AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code	Page of Pages	
	1	51

2. AMENDMENT MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (if applicable)
0005	DEC 05, 2016		

6. ISSUED BY CODE FSA-ACQ
US Department of Education
FSA - Acquisitions, 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-17-R-0001

9B. DATED (SEE ITEM 11)
OCT 26, 2016

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 _____ 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 attached for amendment description.

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)	

The purpose of this amendment is to extend the proposal due date to January 9, 2017, due to the number and complexity of the questions received. The Government anticipates posting an additional amendment with responses to questions already received, as well as an amendment incorporating revisions to the requirements, in the coming week. The following have been updated:

1. Modify Section B to revise the Servicing System CLINs.
2. Modify Section I, clause 52.217-9 Option to Extend the Term of the Contract (March 2000) to update the total duration of the contract.
3. Modify Section L to add item L-1.3, to identify the use of contractors to assist during the source selection.
4. Modify Section L, item L-2.2 Proposal Volume Requirements, to reflect the inclusion of an additional 30 pages for the Detailed Plan required in this volume.
5. Modify Section L, item L-2.2.6 Submission Due Dates, to extend the proposal submission deadline.
6. Modify Section L, item L-2.3 Communication with the Contracting Office, to provide a due date for additional questions.

Additionally, the following revisions previously made in Amendments 0001, 0002 and 0003 are hereby incorporated in a conformed copy for convenience:

1. Update Section B reflect the price for Deferment (as updated in Amendment 0002)
2. Update Section B to remove references to a Multiyear contract, and remove all CLINs for the Cancellation Ceiling (removed in Amendment 0003)
3. Reflect modification of Section F, clause FSA 37-2, to include the Disaster Recovery turnaround time (as modified in Amendment 0003)
4. Reflect updates to Section I:
    a. Remove clause 52.217-2 Cancellation Under Multiyear Contracts (removed in Amendment 0003)
    b. Add clause 52.244-6 Subcontracts for Commercial Items (added in Amendment 0003)
5. Reflect the update in Section G to remove clause FSA 39-1 (removed in Amendment 0002)
6. Update Section I to reflect the update to remove clause 52.222-59 Compliance with Labor Laws (removed in Amendment 0001)
7. Reflect the update in Section K to remove clause 52.222-57 (removed in Amendment 0001)
8. Reflect modification of Section L, clause 52.216-1 Type of Contract to replace “multiyear” with “firm fixed price” (as modified in Amendment 0003)
9. Update Section L, item L.5.e to mark this item as reserved; a cancellation ceiling is no longer required to be submitted in the price proposal (as modified in Amendment 0004).

All other terms and conditions remain unchanged.

SECTION B, SUPPLIES OR SERVICES AND PRICES/COSTS

The following CLINs apply to all years of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
	Title IV Aid Servicing – Existing Servicing Scope Per Aid Recipient, Per Month			
0001	In School	1+	EA	$1.05
0002	In Grace	1+	EA	$1.68
0003	In Current Repayment	1+	EA	$2.85
0004	Service Member	1+	EA	$2.85
0005	Deferment	1+	EA	$1.6~~85~~
0006	Forbearance	1+	EA	$1.05
0007	Delinquent 6-30 Days	1+	EA	$2.11
0008	Delinquent 31-90 Days	1+	EA	$1.46
0009	Delinquent 91-150 Days	1+	EA	$1.35
0010	Delinquent 151-270 Days	1+	EA	$1.23

The following pricing will be in effect after All Requirements have been implemented:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
	Title IV Aid Servicing – Full Servicing Scope Per Aid Recipient, Per Month			
5001	In School	1+	EA	
5002	Not In School, Non-IDR	1+	EA	
5003	Not In School, IDR	1+	EA	

Pricing above consists of the following price breakdown:

	In School	Not in school, Non-IDR	Not in school, IDR
Hosting			
Back-End			
Customer Service			
Fulfillment			
Total Per Aid Recipient			

The following CLIN may be funded at any time during the base or any option period of the contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
0011	Servicing System	1	EA	

The following Option CLINs apply to Base Years 1 and 2 of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
~~0011~~	~~Servicing System~~	~~1~~	~~EA~~	
0012	Correspondence - Development	1	EA	
0013	Correspondence - Implementation	1	EA	
0014	Website Design - Development	1	EA	
0015	Website Design - Implementation	1	EA	
0016	All Requirements – Development	1	EA	
0017	All Requirements - Implementation	1	EA	
~~0018~~	~~Cancellation Ceiling – Multi Year Contract, Year 1~~	~~1~~	~~EA~~	
~~0019~~	~~Cancellation Ceiling – Multi Year Contract, Year 2~~	~~1~~	~~EA~~	

The following Option CLINs apply to Option Years 3 and 4 of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
~~1011~~	~~Servicing System~~	~~1~~	~~EA~~	
1012	Correspondence - Development	1	EA	
1013	Correspondence - Implementation	1	EA	
1014	Website Design - Development	1	EA	
1015	Website Design - Implementation	1	EA	
1016	All Requirements – Development	1	EA	
1017	All Requirements - Implementation	1	EA	
~~1018~~	~~Cancellation Ceiling – Multi-Year Contract, Year 3~~	~~1~~	~~EA~~	
~~1019~~	~~Cancellation Ceiling – Multi-Year Contract, Year 4~~	~~1~~	~~EA~~	

The following Option CLINs apply to Option Years 5 and 6 of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
~~2011~~	~~Servicing System~~	~~1~~	~~EA~~	
2012	Correspondence - Development	1	EA	
2013	Correspondence - Implementation	1	EA	
2014	Website Design - Development	1	EA	
2015	Website Design - Implementation	1	EA	
2016	All Requirements – Development	1	EA	
2017	All Requirements - Implementation	1	EA	
~~2018~~	~~Cancellation Ceiling – Multi-Year Contract, Year 5~~	~~1~~	~~EA~~	
~~2019~~	~~Cancellation Ceiling – Multi-Year Contract, Year 6~~	~~1~~	~~EA~~	

The following Option CLINs apply to Option Years 7 and 8 of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
~~3011~~	~~Servicing System~~	~~1~~	~~EA~~	
3012	Correspondence - Development	1	EA	
3013	Correspondence - Implementation	1	EA	
3014	Website Design - Development	1	EA	
3015	Website Design - Implementation	1	EA	
3016	All Requirements – Development	1	EA	
3017	All Requirements - Implementation	1	EA	
~~3018~~	~~Cancellation Ceiling – Multi-Year Contract, Year 7~~	~~1~~	~~EA~~	
~~3019~~	~~Cancellation Ceiling – Multi-Year Contract, Year 8~~	~~1~~	~~EA~~	

The following Option CLINs apply to Option Years 9 and 10 of the ~~Multiyear~~ Contract:

CLIN	Supplies/Services	Quantity	Unit	Unit Price
~~4011~~	~~Servicing System~~	~~1~~	~~EA~~	
4012	Correspondence - Development	1	EA	
4013	Correspondence - Implementation	1	EA	
4014	Website Design - Development	1	EA	
4015	Website Design - Implementation	1	EA	
4016	All Requirements – Development	1	EA	
4017	All Requirements - Implementation	1	EA	
~~4018~~	~~Cancellation Ceiling – Multi-Year Contract, Year 9~~	~~1~~	~~EA~~	
~~4019~~	~~Cancellation Ceiling – Multi-Year Contract, Year 10~~	~~1~~	~~EA~~	

Unit Price 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 2.8% (plus or minus) in any given year the Government will adjust the established Per Aid Recipient 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 or de-escalation will be applied beginning in September of the same calendar year. Further, this escalation or de-escalation will compound for all Per Aid Recipient Base and Option CLINs.

For example, ECI rate released may be June 2017 is 3.0%. The Government will increase unit pricing by .2% for the contract beginning September 1, 2017 and all remaining years of the ~~multiyear~~ contract.

