disabilities (Mar 2011)

The contractor shall assure that any meeting, conference, or seminar held pursuant to the contract will meet all applicable standards for accessibility to persons with disabilities pursuant to section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and any implementing regulations of the Department.

C.3.26 EDAR 3452.243-70 Key Personnel (Mar 2011)

(a) The personnel designated as key personnel in this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, or otherwise substituting any other personnel for specified personnel, the contractor shall notify the contracting officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract effort. No diversion or substitution shall be made by the contractor without written consent of the contracting officer; provided, that the contracting officer may ratify a diversion or substitution in writing and that ratification shall constitute the consent of the contracting officer required by this clause. The contract shall be modified to reflect the addition or deletion of key personnel.

(b) The following personnel have been identified as Key Personnel in the performance of this contract:

Labor category	**Name**
Contract Representative	[Insert name]
Project Manager	[Insert name]

C.3.27 FSA 22-2 Service Contract Act and Fair Labor Standards Act Requirements in Escalated Contracts (Jan 2013)

The Service Contract Act and Fair Labor Standards Act apply to this contract. This clause applies to both contracts that are subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements. The Government has determined that both or either of the following is applicable:

1. The contract is performance-based and payment to the contractor will be a percentage based upon actual

performance, and/or

2. The contract is issued on a firm-fixed-price basis, the Government anticipates a mix of exempt and non-exempt personnel during performance of the contract, and escalation is provided for in the contract.

The contract addresses:

1. any price escalation of the fixed contract line item prices of the base and optional periods of performance or ordering periods, including but limited to, built-in economic price adjustment or other alternative pricing method, as appropriate;
2. any increases or decreases made to:
    a. Wage Determinations or Conforming Wage Determinations that the Contractor may request of the Department of Labor that occur with the exercise of options or that occur as a result of time triggers identified in the Service Contract Act; or,
    b. comply with an amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

Such changes will be cared for through escalations already identified in the contract, and no claim shall be made either by the Contractor or the Government as a result of increases or decreases in Wage Determinations, Conforming Wage Determinations, or changes to the minimum wage. This clause does not relieve the Contractor of its responsibility to pay a covered employee wages consistent with the Service Contract Act and Fair Labor Standards Act in the event the escalation does not cover the total amount of the increase.

C.3.28 FSA 25-1 Prohibitions on Contract Performance Outside of the United States (July 2012)

The Contractor has represented to the Department that it will perform all work required under this Contract within the United States. If, at any time, the Contractor wishes to perform any Contract work outside the United States, the Contractor shall inform the Contracting Officer, in advance and in writing, of its intention and request the Department's approval. The Contractor shall not perform any Contract work outside the United States unless and until it has received the Contracting Officer's explicit, written approval to perform such work. In order to give proper consideration to the Contractor's request, the Department may ask for, and the Contractor shall provide, information relevant to the proposed performance outside the United States, including but not limited to a detailed description of the physical, personnel and management resources to be used and any potential difficulties or constraints in performing in the foreign jurisdiction. The Department may refuse to approve Contract performance outside the United States to the extent that, solely in the Department's judgment, the Contractor has not shown that performance outside the United States would satisfy the Contract requirements and would not impair or degrade performance. Further, the Department may refuse to approve any performance outside the United States for any other reason, or for no reason, except as otherwise required by the laws and treaties of the United States. The Department may approve performance outside the United States subject to certain conditions, to which conditions the Contractor shall strictly adhere. Neither performance within the United States, nor the Department's refusal to allow performance outside the United States shall ever constitute a change to this Contract or give rise to any entitlement to additional compensation or excuse any failure of performance by the Contractor. Nothing in this clause shall be interpreted to impose any obligation on the Department to allow or to refuse a request for performance of this Contract outside the United States.

C.3.29 FSA 27-1 Labeling of Documents (June 2007)

The Contractor shall not label any data produced in performance of this contract in a way that would restrict the Government's right to use or release the information. If applicable, the Contractor shall include a legend that identifies sensitive data that should not be released for security reasons. Under FAR clause 52.227-14, Rights in Data-General (or 52.227-15, -16, -17) clause, this data may be used for any purpose the Government deems appropriate. Deliverables shall not contain vendor-specific logos, mottos, watermarks, or holograms.

The Contractor shall not use, particularly for proposals, U.S. Government logos, such as the U.S. Department of Education or Federal Student Aid.

C.3.30 FSA 37-2 Continuation of Mission Critical Contractor Services (Oct 2012)

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

(1) *Mission Critical Contractor System or Other Services* are defined as a system or other services that have a *material impact on the accomplishment of the Federal Student Aid mission.*

(b) The services under this contract are vital to the mission of the Department of Education (ED). The Contractor shall be responsible for the availability of all systems operated, or other services performed by the Contractor for ED, regardless of location. This clause applies to all or any part of the contract that includes services that directly support the agency's mission.

(c) The Contractor shall provide, implement, and maintain a Continuation of Mission Critical Services Plan for continuing performance of services no matter the circumstances. The Plan shall describe the processes and procedures that will be followed to ensure continued availability of services under this contract. Any alternate site used as part of Disaster Recovery shall be fully operational within 24 hours of a declared disaster. The Contractor shall identify in the Plan the provisions made for the acquisition of mission critical personnel and resources, if necessary, for continuity of operations for up to 30 days or until normal operations can be resumed.

(d) The offeror shall provide with its offer a written preliminary plan describing how it will continue to perform default collections.

(e) Within 10 days after contract award, the Contractor shall submit its Plan for approval, which shall be consistent with and further detail the approach contained in the offeror's proposal. The Plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document. The Plan must, at a minimum, address:

1. Name of company's officer overall responsible for the maintenance, management, exercising and execution of the Plan;
2. Plans and procedures;
3. Identification of mission critical functions;
4. The time lapse associated with the initiation of the acquisition of mission critical personnel and resources and their actual availability on site;
5. Delegations of authority, planned order of succession, and cross-training to ensure personnel are available to provide services and make key decisions;
6. Proposed alternate operating facilities, interoperable, connectivity and emergency communications approach;
7. Critical records or data storage procedures;
8. Protection of human capital;
9. Testing approach for 1, annual tests a year;
10. Training plan;
11. Delegation of control and direction;
12. Reconstitution and resuming normal operations plans; and
13. Schedule for periodic review and revisions of Plan.

(f) The Contractor shall maintain and update its Plan as necessary and adhere to its requirements throughout the contract term. The Contractor shall not materially alter the Plan without the Contracting Officer's written consent.

(g) As directed by the Contracting Officer, the Contractor shall participate and collaborate with ED and its contractors in training events, exercises, and drills associated with Government efforts to test the effectiveness of continuity of operations procedures and practices with internal and external entities. Results of the exercises shall be delivered to the Contracting Officer or other designated representative within 7 days after the exercise.

(h) In the event the Contractor anticipates not being able to perform any of the mission critical contractor services identified in the paragraph above, the Contractor shall notify the Contracting Officer or other designated representative immediately and use its best efforts to cooperate with the Government in the Government's efforts to maintain the continuity of operations. In no way does (h) relieve the contractor of financial responsibility in meeting the contract terms and conditions.

(i) The Government reserves the right to use Federal employees of other agencies or support from other parties or to enter into new contracts for mission critical contractor services. Any new contracting efforts would be conducted in accordance with OFPP letter, "Emergency Acquisitions" May 2011 and FAR Part 18, respectively, or any other subsequent emergency guidance issued.

(j) The Contractor shall include the substance of this clause, including this paragraph (j), in subcontracts for the mission critical services.

C.3.31 FSA 37-3 Disruption of Mission Critical Contractor System or Other Services (Sept 2012)

(a) Definition. As used in this clause-

(1) Mission Critical Contractor System or Other Services – are defined as a system or other services that have a material impact on the accomplishment of the Federal Student Aid mission.

(b) The contractor is required to coordinate all changes to mission critical contractor systems or other services used to implement Federal Student Aid IT operations and services with the individual(s) identified in (c) at least five business days prior to changes, absent exigent circumstances. Emergency changes require immediate notification of the individual(s) identified in (c) as soon as the change requirement is known, but prior to the change. If the continuity of such system or services is disrupted as a consequence of the Contractor's failure to adequately coordinate these changes with FSA, the Contractor may be subject to contractual remedies available to the government pursuant to the terms of the contract or as authorized by law.

(c) The contractor shall contact the following individual(s) to coordinate all changes to mission critical contractor systems or services:

_____
(Fill in Point of Contact Name and Phone Number)

C.3.32 FSA 39-1 Reporting Requirements for Departed Contractor Employees (August 2012)

As part of security clearance processing, the contractor is required to notify the Government no later than the end of the business day on the day a contractor employee proposed for or awarded a security clearance under this contract or memorandum of understanding departs employment under this contract or memorandum of understanding. To meet this requirement, the contractor shall send an encrypted email to FSAPersonnelSecurity@ed.gov and OMPersonnelSecurity@ed.gov with a carbon copy to the Contracting Officer, Contracting Officer's Representative, and Information Security System Officer. The contractor will be advised under separate communications of the encryption password schematics that must be followed in reporting under this clause. The subject line of the email shall read "Departed User", and include the following information:

- Employee Last Name, First Name
- eQIP number, if available
- Date employee hired under the contract or memorandum of understanding
- Contract or memorandum of understanding number

- List of systems to which employee has access

C.3.33 FSA 45-1 Special Contract Requirements for Government Furnished Property – Two Factor Authentication Tokens (TFA) (Sep 2011)

In addition to the requirements of 52.245-1(b) - Government Property, the contractor shall:

a) Ensure the contractor's Government Property Manager or designee shall sign a distribution letter provide by the Contracting Officer upon receipt of Government Property;

b) Comply with instructions on how to register the tokens using the Federal Student Aid Two Factor Authentication Token For FSA User Handout distributed with the tokens;

c) Seek immediate assistance with any challenges encountered with FSA CITRIX and TFA and immediately report any security or other incidents by telephone or email to the helpdesk at: 1-877-603-4188 or ed.customer.service@ed.gov and;

d) Provide a Property Management Plan to the Contracting Officer within 5 business days of receipt of the Government Furnished Property. Among other requirement required under FAR 52.245-1(b) the Property Management Plan must contain at minimum the following:

- Description on how the contractor will establish and maintain an auditable record of the token assignment to its employees by individual name and token Serial Number (AVT+9 digits);
- Method by which the contractor shall ensure that the serial number label on the back of each token remains legible and secure to the device.
- Security and management process for the physical devices as well as changes in assignment.

e) Upon written notification from the Contracting Officer, the contractor shall affirm its understanding and compliance with the Government's requirement for quarterly re-certification of user access and token activation. In the event of any reported security breach, the Government shall immediately disable or deactivate contractor access to its network without prior notice.

C.3.34 Contractor Performance Evaluation (Competitive Performance and Continuous Surveillance)

(1) The Competitive Performance and Continuous Surveillance (CPCS), an in-depth evaluation, shall be conducted to determine the adequacy of the contractors' performance on all accounts transferred.

(2) Several months after the first placement of accounts, the Government shall conduct the first CPCS to measure the relative performance of each DCS contractor during the CPCS surveillance period. This first CPCS surveillance period will run from the first placement of accounts through the end of the sixth month thereafter. Subsequent CPCS evaluations will be conducted quarterly.

(3) Each contractor that achieves the highest ranking in one of the three primary performance indicators: Dollars Collected, Accounts Serviced and Administrative Resolutions will receive the total potential points for the respective performance indicator. The points assigned to the remaining contractors for the three performance indicators will be based on the relative percentage each contractor is behind the lead contractor.

(4) Incentive fees and transfers of new accounts shall be based upon each contractor's total CPCS score. The contractors with the top CPCS scores will receive an incentive fee on dollars collected during the evaluation period. A contractor's most recent CPCS score will be applicable for all transfers until the completion of the next regular CPCS evaluation, unless otherwise indicated by the Contracting Officer.

(5) The Contracting Officer reserves the right to change any aspects of the CPCS, including but not limited to the formulas, relative weights assigned to performance metrics, point ranges, possible exclusion of specified types of administrative resolutions from either the Account Servicing Percentage or the Administrative Resolution Percentage, or the frequency or methodology of calculation. The Government

shall give written notice to the Contractor at least thirty days before the start of the first CPCS period affected by a change to any aspect of CPCS set forth elsewhere in this clause.

C.3.35 CPCS Standing and Performance Range

(1) The CPCS performance range is defined as Scoring 65 or more points on an individual CPCS.

(2) A finish within the CPCS performance range does not assure that the Contractor will receive a contract extension under the option clause or any other provisions of this contract. Decisions to extend the contract will be based on a total range of issues, completely within ED's discretion.

(3) Other factors being equal, for purposes of this contract, the Government considers CPCS scores:

1. Of 95 or higher to be an indicator of Outstanding performance;
2. From 85 up to 94 to be an indicator of Excellent performance;
3. From 75 up to 84 to be an indicator of Good performance;
4. From 65 up to 74 to be an indicator of Average performance;
5. Below 65 to be an indicator of Poor performance.

These adjectival ratings are intended to serve as convenient groupings and references within the context of these contracts. The Government will consider other factors including, but not limited to the following: complaints, violations of the Fair Debt Collections Act security risks or violations, computer system inadequacies, or deficiencies in procedures, quality control or training.

C.3.36 Performance Metrics

The Government will evaluate DCS contractors using the following performance metrics, except as changed in accordance with Section B.2. All metrics will be measured at two decimal places.

PERFORMANCE METRIC #1: DOLLARS COLLECTED PERCENTAGE - 70 Points.

The Dollars Collected Percentage will be calculated based upon the following formulas:

Formula #1:

DOLLARS COLLECTED FOR THE GOVERNMENT (DC) –DC is the gross amount the Government realizes before the contractor's commissions have been subtracted from the dollars collected. Dollars collected are defined as regular collections, administrative wage garnishment payments, and the final sale and transfer value of all debts rehabilitated.

Example:

- CA's regular collections and administrative wage garnishment payments sum to $3,500,000 for the three (3) month period.
- CA's final sale of all debts rehabilitated totaled $2,500,000 for the three (3) month period.
- Dollars Collected for the Government is $6,000,000. ($3,500,000 plus $2,500,000).

Formula #2:

CURRENT INVENTORY BALANCE (CIB)—CIB is the beginning balance of all accounts held by the Contractor at the end of the previous CPCS period. (The Government will assign a fixed CIB for the first CPCS surveillance period.) The inventory balance is comprised of principal, interest and fees. Projected collection costs are not included.

Example:

- Contractor A's ending inventory for Month 3 of the previous CPCS period is $250,000,000 and 60,000 accounts.
- For the CPCS surveillance period, the current inventory balance (CIB) is $250,000,000 and the current inventory of accounts (CIA) is 60,000.

CURRENT INVENTORY OF ACCOUNTS (CIA)—CIA is the same as CIB, except accounts, instead of dollars, are measured.