A decreasing rate of inflation would follow the same pattern as above. For example, if the ECI decreases by more than 2.8%, then the unit prices for the remaining out-years will also decrease by the percentage in excess of 2.8%. For example, ECI rate released in June 2017 is -4.2%. The Government will decrease unit pricing by 1.4% for the contract period beginning September 1, 2017 and all remaining years of the ~~multiyear~~ contract.

SECTION C, DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

Scope

The Department of Education (ED), Office of Federal Student Aid (FSA), is acquiring a single servicing solution to be utilized by multiple customer service providers to support the management of Title IV and Title VII financial aid, post loan and grant disbursement. The scope of the potential contract includes but is not limited to: loan servicing, loan discharge, loan consolidation, financial reporting, default management, and default collections.

Objectives

- **Create a Common Borrower Experience & Branding –**The servicing solution shall include a single web portal clearly labeled to represent ED through which all borrowers can access information, make payments, apply for benefits, and manage their accounts. Borrower correspondence, call center contacts, and other outreach materials will also be consistent and clearly labeled as coming from the Department of Education.
- **Establish Common Servicing Practices** –All borrowers will have access to a single set of consistent processes and practices.
- **Improve Borrower Experience Through Fewer Account Transfers** – The Department seeks to limit and, to the maximum extent practical, eliminate loan transfers and related disruption for borrowers.
- **Improved Servicer Oversight –** The Department seeks to create a limited set of streamlined, consistent systems and processes that will allow Department staff to more effectively manage and oversee vendors' performance, leading to better outcomes for borrowers.
- **Improved Data Collection/Analysis –** The Department seeks to create a consolidated portfolio that will make it easier to analyze and track borrower behavior and outcomes, and servicers' performance. The results of these analyses will be used to more quickly identify trends and make process or policy improvements.

Detailed Requirements

A full list of detailed requirements can be found at Attachment A – Federal Loan Servicing Requirements.

SECTION D, PACKAGING AND MARKING

FSA 27-1 Labeling of Documents (JUN 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.

(End of clause)

SECTION E, INSPECTION AND ACCEPTANCE

FAR 52.246-4 Inspection of Services – Fixed Price (AUG 1996)

SECTION F, DELIVERIES OR PERFORMANCE

52.242-15 Stop Work Order (AUG 1989)
52.242-17 Government Delay of Work (APR 1984)
52.247-55 F.O.B. Point for Delivery of Government-Furnished Property (JUNE 2003)

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 (also referred to as Contingency Plan, or "The 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 ~~N/A~~72 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 the contractor services listed in Section C. Within 60 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 annual tests;
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 30 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.

(End of clause)

FSA 37-3 Disruption of Mission Critical Contractor System or Other Services (SEP 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 the changes, absent exigent circumstances. Emergency changes require immediate notification of the individual(s) identified in (c) as soon as the charge requirement is known, but prior to the change. If the continuity of such systems 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 individuals to coordinate all changes to mission critical contractor systems or services:

Contracting Officer and Contracting Officer’s Representative

(End of clause)

SECTION G, CONTRACT ADMINISTRATION DATA

FSA anticipates moving to an e-Invoicing solution at some point between calendar year 2017 and 2018. FSA further anticipates that such a change will require the vendor to enter invoices into a system as opposed to mailing or faxing the invoice to FSA. The offeror agrees that such a change will be administrative in nature, and will come at no increase in price to the Government.

FSA 19-2 Subcontract Reporting and Achievements (APR 2014)

The contractor shall submit timely and accurate subcontract reporting, which will be a factor used in assessing contractor past performance. In addition, contractors are advised that achievements related to subcontracting plans can and may be used as part of responsibility determinations under future procurements.

(End of Clause)

FSA 22-2 Service Contract Act and Fair Labor Standards Act Requirements in Escalated Contracts (JAN 2013)

The Service Contract Act applies 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 will be performance-based and payment to the contractor will be a percentage based upon actual performance, and/or
2. The contract is issued 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

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 and 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 by the Contractor or the Government as a result of increases or decreases in 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.

(End of clause)

FSA 32-1 FSA Invoice Procedures (MAR 2012)

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) 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.

(End of clause)

~~**FSA 39-1 REPORTING REQUIREMENTS FOR DEPARTED CONTRACTOR EMPLOYEES (AUG 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~~

~~(End of clause)~~

FSA 42-1 Post Award Evaluation of Contractor Performance (JUL 2012)

Interim and final evaluations of contractor performance will be prepared on this contract in accordance with FAR 42.15. The system utilized to record past performance evaluations is the Contractor Performance Assessment Reporting System (CPARS), which is a feeder system for the Past Performance Information Retrieval System (PPIRS). The Contractor shall designate a CPARS Representative to administer evaluations for the Contractor. The Representative shall be responsible for reviewing and commenting on proposed ratings and remarks for all assessments forwarded by the Contracting Officer. The first Interim CPAR report shall be assessed after 12 months of contract performance, with Interim reports assessed every 12 months thereafter. If the award value is over the Simplified Acquisition Threshold, and the period of performance is shorter than 12 months, the evaluation shall be assessed at the completion of work. The Contractor will be permitted thirty (30) days to review the evaluation and to submit additional information or a rebutting statement in CPARS. If the Contractor does not comment during the review period, the report shall be finalized after (30) days. The Final contract performance evaluation will be prepared at the time of completion of work. Any disagreement between the parties regarding an evaluation will be referred to the next higher level above the Contracting Officer, whose decision will be final. Copies of the evaluation, contractor responses, and review comments, if any, will be retained as part of the contract file, and will be used to support future award decisions. Copies of completed evaluations can be obtained in CPARS and PPIRS.

(End of clause)

FSA 43-1 Change Request Modifications (NOV 2013)

This contract includes one or more Contract Line Item Numbers (CLINS) that will be used to fund Change Requests (CR). A CR may take the form of either a contract modification or other written documentation of the change. All CRs will be issued by a numerical sequence and date (CR95, 11/20/13) and further provide indication of the CLIN that provides an appropriation to fund the CR. In the event a CR is issued via written communication other than an SF-30 contract modification, the Contracting Officer will issue an SF-30 unilateral contract modification that summarizes all CR changes. Change request modifications issued on a more frequent basis are solely at the discretion of the Contracting Officer. CR summary modifications are for administrative convenience and confer no extra rights to the parties to the contract.

(End of clause)

SECTION H, SPECIAL CONTRACT REQUIREMENTS

Service Level Agreements (SLAs) – Incentive Payments

The Contractor agrees that any payment of incentives for exceeding an SLA is conditioned on continued compliance by the Contractor with all laws governing loan servicing and collection practices. In the event of any default by the Contractor or a finding by the Government of a systematic or significant failure to comply with such laws by the Contractor, the Government may unilaterally suspend or cancel this incentive payment mechanism. Further, the Contractor shall be deemed to have forfeited any incentive payments to which it is otherwise entitled.

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.

(End of clause)

FSA 31-1 Contractor Travel Expenses (APR 2013)

Local travel is not an authorized direct expense under this contract. Local travel is defined as travel within a 50-mile radius of the official duty station; and includes such things as regular commuting to and from the place of employment; parking, mileage, and fuel expenses; and any other items that are incidental to local travel.

Other-than-local Contractor travel may be required in performance of this contract. The Contractor shall secure authorization to travel in writing from the Contracting Officer prior to incurrence of any costs associated with other-than-local travel. Costs incurred by contractor personnel on authorized travel will be considered allowable for payment as long as the costs are reasonable and consistent with FAR Subpart 31.205-46, as follows:

I. Costs for per diem, lodging, and incidental expenses are allowable up to the extent such costs are actual costs and do not exceed the maximum daily travel limitations effective for the city and fiscal year, as identified in the Federal Travel Regulations at http://www.gsa.gov/portal/content/104877. The costs shall be downward adjusted when travel does not take an entire day.