Formula #3:

AVERAGE INVENTORY BALANCE (AIB)–AIB is the average (mean) CIB from the four most recent CPCS surveillance periods. For the first four CPCS surveillance periods, the AIB is defined below. The inventory balance is comprised of principal, interest and fees. Projected collection costs are not included. The AIB for CPCS period 1 will equal the CIB for this period. If a transfer is done in the last month of this CPCS period, it will NOT be included in the CIB.

The AIB for CPCS period 2 will be the sum of all transfers during CPCS period 1
The AIB for CPCS period 3 will sum the CPCS periods 1, and 2 and divide by 2
The AIB for CPCS period 4 will sum the CPCS periods 1, 2 and 3 and divide by 3
The AIB for CPCS period 5 will be the sum of CPCS periods 1, 2, 3 and 4 and divide by 4.

All other AIB calculations will use the last 4 CPCS periods.

Example:

- Contractor A's CIB for
  - CPCS period #3 is $200,000,000
  - CPCS period #4 is $233,000,000
  - CPCS period #5 is $242,000,000
  - CPCS period #6 is $248,000,000
- For CPCS period #6, the average inventory balance (AIB) is $230,750,000

Formula #4:

DOLLARS COLLECTED PERCENTAGE (DCP)–DCP is a percentage determined by dividing DC by AIB, (DC/AIB).

Example:

a. There are only two contractors in competition.
b. The DCP following the preceding examples would be:
c. DC of $6,000, 000 divided by AIB of $230,750,000 equals DCP: 2.60%
d. Contractor B's DC is $6,250,000 and its AIB is $250,000,000.
e. Contractor B achieves a DCP of 2.50%.
f. Contractor A achieves the highest DCP during the surveillance period of 2.60%
g. For Performance Indicator #1, Contractor A will be awarded the full 70 points while Contractor B will be awarded 67.31 points. [(2.50 / 2.60) X 70].

PERFORMANCE METRIC #2: ACCOUNT SERVICING PERCENTAGE (ASP) - 20 Points.

ASP is the proportion of the sum of the net number of:

a. Accounts approved, and if required returned, for administrative resolution (only one administration resolution is counted in CPCS per account resolved), and
b. Accounts that had payments received during the CPCS surveillance period.

The ASP would be calculated as follows:

a. Contractor A submitted and was approved for 1,500 litigation accounts, returned and approved for 500 non-cash account resolutions, and received payments on 3,250 accounts. Total accounts serviced sum to 5,250. The contractor's CIA is 50,000. ASP is 5,250 divided by 50,000 or 10.50%.
b. Contractor B submitted and was approved for 750 litigation accounts, returned and approved for 250 non-cash account resolutions, and received payments on 2,000 accounts. The total accounts

serviced sum to 3,000. The contractor's CIA is 60,000. ASP is 3,000 divided by 60,000 or 5.0%.

c. For Performance Indicator #2, since Contractor A has the best ASP, Contractor A will be awarded the full 20 points. Contractor B will be awarded 9.52 points. ((5.0/10.50) x 20))

PERFORMANCE METRIC #3: ADMINISTRATIVE RESOLUTION PERCENTAGE (ARP) - 10 points. ARP is the proportion of accounts prepared and, if required, returned for non-cash resolution to ED. Only one administration resolution is counted in CPCS per account resolved. See preceding example for Performance Indicator #2 for calculation methodology.

PERFORMANCE METRIC #4: SMALL BUSINESS SUBCONTRACTING – A plus or minus range of points. This performance indicator only applies to contractors in the Unrestricted Pool. This performance indicator will not be used for CPCS period #1 and will not begin until initiated by the Government. At least thirty days before the start of the first CPCS period to which a Small Business Subcontracting measure will apply, the Government shall provide to the Contractor the measurement factors, relative weights, point range, targets, formulas and methodology related to calculation of the Small Business Subcontracting performance indicator. The Small Business Subcontracting performance indicator will measure contractors' small business subcontracting relative to the percentage of accounts assigned target and intent described in clause, Small Business Subcontracting Targets and Reports of this contract. Contractors will receive plus scores for meeting or exceeding targets. Unlike most other CPCS performance indicators, the rating for Small Business Subcontracting may be based on performance during the previous CPCS surveillance period(s). Similar to the other CPCS performance indicators, the top performer will receive the full points available (The point range for Small Business Subcontracting will be as established by the Government, but will not be greater than +5 to 0 points). All contractors that meet the small business subcontracting transfer targets of clause Small Business Subcontracting Targets and Reports, as a proportion of their new accounts received each quarter, will earn 5 points. These points will be added to total quarterly CPCS score. The 5 points requires a random transfer of an approved method of transfer that benefits the small business. Contractors that transfer more than the transfer target of their new accounts received will still only receive 5 points. Contractors that transfer less than the transfer target of their new accounts received will earn less than 5 points, which will be determined via a rank and percentile score against the other unrestricted Contractors; each contractor's percentile score will be multiplied by 5 points to derive their total points for the small business component of the CPCS. See example below.

Unrestricted Contractor	Percent Transferred	Rank	Percentile	CPCS Points
Contractor A	11%	1	100%	5.00
Contractor B	10%	2	75%	5.00
Contractor C	8%	3	50%	2.50
Contractor D	5%	4	25%	1.25
Contractor E	1%	5	0%	0.00
Contractor F	0%	6	0%	0.00

PERFORMANCE METRIC#5: SERVICE QUALITY (SQ) – A plus or minus range of points. The Government may measure a variety of mostly objective factors that contribute to the quality of service provided to ED and its borrowers. These factors may include accuracy and completeness, rejections, bounced checks, customer satisfaction or other factors. Prior to the first account transfer to which an SQ measure will apply, the Government shall provide to the Contractor the measurement factors, relative weights, point range, targets, formulas and methodology related to calculation of the Service Quality performance indicator.

C.3.37 Incentive Fees

(1) Incentive Fees—The top performers under these contracts set the standards by which all DCS contractors are measured. These high standards help drive better performance by all DCS contractors under these contracts. The purpose of the incentive fees is to motivate all contractors and reward the contractors that provide the best performance under these contracts.

(2) CPCS Ties—For purposes of earning an incentive fee, Contractors with CPCS scores that are within one half (½) point of each other will be considered to be in a tie. If two or more Contractors finish in a tie, the Government will pay the bonus percentage to each Contractor. If two Contractors finish in a tie for first place, the next highest ranked Contractor will remain in third place.

(3) CPCS Scores—All incentive fees under this clause are based on the Contractor's performance as measured by CPCS. Notwithstanding any other terms of this contract, the contractor may not receive an incentive fee if it's CPCS score applicable to that incentive fee is less than 80 points.

(4) Base for Bonus Percentages— The incentive fee for the Long-Term CPCS will be applied to the dollars collected by the Contractor. For Long-Term CPCS incentive fee purposes, dollars collected are defined as regular collections, administrative wage garnishment payments and the final sale/transfer of all FFEL debts rehabilitated. No bonus will be applied to the transfer value of Direct Loan Program Rehabilitations.

The incentive fee for the Quarterly CPCS fee will be applied to the dollars collected by the Contractor. For Quarterly CPCS incentive fee purposes, dollars collected are defined as regular collections, administrative wage garnishment payments, and the final sale/transfer of all FFEL debts rehabilitated.

(5) First CPCS Ranking— The first CPCS surveillance period will run from the first placement of accounts through a time to be determined by the Department.

No Long-Term bonus will be paid on the initial CPCS surveillance period.

(6) Quarterly CPCS Incentive Fee— Incentive fees will be based on Contractors' performance during the quarterly CPCS period. Top ranking Contractors will be paid an incentive for that quarterly CPCS period. Approximately 33% to the top CPCS performers will receive a performance bonus per quarter. An example of the Quarterly CPCS Incentive Fee Plan for an estimated pool of 12 contractors is as follows:

Quarterly CPCS Ranking	Incentive Fee
First	4%
Second	3%
Third	2%
Fourth	1%

(7) Long-Term CPCS Incentive Fee— Beginning with the second CPCS surveillance period and continuing through the base period of this Task Order, the long-term CPCS ranking will be based on the combined totals from all CPCS performance periods over the life of the Task Order. Beginning with the first CPCS period of the first option term of the Task Order, the "Long-Term" CPCS ranking will be based on the

combined totals for the last seven (7) CPCS periods (i.e., 21 months). For this calculation, approximately the top 25% of Contractors will be paid a bonus on dollars collected for the most recently completed quarterly CPCS surveillance period. An example of the Long-Term CPCS Incentive Fee Plan for an estimated pool of 12 contractors is as follows:

Long-Term CPCS Ranking	Incentive Fee
First	5%
Second	3%
Third	1%

(8) Maximum Incentive Fee— No Contractor may earn more than 6% in combined bonuses during any CPCS surveillance period. The top performer in the Long-Term CPCS ranking will only be eligible for an additional 1% bonus regardless of its ranking on the Quarterly CPCS. The second place agency on the Long-Term CPCS ranking may not earn more than 5% in combined bonuses in any CPCS period. The second place agency on the Long-Term CPCS ranking will only be eligible for an additional 2% bonus if it finishes first on the Quarterly CPCS, and only 1% for a second or third place finish. All other agencies will be eligible for the full amount of the listed quarterly CPCS bonuses. Thus, the maximum percentage a Contractor may receive in combined bonuses during any CPCS surveillance period is as follows:

Long Term Ranking	Quarterly Ranking				
		1	2	3	Below 3
	1	6%	6%	6%	5%
	2	5%	4%	4%	3%
	3	4%	3%	2%	1%
	Below 3	4%	3%	2%	1%

C.3.38 Small Business Subcontracting Targets and Reports

(a) This subsection applies only to contractors resulting from solicitation ED-FSA-13-R-0010. For purposes of this subsection, the term "subcontractor" includes members of team arrangements. The Contractor agrees that the total amount of payments to subcontractors and members of a contractor team arrangement that are not small business concerns shall not exceed 20% of Task Order proceeds (i.e., of payments by the Government to the Contractor). If the Contractor exceeds this limitation, the Contracting Officer shall give the Contractor written notice requiring the Contractor to reduce its use of other-than-small-business subcontractors or team members. If within 6 months of the date of the Contracting Officer's notice, the Contractor's payments to subcontractors and team members still exceed the limitation (calculated on a task-order-to-date basis), the Contracting Officer may assess liquidated dated damages in a manner and amount similar to that described in the clause at I.5, FAR 52.219-16 Liquidated Damages-Subcontracting Plan (Jan 1999).

ED will include small business subcontracting as part of the CPCS Service Quality measure described in Clause, Contractor Performance Evaluation, of this contract. To ensure meaningful subcontract opportunities, ED will give greater weight in CPCS to subcontracts that assign accounts for collection to small businesses. ED's goal is to ensure that small businesses receive a fair share of revenue under this contract.

For the purposes of calculating the percentage of accounts assigned, small business subcontracting is restricted to collection efforts only, e.g. the small business subcontractor must perform the entire collection process from skip tracing through collections, to include rehab and consolidation, as well as administrative wage garnishment and not just one part of the collection process such as skip-tracing. To ensure that small businesses have opportunities collecting defaulted student's loans, the following targets shall apply to each quarterly CPCS surveillance period:

Placement to a small business subcontractor of at least the following of percentage of accounts transferred to the Contractor that quarter within 5 business days of ED's transfer of the account to the Contractor.

Percentage of Accounts Assigned

Contract Base Period	To Be Determined %

The target percentages are based on each quarter, not each transfer. For example, a contractor could do all of its small business placements from a single transfer from ED. No target shall apply to the initial CPCS period.

Accounts that the Contactor has selected or culled in a biased manner may not be counted toward the target. However, the Contractor may select accounts for placement if the selection is made for the small business's benefit. For example, a selection of accounts for placement might be based on borrowers located in a geographical area on which the small business focuses.

C.3.39 Subcontractors and Third Parties

a. Flow-Down Provisions

The Contractor shall ensure that subcontracts include flow-down provisions where required by clauses incorporated into this contract. Any subcontract under which the subcontractor will have access to ED data or systems must include provisions incorporating the requirements of Performance Work Statement, Security Requirements, and clauses Privacy Act, Security Clearance and User ID Requests, and Removal from Project Access.

b. Consent to Subcontract

If the Contracting Officer provides consent to subcontract, the consent does not constitute an approval of a contract agreement with a subcontractor, nor does it require the Prime contractor to issue the subcontract.

Prior to releasing any data protected by the Privacy Act to a subcontractor (or any third party) the Contractor shall provide to the Government a copy of the subcontract or other documentation demonstrating that the Contractor has met the requirements of paragraph 'a' of this clause. The Contractor shall provide a copy of this documentation to the Contract Specialist and Contracting Officer's Representative (COR). The Contractor must obtain the Contracting Officer's consent to proceed before releasing any data protected by the Privacy Act to a subcontractor. The Contractor may request this consent prior to execution of the proposed subcontract.

C.3.40 Organizational Limit on Contracts

1) The Government intends to award more than one contract as a result of this solicitation.

2) No organization, including any affiliate, division or parent of the organization, may receive or hold more than one contract resulting from solicitations ED-FSA-13-R-0006 (small business set-aside) and ED-FSA-13-R-0010 for Default Collection Services.

3) If, after award, one organization that holds a contract under this solicitation, purchases, merges with or otherwise enters into an affiliation with another organization that also held a contract as a result of this solicitation, only one contract will remain in effect. The Contractor may choose which contract will continue. If the Contractor does not choose or if there is disagreement or ambiguity, the Contracting Officer will determine which Contract will continue. The continuing Contractor may choose either to have ED:
    i) Recall all accounts (including those in repayment) from the expiring contract within sixty days of the effective date of the sales or merger transaction; or
    ii) Transfer all accounts (including that not in repayment) to the continuing contract within sixty days of the effective date of the sales or merger transaction. All transferred accounts would be included in performance indicators for the continuing contract.

4) No organization may participate in more than one contract —whether as an awardee, a member of a team arrangement or as a subcontractor—to the extent that it would in essence be competing against itself, as determined by the Contracting Officer. ED does not intend to approve a subcontract or team arrangement that would allow an organization to essentially compete against itself. The Contracting Officer may waive this restriction if the subcontract or team arrangement is:
    i) Part of a mentoring relationship;
    ii) With an organization whose purpose is to provide employment for persons with disabilities; or
    iii) Of such special benefit to the public or the Federal Government that the Contracting Officer determines in writing that that it is in the best interests of the Federal Government to waive the restriction.

5) ED does not consider awardees under solicitation ED-FSA-13-R-0006 (or other small business organizations not awardees under ED-FSA-13-R-0010), that are subcontractors to awardees under solicitation ED-FSA-13-R-0010 to be competing against itself. Thus, the subcontracting restriction in paragraph (4) of this clause does not apply to awardees under solicitation ED-FSA-13-R-0006 who are subcontractors to more than one awardee under solicitation ED-FSA-13-R-0010. Awardees under ED-FSA-13-R-0010 shall not be sub-contractors to more than one awardee in the small business procurement, solicitation ED-FSA-13-R-0006.