II. Costs for airfare are limited to the lowest price available to the Contractor during normal business hours unless such airfare would require travel during unreasonable hours, via circuitous routing, that is not reasonably adequate to meet the traveler's medical or physical needs or that would result in unreasonable costs that would not be offset by travel savings. In order for travel costs to be allowable in the above circumstances, the basis of the exception must be documented and justified.

All receipts for any travel cost incurrence, above $75, are submitted as supporting documentation, and travel expenses include the following:

a. Date and place of the travel (city, town, or other similar destination);
b. Purpose of the trip; and,
c. Name of the person who incurred the expenses, and the relationship of that person to the Contractor.

(End of clause)

FSA 39-1 Reporting Requirements for Departed Contractor Employees (AUG 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

(End of clause)

FSA 39-3 FSA Section 508 and Electronic and Information Technology Accessibility Standards Compliance (September, 2016)

(a) The performance of this contract is subject to the requirements of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), and the Architectural and Transportation Barriers Compliance Board Electronic and Information Technology (EIT) Accessibility Standards (36 CFR Part 1194).
(b) Section 508 establishes requirements for electronic and information technology developed, maintained, procured, or used by the Federal government. Section 508 requires Federal electronic and information technology, including that provided by a Government contractor, to be accessible to people with disabilities, including employees and members

of the public. All EIT services performed under this contract shall meet the standards identified at 36 CFR Part 1194 (http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr1194_main_02.tpl).

(c) Members of the public with disabilities that are seeking information or services from the contractor shall have access to and use of information and data maintained and provided to the public under this contract that is comparable to the access to and use of information and data by members of the public who are not individuals with disabilities. The contractor's Website, and any documents or other forms of communication that may be viewed by the public via the Website, shall remain current with manners of assistive technology utilized by the public for accessing such information. In order to maintain an accessible Website and documents or other forms of communication, the contractor shall ensure that the public can access required information in a variety of ways, which do not have to rely on a single sense or ability of the user.

(End of Clause)

FSA 39-4 Remedies for Contractor's Violation of System Security Requirements (October 2016).

a) General. The information systems accessed, supported, and maintained under this contract contains personally identifiable information (PII). In order to protect those systems and PII, the contractor is required by the terms of this contract to comply with the Department of Education security policy requirements and to implement privacy and security safeguards. A failure by the contractor to comply with those requirements that results in, or contributes to, a breach of an information system and to the improper disclosure of PII therein could negatively impact millions of student borrowers and their families, as well as many other individuals and entities. Such a breach could give rise to claims by third parties against the Department and the Department may incur significant additional costs and expenses. Depending on the number of systems and individuals affected and the sensitivity and amount of PII data involved in the breach, the Department's liability, costs and expenses may include the following, among others: 1) costs of investigation of the system breach and its impact, 2) expenses related to notification of affected individuals, 3) costs of providing data breach protection services to affected individuals, 4) liability for financial and other losses suffered by third parties as a consequence of the fraudulent, negligent or other misuse of PII obtained as a result of the breach, and 5) expenses to restore Department systems to a state that ensures the present and future integrity, security and availability of PII.

b) Definitions. All terms used in this provision such as breach, personally identifiable information (PII) have the same definition as used by the Department of Education's Administrative Communications System Directive OM: 6-107 External Breach Notification Policy and Plan (3/25/2016).

c) Breach Response. The contractor agrees that in the event of any actual or suspected breach of any system accessed, supported, and maintained under this contract and which contains or may contain PII, the contractor shall immediately, and in no event later than one hour of discovery, report the breach to the contracting officer, the Contracting Officer's Technical Representative (COTR), and the Department's Privacy Advocate. The contractor is responsible for positively verifying that notification is received and acknowledged by at least one of the foregoing Government parties. The contractor further agrees to provide the Department the resources necessary to support the Department in its implementation of appropriate information security incident response and reporting procedures and external breach notification policies and plans.

d) Notice to Affected Individuals. If the contractor fails to comply with Department security policy requirements or fails to implement required privacy and security safeguards, in accordance with FSA's instructions and only if and as approved in advance and in writing by the Department, the contractor agrees to prepare and send a notice to all individuals affected by a breach, at no additional cost to the Department. The method of such notification may include letters to affected individuals sent by first class mail, electronic means, or publication of a general notice, as approved by the Department. At minimum, that notification should include:

1) a brief description of how the breach occurred;
2) a description of the types of personal information involved in the breach;
3) a statement as to whether the information was encrypted or protected by other means;
4) steps an individual may take to protect themselves;
5) what the agency is doing, if anything, to investigate the breach, to mitigate losses, and to protect against any further breaches; and
6) point of contact information identifying who affected individuals may contact for further information.

e) Remedies for Violations. If the contractor fails to comply with Department security policy requirements or fails to implement required privacy and security safeguards, and if that failure results in, or contributes to, a breach of an information systems and the improper disclosure of PII, the contractor agrees to take all reasonable measures necessary to correct and mitigate the violation and to remedy any resulting harm suffered by the Department and any others. The contractor agrees to take such action promptly, as directed by the Contracting Officer, and at no additional cost to the Department. The contractor agrees that such measures shall include, at a minimum, the following:

1) the contractor shall provide data breach protection services, including identity theft and credit protection, to all affected individuals for a period of no less than 18 months from the date of discovery of the breach. Those services shall include at a minimum: a) one year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports; b) data breach analysis; c) fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution; d) three years of identity theft insurance with up to $1,000,000.00 coverage at $0 deductible; and e) necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs;
2) the contractor shall reimburse the Department for all its costs and expenses resulting from the breach, including but not limited to: a) costs of investigation of the system breach and its impact, b) expenses related to notification of affected individuals, c) costs of providing data breach protection services to affected individuals, d) expenses to restore Department systems to a state that ensures the present and future integrity, security and availability of PII;
3) the contractor shall indemnify and hold harmless the Department for any and all third party claims, suits, demands, actions, causes of action, damages, set-offs, liens, attachments, debts, expenses, judgments, and any other liabilities of any kind or nature arising out of or related to the breach. This includes but is not limited to indemnification for any liability for financial and other losses suffered by third parties as a consequence of the fraudulent, negligent or other misuse of PII obtained as a result of the breach.

f) Right to Withhold Contract Payments and Set-Off. If the contractor fails to notify the affected individuals or fails to provide the data breach protection services as provided in paragraphs (d) and (e)(1) of this clause, the contractor agrees to have the Department withhold the sum of $XX.XX per affected individual from any payment due the contractor under this contract, or to set-off that sum from any other Government contract. That withholding or set-off shall continue until the contractor has complied with the requirements in paragraphs (d) and (e)(1) of this clause. Should the Department elect to provide and/or procure notification or data breach protection services in response to a breach, the contractor will be responsible for reimbursing the Department for those expenses.

g) Flow-Down to Subcontractors. The contractor agrees to incorporate into subcontracts at all tiers any term or condition necessary to ensure compliance with the requirements of this clause, including by contractor and subcontractor personnel. Further, the contractor acknowledges and agrees that a breach of an information system caused by subcontractor personnel will be attributed to the contractor for purposes of application of this clause.

Reservation of Government Rights. Nothing in this clause is intended or shall be interpreted to waive or to limit in any way the right of the Department to pursue claims and recover damages and other remedies for the contractor's violation of the terms of this contract, including system security requirements.

(End of clause)

FSA 45-1 Special Contract Requirements for Government Furnished Property – Two Factor Authentication Tokens (TFA) (JUN 2016)

In addition to the requirements of FAR 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.

f) Soft Tokens can be used instead of hard tokens. The soft token is an app that runs on the user's mobile device. After downloading and registering the free Symantec VIP Access app on a phone or tablet, a user simply opens the app and an One-Time Password (OTP) is automatically generated similar to a hard token. Use of a soft token is optional, however users who have a compatible mobile device are encouraged to transition to a soft token. There is no requirement to maintain property records on soft tokens.

g) Contact Information. For additional information on TFA or the use of a soft token, contact the TFA Support Center at 800/330-5947, option 2 (TDD/TTY 800/511-5806) or by email at TFASupport@ed.gov.