C.3.41 Security Clearance and User ID Requests

1) Contractor staff proposed to perform work under this Contract shall be subject to ED investigation criteria. Contractor staff working without a final clearance does so on a conditional basis while obtaining the required clearance. The ED investigation includes, at a minimum, the following items:

    i) Investigation of criminal record
    ii) Reference checks
    iii) Check for defaulted student loans
    iv) Security clearances

2) The U.S. Department of Education Contractor Employee Personnel Security Screenings Policy defines security levels. ED assigns the security level appropriate for each labor category, commensurate with the duties and system access of the position. The security level also dictates when new or replacement staff may begin to perform work under this Contract relative to the submission of the security clearance paperwork. The security levels and work rules include:

    i) High Risk (Level 6C) – An employee cannot assume high-risk positional duties until the security investigation is completed and approved by ED. A waiver option is available, on approval by the OM Computer Security Officer (CSO) and ED's ADP Security Oversight Staff. Employees selected for these positions can work in a lower-level position until the clearance is approved.

ii) Moderate Risk (Level 5C) – An employee can start working moderate risk positional duties upon submission of the security clearance paperwork to the OM CSO through the COTR.
iii) Low Risk (Level 1C) – An employee can start working low risk positional duties upon submission of the security clearance paperwork to the OM CSO through the COTR.

3) The Contractor shall:

i) As part of the hiring process for ED account personnel the contractor shall, for each new hire:
(1) Complete a national background check for criminal activity – Proof of the background check must be kept in a personnel file and available for review by the Department upon request.
(2) Verify previous employment information – Documentation of verification must be kept in a personnel file and available for review by the Department upon request.
(3) Submit the new hire's SSN to Education for review of defaulted loans – Procedures for this process are documented in the DCS Procedure Guide.
ii) The security clearance and User ID paperwork required by ED must be accurately and thoroughly completed and submitted to ED based on ED DCS procedures.
iii) Obtain its supply of security clearance forms directly from the OM CSO.
iv) Reproduce as needed the ED/CCF User ID request form (88-01) for this specific project.
v) Remove any individual from their position for whom ED disapproves and withdraws their clearance and immediately revoke their access to all ED systems.

4) Clearance Submission Guidelines

i) The Contractor shall submit security paperwork for any position requiring an ED clearance based on the ED Information Technology Security Manual and the guidelines contained herein. Table 1 details the forms that contractor staff shall complete to request processing of a security clearance.

Table 1. Clearance Forms Required for Positions

Form	Title	Copies	High Risk	Moderate Risk	Low Risk
SF-306	Federal Employment Form (as Used for background check, Application for Federal Employment (Rev. 6-88); Complete items 6, 17, 29, 25-28, 36, 38-44, 45 if Applicable	2	X	X	X
SF-85P	Questionnaire for Public Trust Positions (Rev. Sept 1995)	2	X	X	X
FD-258	Fingerprint Card	1 Original	X	X	X
SF-85	Questionnaire for Non-Sensitive Positions (Rev. Sept 1995)	2			X

ii) In the submission of security clearance paperwork, the Contractor shall:

(1) Assure the clearance level sought for the employee is based upon the criteria established by ED.
(2) Assure that the employee completes the proper forms, as detailed in Table-1 as follows:
(a) Employees without a clearance must complete all required forms.
(b) Employees with current or previous clearances must complete additional forms as required to meet all requirements.

iii) For employees with current or previous clearances requiring no additional paperwork: Complete a memo, on company letterhead with an authorized signature, with the following:

(1) Full name
(2) Date and place of birth
(3) Social Security Number
(4) Level of security clearance
(5) Employer Name
(6) Date of investigation
(7) (At time of investigation)
(8) Contract Number
(9) Agency completing the investigation

iv) For employees with current or previous clearances requiring additional paperwork, forward the completed additional paperwork to the Contractor's Project Manager. This primarily concerns upgrading to a higher security level.
v) Ensure that the proper forms are accurate and complete before forwarding the forms in sealed envelopes, through the COR, to the OM CSO.
vi) Notify the employee's manager of the security investigation results.
vii) Remove the employee from performing work under this Contract in the event of a clearance denial and revoke all User IDs.
ii) Ensure that no one receives a User ID for any Recipient and Financial Management system(s) component operated outside the ED/CCF until the ED/CCF User ID is approved by the OM CSO and established at the ED/CCF.

C.3.42 Removal from Project Access

The Contractor shall adhere to the guidance in FSA 39-1 and take additional following actions.

1) When employees are removed from positions, the Contractor shall:
i) Revoke all access authorizations
ii) Retrieve all specific keys and badges
iii) Change the combinations on all locks to which the employee had access
iv) Review the employee's obligations to the organization
v) Notify appropriate ED security officials of the removal action and request emergency termination of the ED/CCF User ID if appropriate to the cause for removal
vi) Submit, within two (2) workdays, the ED/CCF User ID request form (88-01) to the assigned ADP Systems Manager to cancel the system access.

2) For all access terminations, the Contractor shall:
i) Follow the Checklist for Employee Termination
ii) Assure that the departing employee either completes all assigned tasks or briefs the replacement on the requirements and status of ongoing tasks
iii) Determine the employee's access termination date

iv) Immediately notify the assigned ADP Systems Manager(s) if access termination is for cause and request an immediate revocation of access
v) Complete the Manager's Checklist for Employee Termination and forward the checklist to the Project Manager
vi) Review with the employee their obligation to protect related data
vii) Assure that the employee completes the Access Termination Statement

3) The Project Manager shall:
   i) Notify ED of the access termination action on the employee
   ii) Notify the assigned ADP Systems Managers of the access termination date

C.3.43 Government-Furnished Computer Systems

The DCS contractor shall provide data updates through a Government designated system. Online access to the system will be available Monday through Friday, 8:00 am to 10:00 p.m. eastern time. The system will not be available on Federal holidays. Occasionally, the system may be available on weekends when batch processing permits. The system may also be unavailable during peak processing periods or due to planned or unexpected system outages.

Section D – Contract Documents, Exhibits, or Attachments

Attachment 1: Task Order 0001 Performance Work Statement

Attachment 2: Invoice Template (To be provided at contract award)

Attachment 3: Phase 2 Small Business Subcontracting Commitment Template - Revision 1

Attachment 4: Phase 2 Recovery Rate and Average Inventory Balance Worksheet – Revision 1

Attachment 5: Phase 2 Other than Cost or Pricing Data Worksheet – Revision 1

Attachment 6: Phase 2 Subcontracting Plan Template – Revision 1

Section E – Solicitation Provisions

E.1 Addendum to FAR 52.212-1 - Instructions to Offerors - Commercial Items (JUL 2013)

Solicitation Response Requirements

Offerors are required to meet all solicitation requirements. Failure to meet a requirement may result in an Offeror being ineligible for an award. The Government may not consider an Offeror for an award if the Offeror's proposal includes incomplete pricing data. An Offeror's proposal submission for Phase II of this solicitation process shall only include the following:

Section A of Proposal

- Cover page (1 page limit)

- Negative Judgments (6 page limit)
  - The Offeror shall provide a summary of negative judgments occurring against the Offeror since January 1, 2009. Negative judgments include but are not limited to loss of a civil lawsuit (not to include settlements), criminal conviction of a corporate official that was related to financial mismanagement of the Offeror's organization, and/or a fine or loss of a license as determined by a governing body. The Offeror shall provide date of filing, location of filing, plaintiff, and reason for filing. The Offeror shall address and provide explanation for any negative past performance information related to negative judgments.

Section B of Proposal

- Recovery Rate and Average Inventory Balance Worksheet(s) (See Section D – Attachment 4)
  - Offeror's shall provide the corporate past performance information requested in Attachment 4. Refer to Section E.2.1 – Factor 1 (Average Inventory Balance) and Factor 2 (Recovery Rate).

Section C of Proposal

- Completion of Pricing Scenario Tables (See B.2)
  - Pricing Table 1A: Offeror is to complete Direct and Non-Direct pricing categories for Regular Collections and Rehabilitation for the 5 year base ordering period. Rehabilitation categories include Reasonable and Affordable Income Based Methods and are represented as a percentage of the final payoff amount of loan rehabilitated.
  - Pricing Table 1B: Offeror is to complete Direct and Non-Direct pricing categories for Regular Collections and Rehabilitation for the 5 year optional ordering period. Rehabilitation categories include Reasonable and Affordable Income Based Methods and are represented as a percentage of the final payoff amount of loan rehabilitated.
  - Pricing Table 2A: Offeror is to complete pricing categories for Regular Collections (Direct and Non-Direct) and Rehabilitation for the 5 year base ordering period. Rehabilitation categories include Reasonable and Affordable Income Based Methods and are represented as a fixed dollar amount.
  - Pricing Table 2B: Offeror is to complete pricing categories for Regular Collections (Direct and Non-Direct) and Rehabilitation for the 5 year optional ordering period. Rehabilitation categories include Reasonable and Affordable Income Based Methods and are represented as a fixed dollar amount.

- Small Business Subcontracting Commitment Template (See Section D – Attachment 3)

- Subcontracting Plan – Offeror must provide a small business subcontracting plan in accordance with the requirements of FAR 52.219-9. The Offeror may use the Subcontracting Plan Template (See Section D – Attachment 6)

- Most Recent Independently Audited and Certified Financial Statement

- Other than Cost or Pricing Data Worksheet (See Section D – Attachment 5)

- Offerors shall submit other than cost or pricing data for all performance that the Offeror provided in the Recovery Rate and Average Inventory Balance Worksheet. There is no limit to the number of Other than Cost or Pricing Data Worksheets that the Offeror may submit.

- Completion of EDAR 3452.209-70 Conflict of Interest Certification (See E.3.2)

- Completion of FAR 52.215-6 Place of Performance

- Written Preliminary Plan for Continuation of Mission Critical Contractor Services (See C.3.30)

- Completion of SF1449 including any amendments to the solicitation

- Those Offerors proposing a teaming arrangement shall disclose and explain the arrangement, including whether the teaming arrangement is a partnership or joint venture between two or more companies; or a potential prime contractor subcontracting with one or more companies. (1 page limit) Refer to FAR Subpart 9.6.

Offerors do not need to resubmit Representations and Certifications for Phase II unless there were changes made to their Representations and Certifications after their Phase I submission. Offeror's SAM.gov profile should reflect Offeror's socio-economic categories, if applicable.

E.1.1 Additional Information

Consideration of Treasury Offset Program Requirements
The requirement for Treasury Offset Program (Section B.9) will not be considered in the evaluation of IDIQ/Task Order 0001. Should Treasury Offset Program services be required, proposals will be solicited after IDIQ awards.

Offer Submission Methods
Offerors must submit their proposal, solicitation questions, and requests for the PCA Procedures Manual to the following email address: mpddcteam@ed.gov Offeror's proposal submissions shall include the following title in the subject line of the email: ED-FSA-13-R-0010 Proposal
Submission of paper copies will not be accepted.

Questions are due no later than June 18, 2014. If Offeror submitted questions in response to Amendment 0006 instructions, and those questions were not resolved as a result of this amendment, then the Offeror shall resubmit their questions. Questions that were submitted prior to this amendment will not be issued a response. Submissions of questions shall include the following title in the subject line of the email: Question ED-FSA-13-R-0010

Offeror requests for PCA Procedures Manual shall include the following title in the subject line of the email: Request for PCA Procedures Manual. Upon email request for PCA Procedures Manual, FSA will provide a non-disclosure agreement to be completed by the Offeror. Once the Offeror agrees to and submits the non-disclosure agreement, the PCA Procedures Manual will be provided to the Offeror, subject to the terms of the non-disclosure agreement.

Proposal Format Requirements
Each section of the Offeror's proposal (Section A, B, and C) must be a separate .doc or .pdf file. The Offeror shall not combine all sections of the proposal and submit it as a single file.

Offerors proposal submission for Phase II should be no less than 12 point Times New Roman font with one (1) inch margins on standard 8.5 x 11 paper. Font smaller than 12 point Times New Roman will be accepted only for tables, figures, headers, and footers, as long as legible. Section titles/headings can be 14 point Times New Roman.

Submission Deadline
Offers should be received no later than 5:00PM Eastern Standard Time on July 23, 2014. The time of receipt is considered to be the time in which the proposal submission is received at the initial point of entry to the Department's infrastructure.

E.2 FAR 52.212-2 – Evaluation - Commercial Items (Jan 2012) Tailored

(a) The Government may award one or more IDIQ contracts resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. See FAR Subpart 16.5 for information on IDIQ contracts. Each Offeror selected for an IDIQ award will receive a Task Order 0001 contract. The Government reserves the right to award without discussions. The following factors will be used to evaluate offers:

- Factor 1: Average Inventory Balance (Past Performance)
- Factor 2: Recovery Rate (Past Performance)
- Factor 3: Subcontracting Commitment to Small Business
- Factor 4: Price

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

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful Offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

E.2.1 Evaluation Factors

Factor 1: Average Inventory Balance (Past Performance) – Offerors will be evaluated based on their ability to demonstrate high dollar value average inventory balances on defaulted debt for any consecutive twelve (12) month period within calendar years 2011 through 2013. The Offeror may use past performance information for more than one client within the same performance period. If the Offeror's performance information was for more than one client, the Offeror must separate its performance information by client. All calculations shall be provided in either a monthly or quarterly performance level with final totals emphasized. The Offeror's proposal must provide the same performance period and duration in their response to recovery rate and average inventory balance, e.g. if the Offeror uses June 2011 through May 2012 as their performance period in responding to recovery rate, then average inventory balance shall be from the same performance period. The same 12 month performance period shall be used for all Recovery Rate and Average Inventory Balance performance data. Offerors must use only the monthly or quarterly method, not both, for providing Dollars Collected and Average Inventory Balance for all client reference(s).

Average Inventory Balance is determined by adding the defaulted balances of principal, interest and fees in the Offeror's inventory per month, over a continuous 12 month period, and dividing by 12 (months). Alternatively, Average Inventory Balance may be determined by adding the defaulted balances of principal, interest and fees in the Offeror's inventory per quarter, over a 12 month period, and dividing by 4 (quarters). Collection costs shall not be included in the Average Inventory Balance calculation. Offeror must demonstrate at least $765,000,000 in Average Inventory Balance in order to receive a 'Go' rating. Average inventory balance will be rounded to the nearest dollar (0 to 49 cents rounds down and 50 to 99 cents rounds up).

Factor 2: Recovery Rate (Past Performance) – Offerors will be evaluated based on their ability to demonstrate high recovery rates for any consecutive twelve (12) month period within calendar years 2011 through 2013. The Offeror may use past performance information for more than one client within the same performance period. If the Offeror's performance information was for more than one client, the Offeror must separate its performance

information by client. All calculations must be provided on either a monthly or quarterly performance level with final totals emphasized. The Offeror's proposal must provide the same performance period and duration in their response to recovery rate and average inventory balance, e.g. if the Offeror uses June 2011 through May 2012 as their performance period in responding to recovery rate, then average inventory balance shall be from the same performance period. The same 12 month performance period shall be used for all client reference(s).