(End of clause)

SECTION I – CONTRACT CLAUSES

52.252-2 Clauses Incorporated by Reference (FEB 1998)

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

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

(End of Clause)

52.202-1 Definitions (NOV 2013)
52.203-3 Gratuities (APR 1984)
52.203-5 Covenant Against Contingent Fees (MAY 2014)
52.203-6 Restrictions on Subcontractor Sales to the Government (SEP 2006)
52.203-7 Anti-Kickback Procedures (MAY 2014)
52.203-8 Cancellation, Recession, and Recovery of Funds for Illegal or Improper Activity (MAY 2014)
52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (MAY 2014)
52.203-12 Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
52.203-13 Contract or Code of Business Ethics and Conduct (OCT 2015)
52.203-17 Contract or Employee Whisteblower Right and Requirement to Inform Employees of Whisteblower Rights (APR 2014)

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)
52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2015)
52.204-13 System for Award Management Maintenance (JUL 2013)
52.209-6 Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment (OCT 2015)
52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters (JUL 2013)
52.209-10 Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015)
52.210-1 Market Research (APR 2011)
52.215-2 Audit and Records-Negotiations (OCT 2010)
52.215-8 Order of Precedence – Uniform Contract Format (OCT 1997)
~~52.217-2 Cancellation Under Multiyear Contracts (OCT 1997)~~
52.219-8 Utilization of Small Business Concerns (OCT 2014)
52.219-9 Small Business Subcontracting Plan (OCT 2015)
52.219-16 Liquidated Damages – Subcontracting Plan (JAN 1999)
52.222-3 Convict Labor (JUNE 2003)
52.222-17 Nondisplacement of Qualified Workers (MAY 2014)
52.222-21 Prohibition on Segregated Facilities (APR 2015)
52.222-26 Equal Opportunity (APR 2015)
52.222-37 Employment Reports on Veterans (FEB 2016)
52.222-40 Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)
52.222-41 Service Contract Labor Standards (MAY 2014)
52.222-43 Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts) (MAY 2014)
52.222-50 Combating Trafficking in Persons (MAR 2015)
52.222-54 Employment Eligibility Verification (OCT 2015)
52.222-55 Establishing a Minimum Wage for Contractors (DEC 2015)
52.223-6 Drug Free Workplace (MAY 2001)
52.223-18 Encouraging Contract or Policies to Ban Text Messaging While Driving (AUG 2011)
52.224-1 Privacy Act Notification (APR 1984)
52.224-2 Privacy Act (APR 1984)
52.225-13 Restrictions on Certain Foreign Purchases (JUN 2008)
52.227-1 Authorization and Consent (DEC 2007)
52.227-14 Rights in Data – General (MAY 2014) – Alternate II
52.227-14 Rights in Data – General (MAY 2014) – Alternate III
52.229-3 Federal, State, and Local Taxes (FEB 2013)
52.232-1 Payments (APR 1984)
52.232-8 Discounts for Prompt Payment (FEB 2002)
52.232-9 Limitation on Withholding of Payments (APR 1984)
52.232-11 Extras (APR 1984)
52.232-17 Interest (MAY 2014)
52.232-18 Availability of Funds (APR 1984)
52.232-23 Assignment of Claims (MAY 2014)
52.232-25 Prompt Payment (JUL 2013)
52.232-33 Payment by Electronic Funds Transfer – System for Award Management (JUL 2013)
52.232-39 Unenforceability of Unauthorized Obligations (JUN 2013)
52.232-40 Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)
52.233-1 Disputes (Alternate I) (DEC 1991)
52.233-3 Protest after Award (AUG 1996)
52.233-4 Applicable Law for Breach of Contract Claim (OCT 2004)
52.237-3 Continuity of Services (JAN 1991)
52.239-1 Privacy or Security Safeguards (AUG 1996)
52.242-13 Bankruptcy (JUL 1995)
52.243-1 Changes - Fixed Price (Alternate I) (APR 1984)
52.244-2 – Subcontracts (OCT 2010)
52.244-6 Subcontracts for Commercial Items (Nov 2016)
52.245-1 Government Property (Alternate I) (APR 2012)
52.245-9 Use and Charges (APR 2012)

52.246-25 Limitation of Liability – Services (FEB 1997)
52.249-2 Termination for Convenience of the Government (Fixed-Price) (APR 2012)
52.249-8 Default (Fixed-Price Supply and Service) (APR 1984)
52.253-1 Computer Generated Forms (JAN 1991)

52.203-14 Display of Hotline Poster(s) (OCT 2015)

(a) Definition.

"United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites—

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s)	Obtain from
Department of Education Hotline/Fraud Awareness Posters	http://www2.ed.gov/about/offices/list/oig/hotlineposters.html

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed $5.5 million, except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

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 15 days before the end of the contract period of performance.

(End of Clause)

52.217-9 Option to Extend the Term of the Contract (March 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within _15 days_; 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 and 6 months_.

(End of Clause)

52.219-28 Post-Award Small Business Program Representation (JUL 2013)

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at http://www.sba.gov/content/table-small-business-size-standards .

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

> The Contractor represents that it [ ] is, [ ] is not a small business concern under NAICS Code _____ assigned to contract number _____.[Contractor to sign and date and insert authorized signer's name and title].

(End of clause)

52.222-35 Equal Opportunity Veterans (OCT 2015)

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

"Active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualified disabled veteran,' and "recently separated veteran" have the meanings given at FAR 22.1301.

(b) *Equal opportunity clause*. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate of identify properly the parties and their undertakings.

(End of Clause)

52.222-36 Equal Opportunity for Workers with Disabilities (JULY 2014)

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60.741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of Clause)

~~**52.222-59 -- Compliance With Labor Laws (Executive Order 13673) (OCT 2016)**~~

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

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

~~"Agency labor compliance advisor (ALCA)" means the senior official designated in accordance with E.O. 13673. ALCAs are listed at www.dol.gov/fairpayandsafeworkplaces.~~

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

~~"Civil judgment" means any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular judgment or order is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.~~

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

~~"Enforcement agency" means any agency granted authority to enforce the Federal labor laws. It includes the enforcement components of DOL (Wage and Hour Division, Office of Federal Contract Compliance Programs, and Occupational Safety and Health Administration), the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It also means a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, conduct investigations of potential labor law violations. The enforcement agencies associated with each labor law under E.O. 13673 are--~~

~~(1) Department of Labor Wage and Hour Division (WHD) for--~~

~~(i) The Fair Labor Standards Act;~~

~~(ii) The Migrant and Seasonal Agricultural Worker Protection Act;~~

~~(iii) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act;~~

~~(iv) 41 U.S.C. chapter 67, formerly known as the Service Contract Act;~~

~~(v) The Family and Medical Leave Act; and~~

~~(vi) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors);~~

~~(2) Department of Labor Occupational Safety and Health Administration (OSHA) for--~~

~~(i) The Occupational Safety and Health Act of 1970; and~~

~~(ii) OSHA-approved State Plans;~~

~~(3) Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for--~~

~~(i) Section 503 of the Rehabilitation Act of 1973;~~

~~(ii) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974; and~~

~~(iii) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity);~~

~~(4) National Labor Relations Board (NLRB) for the National Labor Relations Act; and~~