Recovery rate is defined as dollars collected on defaulted loans during a continuous 12 month period within calendar years 2011 through 2013 divided by the average inventory balance on defaulted debt in the same continuous 12 month period. Dollars collected is defined as regular collections, administrative wage garnishment payments, and final sale and transfer value of all debts rehabilitated. Loan consolidations shall not be used to equate dollars collected. Rehabilitated is a term used in Title IV collections and it refers to borrowers that make required payments in a set period of time, whereby when completed the entire loan balance is moved to a non-default status and the borrower is not considered in default.

If Offeror provides Dollars Collected on a monthly basis the Government will divide the sum of their dollars collected by 4 (quarters) and divide that amount by Average Inventory Balance to come up with Recovery Rate. If Offeror provides dollars collected on a quarterly basis the Government will use the sum of their dollars collected per quarter and divide that amount by Average Inventory Balance to come up with Recovery Rate. However, each Offeror's total student loan Dollars Collected will be divided by the sum of the Offeror's student loan Average Inventory Balance. Likewise, an Offeror's total non-student loan Dollars Collected will be divided by the sum of the Offeror's non-student loan Average Inventory Balance. For purposes of rating the Offeror under Evaluation Factor 2, the Government will rate the Offeror using the recovery rate (either student loan or non-student loan), which provides the Offeror with the highest rating in relation to the evaluation criteria.

High recovery rates on defaulted student loans will receive the most favorable ratings. High recovery rates on defaulted non-student loans are not as favorable as high recovery rates on defaulted student loans. Offerors without defaulted student loan recoveries may still receive a satisfactory rating. Favorability does not differ between defaulted student loans and defaulted non-student loans for Offerors proposing less than favorable recovery rates. Recovery rates will be rounded to the nearest tenth (0 to 4 hundredths rounds down and 5 to 9 hundredths rounds up). Proposals that demonstrate recovery rates that are less than 6% will receive an unsatisfactory rating.

Factor 3: Subcontracting Commitment to Small Business - The Offeror will be evaluated on their commitment to grow small businesses in support of ED's small business subcontracting goals, demonstrated by the proposed percentage of the Offeror's account transfers that the Offeror commits to subcontract to small business from date of first account transfer through the end of contract (refer to Attachment 3). This requirement is necessary even if the Offeror is a small business. The Offeror shall propose the small business subcontracting percentage, which is defined as the percentage of the Offeror's account transfers received from ED that will be subcontracted to small business. The small business subcontracting percentage is restricted to collection efforts only, e.g. the small business subcontractor must perform the entire collection process from skip-tracing through collections, to include rehab and consolidation, as well as administrative wage garnishment and not just one part of the collection process, such as skip-tracing.

Small business subcontracting percentages will be rounded to the nearest tenth (0 to 4 hundredths rounds down and 5 to 9 hundredths rounds up). Offerors will be rated favorably for committing to a high small business subcontracting percentage. An Offeror that proposes a small business subcontracting commitment of less than 5% of account transfers to small business will receive an unsatisfactory rating.

Factor 4: Price – A price analysis will be conducted inclusive of all option periods including the option to extend services. A fair and reasonable price determination will be conducted by the contracting officer. The contracting officer will establish common pricing for all potential IDIQ contracts before award. The established pricing may be more or less than the Offeror's proposed pricing. Offerors must accept the common pricing in order to receive a contract award.

Note: FSA reserves the right to verify the information requested and/or contact other agencies or individuals concerning the past performance of the Offeror. In addition, the Government reserves the right to supplement the past performance evaluation with any relevant information including, but not limited to: any past performance data on any contracts and projects with any Federal agencies; any information readily available from the System for Award Management (SAM); any information discoverable on any Government contract performed by the Offeror either as a prime contractor or subcontractor; any information on any Government past performance database; or any other information generally available that might have relevance to the evaluation of the past performance.

E.2.2 Evaluation Methodology

Rating for Factor 1 will be 'Go/No-Go'. Factor 1 is more important than all other factors. If Offeror receives a rating of 'Go' for Factor 1 then evaluations of Factors 2 through 4 will be conducted. If Offeror receives a rating of 'No-Go' then no further evaluation will occur, evaluations of Factors 2 through 4 will not be conducted, and the Offeror will not be considered for contract award.

Factor 2 is significantly more important than Factor 3.

In respect to Factor 4, the contracting officer will establish common pricing before award. All evaluation factors other than price, when combined, are significantly more important than price.

E.2.3 Determination of Responsibility

The Contracting Officer will make a determination of responsibility for all prospective awardees pursuant to FAR Subpart 9.1 – Responsible Prospective Contractors. As part of the determination of responsibility, the Contracting Officer will consider each Offeror's negative judgments, including but not limited to loss of a civil lawsuit (not to include settlements), criminal conviction of a corporate official that was related to financial mismanagement of the Offeror's organization, and/or a fine or loss of a license as determined by a governing body.

E.3 Additional Solicitation Provisions

E.3.1 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: https://www.acquisition.gov/far/

FAR Provision	Title	Date
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	Sept 2007
52.212-3	Offeror Representations and Certifications – Commercial Items	Nov 2013
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data	Oct 2010

E.3.2 EDAR 3452.209-70 Conflict of Interest Certification (Mar 2011)

(a)(1) The contractor, subcontractor, employee, or consultant, by signing the form in this clause, certifies that, to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to an organizational or personal conflict of interest, (*see* FAR Subpart 9.5 for organizational conflicts of interest) (or apparent conflict of interest), for the organization or any of its staff, and that the contractor, subcontractor, employee, or consultant has disclosed all such relevant information if such a conflict of interest appears to exist to a reasonable person with knowledge of the relevant facts (or if such a person would question the impartiality of the contractor, subcontractor, employee, or consultant). Conflicts may arise in the following situations:

(i) *Unequal access to information.* A potential contractor, subcontractor, employee, or consultant has access to non-public information through its performance on a government contract.

(ii) *Biased ground rules.* A potential contractor, subcontractor, employee, or consultant has worked, in one government contract, or program, on the basic structure or ground rules of another government contract.

(iii) *Impaired objectivity.* A potential contractor, subcontractor, employee, or consultant, or member of their immediate family (spouse, parent, or child) has financial or other interests that would impair, or give the appearance of impairing, impartial judgment in the evaluation of government programs, in offering advice or recommendations to the government, or in providing technical assistance or other services to recipients of Federal funds as part of its contractual responsibility. “Impaired objectivity” includes but is not limited to the following situations that would cause a reasonable person with knowledge of the relevant facts to question a person's objectivity:

(A) Financial interests or reasonably foreseeable financial interests in or in connection with products, property, or services that may be purchased by an educational agency, a person, organization, or institution in the course of implementing any program administered by the Department;

(B) Significant connections to teaching methodologies or approaches that might require or encourage the use of specific products, property, or services; or

(C) Significant identification with pedagogical or philosophical viewpoints that might require or encourage the use of a specific curriculum, specific products, property, or services.

(2) Offerors must provide the disclosure described above on any actual or potential conflict of interest (or apparent conflict of interest) regardless of their opinion that such a conflict or potential conflict (or apparent conflict of interest) would not impair their objectivity.

(3) In a case in which an actual or potential conflict (or apparent conflict of interest) is disclosed, the Department will take appropriate actions to eliminate or address the actual or potential conflict, including but not limited to mitigating or neutralizing the conflict, when appropriate, through such means as ensuring a balance of views, disclosure with the appropriate disclaimers, or by restricting or modifying the work to be performed to avoid or reduce the conflict. In this clause, the term “potential conflict” means reasonably foreseeable conflict of interest.

(b) The contractor, subcontractor, employee, or consultant agrees that if “impaired objectivity”, or an actual or potential conflict of interest (or apparent conflict of interest) is discovered after the award is made, it will make a full disclosure in writing to the contracting officer. This disclosure shall include a description of actions that the contractor has taken or proposes to take to avoid, mitigate, or neutralize the actual or potential conflict (or apparent conflict of interest).

(c) *Remedies*. The Government may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid the appearance of a conflict of interest. If the contractor was aware of a potential

conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the contracting officer, the Government may terminate the contract for default, or pursue such other remedies as may be permitted by law or this contract. These remedies include imprisonment for up to five years for violation of 18 U.S.C. 1001 and fines of up to $5000 for violation of 31 U.S.C. 3802. Further remedies include suspension or debarment from contracting with the Federal government. The contractor may also be required to reimburse the Department for costs the Department incurs arising from activities related to conflicts of interest. An example of such costs would be those incurred in processing Freedom of Information Act requests related to a conflict of interest.

(d) In cases where remedies short of termination have been applied, the contractor, subcontractor, employee, or consultant agrees to eliminate the organizational conflict of interest, or mitigate it to the satisfaction of the contracting officer.

(e) The contractor further agrees to insert in any subcontract or consultant agreement hereunder, provisions that conform substantially to the language of this clause, including specific mention of potential remedies and this paragraph (e).

(f) *Conflict of Interest Certification.*

The offeror, [insert name of offeror], hereby certifies that, to the best of its knowledge and belief, there are no present or currently planned interests (financial, contractual, organizational, or otherwise) relating to the work to be performed under the contract or task order resulting from Request for Proposal No. [insert number] that would create any actual or potential conflict of interest (or apparent conflicts of interest) (including conflicts of interest for immediate family members: spouses, parents, children) that would impinge on its ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage. In this clause, the term “potential conflict” means reasonably foreseeable conflict of interest. The offeror further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to the Government's satisfaction, such conflict of interest (or apparent conflict of interest).

Offeror’s Name _____
RFP/Contract No. _____
Signature _____
Title _____
Date _____

E.3.3 EDAR 3452.239-71 Notice to Offerors of Department Security Requirements (Mar 2011)

(a) The offeror and any of its future subcontractors will have to comply with Department security policy requirements as set forth in the “Bidder's Security Package: Security Requirements for Contractors Doing Business with the Department of Education” at: *http://www.ed.gov/fund/contract/about/bsp.html.*

(b) All contractor employees must undergo personnel security screening if they will be employed for 30 days or more, in accordance with Departmental Directive OM:5-101, “Contractor Employee Personnel Security Screenings,” available at: *http://www.ed.gov/fund/contract/about/acs/acsom5101.doc.*

(c) The offeror shall indicate the following employee positions it anticipates to employ in performance of this contract and their proposed risk levels based on the guidance provided in Appendix I of Departmental Directive OM:5-101:

High Risk (HR): [Specify HR positions.].
Moderate Risk (MR): [Specify MR positions.].
Low Risk (LR): [Specify LR positions.].

(d) In the event the Department disagrees with a proposed risk level assignment, the issue shall be subject to negotiation. However, if no agreement is reached, the Department's risk level assignment shall be used. The type of screening and the timing of the screening will depend upon the nature of the contractor position, the type of data to be accessed, and the type of information technology (IT) system access required. Personnel security screenings will be commensurate with the risk and magnitude of harm the individual could cause.

E.3.4 EDAR 3415.302–70 Two-phase source selection

(a) FSA—May utilize a two-phase process to solicit offers and select a source for award. The contracting officer can choose to use this optional method of solicitation when deemed beneficial to the FSA in meeting its needs as a PBO.

(b) *Phase One.*

(1) The contracting officer must publish a notice in accordance with FAR 5.2, except that the notice must include limited information as specified in 3405.207.

(2) *Information Submitted* by *Offerors*. Each offeror must submit basic information such as the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the approach, and past performance data, together with any additional information requested by the contracting officer.

(3) *Selection* for participating in second phase. The contracting officer must select the offerors that are eligible to participate in the second phase of the process. The contracting officer must limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal government.

(c) *Phase Two*.

(1) The contracting officer must conduct the second phase of the source selection consistent with FAR 15.2 and 15.3, except as provided by 3405.207.

(2) Only sources selected in the first phase will be eligible to participate in the second phase.

E.3.5 FSA 4-1 Online Representation and Certification Updates (April 2013)

The Small Business Administration validates a Contracting Officer's reporting of an awardee's business size in the Federal Procurement Data System by comparing it with contractor-reported data contained in the System for Award Management (SAM) located at https://www.sam.gov/portal/public/SAM/. Even if an offeror elects to execute a hard copy of the offeror's representations and certifications when responding to this solicitation or request for quotation, the offeror is also required to ensure the NAICS identified with this acquisition, and the offeror's corresponding business size, is updated in SAM.

E.3.6 FSA 22-1 Service Contract Act and Fair Labor Standard Act Requirements in Escalated Contracts, Information for Offerors (Jan 2013)

The Service Contract Act applies to this contract. The Government has determined that both or either of the following is applicable:

1. the contract will be performance-based and payment to the contractor will be a percentage based upon actual performance, or
2. the solicitation and resulting contract will be issued on a firm-fixed-price basis, the Government anticipates a mix of exempt and non-exempt personnel during performance of the contract, and escalation is provided for in the contract

By responding to this solicitation, the Contractor is making an affirmative determination that:

1. the contract addresses any price escalation of the fixed contract line item prices of the base and optional periods of performance or ordering periods, including but limited to, built-in economic price adjustment

or other alternative pricing method, as appropriate;

2. the Contractor will care for any future increases in Wage Determinations and Conforming Wage Determinations that the Contractor may request of the Department of Labor, and/or any increases made to comply with an amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law; and that no claim shall be made either by the Contractor or the Government as a result of increases or decreases in Wage Determinations, Conforming Wage Determinations, or the minimum wage.

E.3.7 FSA 25-1 Prohibitions on Contract Performance Outside of the United States (Jul 2012)

The Contractor has represented to the Department that it will perform all work required under this Contract within the United States. If, at any time, the Contractor wishes to perform any Contract work outside the United States, the Contractor shall inform the Contracting Officer, in advance and in writing, of its intention and request the Department's approval. The Contractor shall not perform any Contract work outside the United States unless and until it has received the Contracting Officer's explicit, written approval to perform such work. In order to give proper consideration to the Contractor's request, the Department may ask for, and the Contractor shall provide, information relevant to the proposed performance outside the United States, including but not limited to a detailed description of the physical, personnel and management resources to be used and any potential difficulties or constraints in performing in the foreign jurisdiction. The Department may refuse to approve Contract performance outside the United States to the extent that, solely in the Department's judgment, the Contractor has not shown that performance outside the United States would satisfy the Contract requirements and would not impair or degrade performance. Further, the Department may refuse to approve any performance outside the United States for any other reason, or for no reason, except as otherwise required by the laws and treaties of the United States. The Department may approve performance outside the United States subject to certain conditions, to which conditions the Contractor shall strictly adhere. Neither performance within the United States, nor the Department's refusal to allow performance outside the United States shall ever constitute a change to this Contract or give rise to any entitlement to additional compensation or excuse any failure of performance by the Contractor. Nothing in this clause shall be interpreted to impose any obligation on the Department to allow or to refuse a request for performance of this Contract outside the United States.