~~(5) Equal Employment Opportunity Commission (EEOC) for –~~

~~(i) Title VII of the Civil Rights Act of 1964;~~

~~(ii) The Americans with Disabilities Act of 1990;~~

~~(iii) The Age Discrimination in Employment Act of 1967; and~~

~~(iv) Section 6(d) of the Fair Labor Standards Act (Equal Pay Act).~~

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

~~"Labor laws" means the following labor laws and E.O.s:~~

~~(1) The Fair Labor Standards Act.~~

~~(2) The Occupational Safety and Health Act (OSHA) of 1970.~~

~~(3) The Migrant and Seasonal Agricultural Worker Protection Act.~~

~~(4) The National Labor Relations Act.~~

~~(5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.~~

~~(6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.~~

~~(7) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).~~

~~(8) Section 503 of the Rehabilitation Act of 1973.~~

~~(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.~~

~~(10) The Family and Medical Leave Act.~~

~~(11) Title VII of the Civil Rights Act of 1964.~~

~~(12) The Americans with Disabilities Act of 1990.~~

~~(13) The Age Discrimination in Employment Act of 1967.~~

~~(14) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).~~

~~(15) Equivalent State laws as defined in the DOL Guidance. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans, which can be found at www.osha.gov/dcsp/osp/approved_state_plans.html.)~~

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

~~"Pervasive violations in the context of E.O. 13673, Fair Pay and Safe Workplaces", means labor law violations that bear on the assessment of a contractor's integrity and business ethics because they reflect a basic disregard by the contractor for the labor laws, as demonstrated by a pattern of serious and/or willful violations, continuing violations, or numerous violations. To determine whether violations are pervasive it is necessary to consult the DOL Guidance section III.A.4. and associated Appendix D.~~

~~"Repeated violation in the context of E.O. 13673, Fair Pay and Safe Workplaces", means a labor law violation that bears on the assessment of a contractor's integrity and business ethics because the contractor had one or more additional labor law violations of the same or a substantially similar requirement within the prior 3 years. To determine whether a particular violation(s) is repeated it is necessary to consult the DOL Guidance section III.A.2. and associated Appendix B.~~

~~"Serious violation in the context of E.O. 13673, Fair Pay and Safe Workplaces", means a labor law violation that bears on the assessment of a contractor's integrity and business ethics because of the number of employees affected; the degree of risk imposed, or actual harm done by the violation; the amount of damages incurred or fines or penalties assessed; and/or other similar criteria. To determine whether a particular violation(s) is serious it is necessary to consult the DOL Guidance section III.A.1. and associated Appendix A.~~

~~"Willful violation in the context of E.O. 13673, Fair Pay and Safe Workplaces", means a labor law violation that bears on the assessment of a contractor's integrity and business ethics because the contractor acted with knowledge of, reckless disregard for, or plain indifference to the matter of whether its conduct was prohibited by one or more requirements of labor laws. To determine whether a particular violation(s) is willful it is necessary to consult the DOL Guidance section III.A.3. and associated Appendix C.~~

~~(b) Prime contractor updates. Contractors are required to disclose new labor law decisions and/or updates to previously disclosed labor law decisions in SAM at www.sam.gov, semiannually. The Contractor has flexibility in establishing the date for the semiannual update. (The contractor may use the six-month anniversary date of contract award, or may choose a different date before that six-month anniversary date. In either case, the contractor must continue to update its disclosures semiannually.) Registrations in SAM are required to be maintained current, accurate, and complete (see 52.204-13, System for Award Management Maintenance). If the SAM registration date is less than six months old, this will be evidence that the required representation and disclosure information is updated and the requirement is met. The Contractor shall provide –~~

~~(1) The following in SAM for each disclosed labor law decision. This information will be publicly available in the Federal Awardee Performance and Integrity Information System (FAPIIS):~~

~~(i) The labor law violated.~~

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

~~(iii) The date rendered.~~

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

~~(2) The administrative merits determination, arbitral award or decision, or civil judgment document to the Contracting Officer, if the Contracting Officer requires it;~~

~~(3) In SAM, such additional information as the Contractor deems necessary, including mitigating factors and remedial measures such as contractor actions taken to address the violations, labor compliance agreements, and other steps~~

~~taken to achieve compliance with labor laws. Contractors may provide explanatory text and upload documents. This information will not be made public unless the Contractor determines that it wants the information to be made public; and~~

~~(4) The information in paragraphs (b)(1) and (b)(3) to the Contracting Officer, if the Contractor meets an exception to SAM registration (see 4.1102(a)).~~

~~(c) Subcontractor responsibility. (1) This paragraph (c) applies –~~

~~(i) To subcontracts with an estimated value that exceeds $500,000 for other than commercially available off-the-shelf items; and~~

~~(ii) When the provision 52.222-58, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673), is in the contract and the prospective subcontractor responded affirmatively to paragraph (b) of that provision, and the Contractor initiates a responsibility determination.~~

~~(2) The Contractor shall consider subcontractor labor law violation information when assessing whether a prospective subcontractor has a satisfactory record of integrity and business ethics with regard to compliance with labor laws, when determining subcontractor responsibility. Disclosure of labor law decision(s) does not automatically render the prospective subcontractor nonresponsible. The Contractor shall consider the prospective subcontractor for subcontract award notwithstanding disclosure of one or more labor law decision(s). The Contractor should encourage prospective subcontractors to contact DOL for a preassessment of their record of labor law compliance (see DOL Guidance Section VI, Preassessment). The Contractor shall complete the assessment –~~

~~(i) For subcontracts awarded within five days of the prime contract award or that become effective within five days of the prime contract award, no later than 30 days after subcontract award; or~~

~~(ii) For all other subcontracts, prior to subcontract award. However, in urgent circumstances, the assessment shall be completed within 30 days of subcontract award.~~

~~(3)(i) The Contractor shall require a prospective subcontractor to represent to the best of the subcontractor's knowledge and belief whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments, for any labor law violation(s) rendered against the subcontractor during the period beginning on October 25, 2015 to the date of the subcontractor's offer, or for three years preceding the date of the subcontractor's offer, whichever period is shorter.~~

~~(ii) When determining subcontractor responsibility, the Contractor shall require the prospective subcontractor to disclose to DOL, in accordance with paragraph (c)(3)(iv) of this clause, for each covered labor law decision, the following information:~~

~~(A) The labor law violated.~~

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

~~(C) The date rendered.~~

~~(D) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision.~~

~~(iii) The Contractor shall inform the prospective subcontractor that the prospective subcontractor may provide information to DOL, in accordance with paragraph (c)(3)(iv) of this clause, on mitigating factors and remedial measures, such as subcontractor actions taken to address the violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws.~~

~~(iv) The Contractor shall require subcontractors to provide information required by paragraph (c)(3)(ii) and discussed in paragraph (c)(3)(iii) of this clause to DOL through the DOL Web site at www.dol.gov/fairpayandsafeworkplaces.~~

~~(4) The Contractor, in determining subcontractor responsibility, may find that the prospective subcontractor has a satisfactory record of integrity and business ethics with regard to compliance with labor laws if –~~

~~(i) The prospective subcontractor provides a negative response to the Contractor in its representation made pursuant to paragraph (c)(3)(i) of this clause; or~~

~~(ii) The prospective subcontractor –~~

~~(A) Provides a positive response to the Contractor in its representation made pursuant to paragraph (3)(i);~~

~~(B) Represents, to the Contractor, to the best of the subcontractor's knowledge and belief that it has disclosed to DOL any administrative merits determinations, arbitral awards or decisions, or civil judgments for any labor law violation(s) rendered against the subcontractor during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; and~~

~~(C) Provides the following information concerning DOL review and assessment of subcontractor-disclosed information –~~

~~(1) The subcontractor has been advised by DOL that it has no serious, repeated, willful, and/or pervasive labor law violations;~~

~~(2) The subcontractor has been advised by DOL that it has serious, repeated, willful, and/or pervasive labor law violations; and~~

~~(i) DOL has advised that a labor compliance agreement is not warranted because, for example, the subcontractor has initiated and implemented its own remedial measures;~~

~~(ii) The subcontractor has entered into a labor compliance agreement(s) with an enforcement agency and states that it has not been notified by DOL that it is not complying with its agreement; or~~

~~(iii) The subcontractor has agreed to enter into a labor compliance agreement or is considering a labor compliance agreement(s) with an enforcement agency to address all disclosed labor law violations that DOL has determined to be serious, willful, repeated, and/or pervasive labor law violations and has not been notified by DOL that it has not entered into an agreement in a reasonable period; or~~

~~(3) The subcontractor disagrees with DOL's advice (e.g., that a proposed labor compliance agreement is warranted), or with DOL's notification that it has not entered into a labor compliance agreement in a reasonable period or is not complying with the agreement, and the subcontractor has provided the Contractor with –~~

~~(i) Information about all the disclosed labor law violations that have been determined by DOL to be serious, repeated, willful, and/or pervasive;~~

~~(ii) Such additional information that the subcontractor deems necessary to demonstrate its responsibility, including mitigating factors, remedial measures~~

~~such as subcontractor actions taken to address the labor law violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws;~~

~~(iii) A description of DOL's advice or a description of an enforcement agency's proposed labor compliance agreement; and~~

~~(iv) An explanation of the basis for the subcontractor's disagreement with DOL.~~

~~(5) If the Contractor determines that the subcontractor has a satisfactory record of integrity and business ethics based on the information provided pursuant to paragraph (c)(4)(ii)(C)(3), or the Contractor determines that due to a compelling reason the contractor must proceed with subcontract award, the Contractor shall notify the Contracting Officer of the decision and provide the following information in writing:~~

~~(i) The name of the subcontractor.~~

~~(ii) The basis for the decision, e.g., relevancy to the requirement, urgent and compelling circumstances, to prevent delays during contract performance, or when only one supplier is available to meet the requirement.~~

~~(6) If DOL does not provide advice to the subcontractor within three business days of the subcontractor's disclosure of labor law decision information pursuant to paragraph (c)(3)(ii) and DOL did not previously advise the subcontractor that it needed to enter into a labor compliance agreement to address labor law violations, the Contractor may proceed with making a responsibility determination using available information and business judgment.~~

~~(d) Subcontractor updates. (1) The Contractor shall require subcontractors to determine, semiannually, whether labor law decision disclosures provided to DOL pursuant to paragraph (c)(3)(ii) of this clause are current, accurate, and complete. If the information is current, accurate, and complete, no action is required. If the information is not current, accurate, and complete, subcontractors must provide revised information to DOL, in accordance with paragraph (c)(3)(iv) of this clause, and make a new representation and provide information to the Contractor pursuant to paragraph (c)(4)(ii) of this clause to reflect any advice provided by DOL or other actions taken by the subcontractor.~~

~~(2) The Contractor shall further require the subcontractor to disclose during the course of performance of the subcontract any notification by DOL, within 5 business days of such notification, that it has not entered into a labor compliance agreement in a reasonable period or is not complying with a labor compliance agreement, and shall allow the subcontractor to provide an explanation and supporting information for the delay or non-compliance.~~

~~(3) The Contractor shall consider, in a timely manner, information obtained from subcontractors pursuant to paragraphs (d)(1) and (2) of this clause, and determine whether action is necessary.~~

~~(4) If the Contractor has been informed by the subcontractor of DOL's assessment that the subcontractor has not demonstrated compliance with labor laws, and the Contractor decides to continue the subcontract, the Contractor shall notify the Contracting Officer of its decision to continue the subcontract and provide the following information in writing:~~

~~(i) The name of the subcontractor; and~~

~~(ii) The basis for the decision, e.g., relevancy to the requirement, urgent and compelling circumstances, to prevent delays during contract performance, or when only one supplier is available to meet the requirement.~~

~~(e) Consultation with DOL and other enforcement agencies. The Contractor may consult with DOL and enforcement agency representatives, using DOL Guidance at www.dol.gov/fairpayandsafeworkplaces, for advice and assistance regarding assessment of subcontractor labor law violation(s), including whether new or enhanced labor compliance agreements are~~

~~warranted. Only DOL and enforcement agency representatives are available to consult with Contractors regarding subcontractor information. Contracting Officers or Agency Labor Compliance Advisors may assist with identifying the appropriate DOL and enforcement agency representatives.~~

~~(f) Protections for subcontractor misrepresentations. A contractor or subcontractor, acting in good faith, is not liable for misrepresentations made by its subcontractors about labor law decisions or about labor compliance agreements.~~

~~(g) Subcontractor flowdown. If the Government's solicitation included the provision at 52.222-58, the Contractor shall include the substance of paragraphs (a), (c), (d), (e), (f) and (g) of this clause, in subcontracts with an estimated value exceeding $500,000, at all tiers, for other than commercially available off-the-shelf items.~~

~~(End of clause)~~

52.239-70 ACCESS TO CONTRACTOR AND SUBCONTRACTOR INFORMATION SYSTEMS AND RELATED RESOURCES IN CARRYING OUT PRIVACY AND INFORMATION SECURITY INSPECTIONS (DEVIATION)

(a) *Privacy and security inspections*. In accordance with the terms of this contract and as authorized by law, the Government carries out a program of privacy and information security inspections. Such inspections may be undertaken for various purposes, including but not limited to:

(1) Examination of the security of federal information systems or of contractor information systems that process, store or transmit Government data, Government-related data, or controlled unclassified information, or which provide security protection for such systems (including vulnerability testing);
(2) Information Technology security reviews;
(3) Investigation and audit of administrative, technical, and physical safeguards taken to protect against threats and hazards to the integrity, confidentiality, and availability of Government data, Government-related data, or controlled unclassified information, or to the function of computer systems operated on behalf of the Government;
(4) Review of contractor policies, procedures and practices for handling Government data, Government-related data, controlled unclassified information and other sensitive data;
(5) Investigation of incidents involving actual or suspected improper releases of information (including cyber security incident response and reporting);
(6) Conduct of forensic analyses, investigation of computer crime, or the preservation of evidence of computer crime; or
(7) Review of the contractor's performance for compliance with the terms and conditions in the contract governing privacy and the security of information and information systems.

(b) *Requirement to provide access to information systems and related resources*. The contractor shall afford the Government, any Federal agency and its subcomponents including the Office of
Inspector General, the Comptroller General of the United States, and their authorized third-party representatives, full and timely access to contractor information systems and related resources to the extent required to carry out privacy and information security inspections. The contractor resources to which Government inspectors shall have access shall include the contractor's installations, facilities, infrastructure, data centers, equipment (including but not limited to all servers, computing devices, and portable media), operations, documentation (whether in electronic, paper, or other forms) including full and complete certification and accreditation records, databases, and personnel used in the performance of this contract.

In the case of security audits, access shall be provided to all systems, components, network devices, virtualized devices, and the like, for the purposes of evaluating the security postures and controls implemented to prevent unauthorized access, modification, or destruction to Government data and systems. In addition, the contractor shall provide the Government the following information upon request:

(1) any or all user-ids;
(2) any or all system and/or database administrator passwords used for the operation and maintenance of the system or environment, and
(3) security credentials, encryption keys, security algorithms, and the like;

to the extent needed to allow unfettered access to conduct a security audit or other privacy or information security inspection specified by the Government. The contractor shall also provide the Government access to all user passwords and all password

files to the extent necessary to validate the contractor's password policy. The contractor agrees to provide user ids and passwords regardless of whether the user is a Federal employee or not, so long as the user works in support of a Government contract, or may have access to Government data or Government related data.

In addition to providing such access, the contractor agrees to fully cooperate with the Government in its conduct of privacy and information security inspections. That cooperation shall include, among other things, timely and complete production of data, metadata, information, and records, and making employees of the contractor available for interview upon request. Cooperation also includes allowing the Government to make reproductions or copies of information and equipment, including, if necessary, collecting a machine or system image capture.

What constitutes "timely" access for purposes of compliance with this clause will depend on the circumstances surrounding the inspection being performed, the urgency of the matter under inspection, the procedures governing the inspection, logistical considerations, and other factors. In some cases, such as when investigating an on-going cyber security breach, access may be required within minutes of the Government's request. In other cases, access provided by the contractor within a few days of a request may be acceptable. In the event of an information security incident, including, but not limited to, incidents involving the loss or potential loss of
Personally Identifiable information in physical or electronic form, the contractor must respond (as required by other provisions of this contract, Departmental Directive OM: 6-107 "External Breach Notification Policy and Plan" and Handbook OCIO-14 "Handbook for Information Security Incident Response and Reporting Procedures" within specified time frames. Access to the contractor and subcontractor's information systems under this clause shall be provided when, and as necessary, to meet any applicable information security incident response times.

(c) *Access to subcontractor information systems and related resources and clause flow-down*.
Access shall also be provided to information systems and related resources of subcontractors at any tier that are providing information technology which requires security of information technology, and/or is designing, developing, or operating a system of records using commercial information technology services or support services. The fact that an information system is owned or operated by a subcontractor shall not excuse the prime contractor from ensuring full and timely access to such information systems and related resources to the extent necessary to conduct privacy and information security inspections under this contract or as authorized by law. The contractor shall ensure that it retains operational and configurational control over any information system (whether operated by the contractor or a subcontractor) as needed to conduct privacy and information security inspections.
The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial items.

(d) *Cost of compliance*. The aforementioned access and cooperation shall be provided by the contractor at no additional cost to the Government. However, if a Government inspection unduly delays the contractor's performance of the contract, the Contracting Officer may grant a contractor's request for a non-compensable delay, as appropriate and provided the contractor submits information adequate to support the request.

(e) *Access to information systems where a cloud or a co-mingled data environment is used*.
When the contractor will perform all or part of the work using commercial cloud computing services (whether directly or through a subcontract), or where Government data, Government related data or controlled unclassified information will be comingled with non-Government data, the contractor shall ensure that appropriate measures and controls are in place to allow Government inspectors to search the information systems and access information needed to conduct required privacy and information security inspections. The contractor may choose to create (at no cost to the Government) a segregated data space where inspections may take place without undue interference with non-Government data. However, the fact that Government data and non-Government data is co-mingled in the contractor's information system shall not excuse the contractor from affording the Government full and timely access and cooperation as needed to conduct privacy and information security inspections.

The Government shall protect against the unauthorized use or release of information obtained from the Contractor (or derived from information obtained from the Contractor) under this clause that includes Contractor proprietary information. To the extent practicable, the Contractor shall identify and mark proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the Contractor proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released

(f) *Miscellaneous*. The access obligations under this clause will survive the expiration or termination of this contract, and this term is not to be less than 3 years following the final disposition and close out of the contract.

(g) *Remedies for breach*. A breach of the obligations or restrictions set forth in this clause may subject the Contractor to a Termination for Default, in addition to any other appropriate remedies under the contract.

(h) *Relation to other requirements*. The requirements of this clause are in addition to those required by any other inspection or audit clause of this contract. To the extent that requirements imposed by Federal law, regulation, Executive Orders, Office of Management and Budget (OMB) guidance, or standards promulgated by the National Institute of Standards and Technology (NIST) are in direct and irreconcilable conflict with the requirements of this clause, those other requirements, standards, laws, or regulations shall take precedence.

In conducting its security testing the Government intends to follow *NIST Special Publication 800-115 Technical Guide to Information Security Testing and Assessment* and other appropriate testing and assessment standards. Further, the Contractor agrees to negotiate in good faith rules of engagement and other supplementary agreements to govern specific privacy and information security inspections, with the goal of ensuring access necessary to conduct such inspections while protecting the contractor's property and other interests. Any such rules of engagement and supplementary agreements are incorporated into this contract to the extent not inconsistent with the terms of this clause.

(End of Clause)

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: 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.

(End of Clause)

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.*

(End of Clause)

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 103/4by 141/4inches 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.

(End of Clause)

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.

(End of Clause)

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).

(End of Clause)

EDAR 3452.215-70 Release of Restricted Data (MAR 2011)

(a) Offerors are hereby put on notice that regardless of their use of the legend set forth in FAR 52.215–1(e), Restriction on Disclosure and Use of Data, the Government may be required to release certain data contained in the proposal in response to a request for the data under the Freedom of Information Act (FOIA). The Government's determination to withhold or disclose a record will be based upon the particular circumstance involving the data in question and whether the data may be exempted from disclosure under FOIA. In accordance with Executive Order 12600 and to the extent permitted by law, the Government will notify the offeror before it releases restricted data.

(b) By submitting a proposal or quotation in response to this solicitation:

(1) The offeror acknowledges that the Department may not be able to withhold or deny access to data requested pursuant to FOIA and that the Government's FOIA officials shall make that determination;

(2) The offeror agrees that the Government is not liable for disclosure if the Department has determined that disclosure is required by FOIA;

(3) The offeror acknowledges that proposals not resulting in a contract remain subject to FOIA; and

(4) The offeror agrees that the Government is not liable for disclosure or use of unmarked data and may use or disclose the data for any purpose, including the release of the information pursuant to requests under FOIA.

(c) Offerors are cautioned that the Government reserves the right to reject any proposal submitted with:

(1) A restrictive legend or statement differing in substance from the one required by the solicitation provision in FAR 52.215–1(e), Restriction on Disclosure and Use of Data, or

(2) A statement taking exceptions to the terms of paragraphs (a) or (b) of this provision.

(End of Provision)

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.

(End of Clause)

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.”

(End of Clause)

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.

(End of Clause)

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 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 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.

[Insert business name.]
Recipient's Business Name
[Have representative sign.]
Authorized Representative
[Insert date.]
Date
[Insert name and title.]
Representative's Typed Name and Title

(End of Clause)

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.

(End of Clause)

EDAR 3452.237-71 Observance of Administrative Closures (MAR 2011)

(a) The contract schedule 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.

(End of Clause)

3452.239-70 Internet Protocol Version 6 (IPv6).

(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.

(End of Clause)

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): [Contractor - Specify HR positions.]

Moderate Risk (MR): [Contractor - Specify MR positions.]

Low Risk (LR): [Contractor - 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.

(End of Clause)

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.

(End of Clause)

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.

(End of Clause)

FSA 9-1 Annual Submittal of Financial Audit Statements (FEB 2015)

Contractors shall submit a copy of their current Financial Audit Statement to the Contracting Officer 60 days prior to the end of the current period of performance (or annually for multiple year contracts). This information will be a factor in assessing responsibility prior to exercising options or issuing new task orders, as applicable.

(End of clause)

SECTION J – LIST OF ATTACHMENTS

Attachment	Title	Version
A	Federal Loan Servicing Requirements	1.0
A-1	Attachments to Federal Loan Servicing Requirements	1.0
B	Deliverables	1.0

SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

52.204-16 Commercial and Government Entity Code Reporting (JUL 2016)
52.204-19 Incorporation by Reference of Representations and Certifications (DEC 2014)

52.204-8 Annual Representations and Certifications (APR 2016)

(a)

(1) The North American Industry classification System (NAICS) code for this acquisition is 522390.
(2) The small business size standard is _$20.5 million_ *[insert size standard]*.
(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)

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

[_] (i) Paragraph (d) applies.

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

(c)

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

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

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

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

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

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

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.

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

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

(B) Exceed the simplified acquisition threshold; and

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

(v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation.

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

(vii) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) If the acquisition value is $50,000 or more but is less than $77,533, the provision with its Alternate II applies.

(D) If the acquisition value is $79,507 or more but is less than $100,000, the provision with its Alternate III applies.

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

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

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

(xxii) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

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

[Contracting Officer check as appropriate.]

_X__ (i) 52.204-17, Ownership or Control of Offeror.

_X__ (ii) 52.204-20, Predecessor of Offeror.

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

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

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

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

___ (vii) 52.227-6, Royalty Information.

___ (A) Basic.

___ (B) Alternate I.

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

(d) The offeror has completed the annual representations and certifications electronically via the SAM Web site accessed through https://www.acquisition.gov . After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below *[offeror to insert changes, identifying change by clause number, title, date]*. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

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

(End of Provision)

52.209-7 Information Regarding Responsibility Matters (JUL 2013)

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

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

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

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

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

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

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

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

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

(i) In a criminal proceeding, a conviction.
(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more.
(iii) In an administrative proceeding, a finding of fault and liability that results in—
(A) The payment of a monetary fine or penalty of $5,000 or more; or
(B) The payment of a reimbursement, restitution, or damages in excess of $100,000.
(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

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

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via https://www.acquisition.gov (see 52.204-7).

(End of provision)

~~**52.222-57 – Representation Regarding Compliance with Labor Laws (Executive Order 13673) (Oct 2016)**~~

~~(a)(1) *Definitions.*~~

~~"Administrative merits determination", "arbitral award or decision", "civil judgment", "DOL Guidance", "enforcement agency", "labor compliance agreement", "labor laws", and "labor law decision" as used in this provision have the meaning given in the clause in this solicitation entitled 52.222-59, Compliance with Labor Laws (Executive Order 13673).~~

~~(2) Joint ventures. If the offeror is a joint venture that is not itself a separate legal entity, each concern participating in the joint venture shall separately comply with the requirements of this provision.~~

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

~~(2) For solicitations issued after April 24, 2017: The Offeror [ ] does [ ] does not anticipate submitting an offer with an estimated contract value of greater than $500,000.~~

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

~~[ ](1) There has been no administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; or~~

~~[ ](2) There has been an administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter.~~

~~(d)(1) If the box at paragraph (c)(2) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide--~~

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

~~(A) The labor law violated.~~

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

~~(C) The date rendered.~~

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

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

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

~~(iv) The information in paragraphs (d)(1)(i) and (d)(1)(iii) of this provision to the Contracting Officer, if the Offeror meets an exception to SAM registration (see 4.1102(a)).~~

~~(2)(i) The Contracting Officer will consider all information provided under (d)(1) of this provision as part of making a responsibility determination.~~

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

~~(iii) The representation in paragraph (c) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in part 49.~~

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

~~(f) The representation in paragraph (c) of this provision will be public information in the Federal Awardee Performance and Integrity Information System (FAPIIS).~~

~~(End of provision)~~

52.227-15 Representation of Limited Rights Data and Restricted Computer Software (Dec 2007)

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

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [offeror check appropriate block]—

[ ] (1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

[ ] (2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

_____

_____

_____

(c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a contract be awarded to the offeror.

(End of provision)

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_____

(End of Clause)

FSA 4-1 Online Representation and Certification Updates (APR 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.

(End of clause)

Data Rights Provision

Under this contract, the Government intends to obtain all of the data and all of the data rights needed to operate, enhance or modify the loan servicing system and to have other contractors and their subcontractors operate, enhance or modify the loan servicing system on behalf of the Government, either currently or at any time in the future.

The Government will require the contractor to deliver under the contract all the data used to operate, enhance and modify the loan servicing system, including but not limited to computer software, computer software documentation, and any computer database. To obtain such delivery, the contract may specify the data to be delivered or the contracting officer may make a written request during contract performance. The contractor may not withhold delivery of any data used in performing the contract based on a claim of limited rights data or restricted computer software.

The offeror is hereby requested to identify in its proposal any and all limited rights data or restricted computer software likely to be delivered under the contract (use FAR 52.227-15, Representation of Limited Rights Data and Restricted Computer Software (Dec 2007)). In the event limited rights data or restricted computer software are likely to be delivered, the Government intends to negotiate the terms of the necessary licenses and appropriate notices, using Alternate II and Alternate

III of the Rights in Data—General Clause (FAR 52.227-14) (May 2014). Subject to such licenses and notices, the contract will provide the Government with all rights respecting limited rights data and restricted computer software as are necessary to operate, enhance and modify the loan servicing system and to have other contractors and their subcontractors operate, enhance and modify the loan servicing system on the Government's behalf, either currently or at any time in the future.

With regard to limited rights data or restricted computer software belonging to a third party which the offeror intends to use in operating, enhancing or modifying the loan servicing system, the offeror's proposal should identify that data as well. Further, the offeror's proposal should include a description of the terms under which it would acquire the necessary license from that third party. Under the contract, the Government may require the contractor to acquire such a license from the third party on behalf of the Government.

As used in this provision:

a. the term "data" has the same meaning as in the definition at FAR 27.401 and includes all recorded information and documentation;
b. the terms "computer software," "computer software documentation," and "computer database" have the same meaning as in the definitions at FAR 2.101. Note the term "computer software" includes source code;
c. the term "loan servicing system" includes the system proposed by the contractor to service student loans, the system utilized in performance of this contract, that system as enhanced under this contract, and all components thereof. The term "system" encompasses all aspects of the solution proposed or used by the contractor in meeting contract requirements;
d. the terms "limited rights data" and "restricted computer software" have the same meaning as in the definitions set forth at FAR 27.401.

(End of Provision)

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDENTS

52.204-7 System for Award Management (JUL 2013)
52.204-18 Commercial and Government Entity Code Maintenance (JUL 2016)
52.215-1 Instructions to Offerors-Competitive (OCT 2015)
52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation (FEB 1999)
52.222-46 Evaluation of Compensation for Professional Employees (FEB 1993)

52.216-1 Type of Contract (APR 1984)

The Government contemplates award of a ~~*multi-year*~~*firm fixed price* contract resulting from this solicitation.

(End of Provision)

52.233-2 Service of Protest (SEPT 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

MPDSETeam@ed.gov - *or* -
U.S. Department of Education, Federal Student Aid
830 First St NE
9th Floor
Washington, DC 20202

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.
(End of Provision)

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

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

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

(End of Provision)

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

(End of Provision)

FSA 39-2 Electronic and Information Technology (September 2016)

(a) To be considered eligible for award, the offeror must propose Electronic and Information Technology (EIT) that meet the applicable United States Access Board (Access Board) accessibility standards for Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), which are stipulated in 36 CFR 1194, as designated below:

___ 36 CFR 1194.21, Software applications and operating systems
___ 36 CFR 1194.22, Web-based intranet and internet information and applications
___ 36 CFR 1194.23, Telecommunications products
___ 36 CFR 1194.24, Video and multimedia products
___ 36 CFR 1194.25, Self-contained, closed products
___ 36 CFR 1194.26, Desktop and portable computers
___ 36 CFR 1194.31, Functional performance criteria
___ 36 CFR 1194.41, Information, documentation and support

(b) The standards do not require the installation of specific accessibility-related software or the attachment of an assistive technology device, but merely require that the EIT be compatible with such software and devices so that it can be made

accessible, if so required by the agency at any time during the period of performance of the resultant contract, or as stated elsewhere in the contract.

(c) Alternatively, offerors may propose products and services utilizing designs or technologies that provide equivalent facilitation, or substantially equivalent or greater access to and use of a product for people with disabilities. Such offers will be considered to have met the provisions of the Access Board standards for the feature or components providing equivalent facilitation. Offers for products or services meeting some of the applicable provisions will be considered eligible for award if no offerors are able to fully meet all applicable provisions of the standards. Awards will not be made to an offeror meeting all or some of the applicable Access Board provisions if award would impose an undue burden upon the agency.

(d) Offerors must submit representation information concerning their proposed EIT products and services. Offerors shall make this representation by completing and submitting the Voluntary Product Accessibility Template located at *http://www.Section508.gov* with their offer.

(End of Provision)

L-1 Special Notice to Offerors

L-1.1 Failure to submit any of the information requested by this solicitation may be cause for unfavorable consideration.

L-1.2 Only the three offerors selected to participate in Phase II may respond: GreatNet Inc, PHEAA/IBM, and Navient/Deloitte.

L-1.3 Offerors are advised that the Government will utilize GCC Technologies and their subcontractors and consultants, to assist during the source selection. The exclusive responsibility for source selection will reside with the Government. Proprietary information submitted in response to this solicitation will be protected from unauthorized disclosure as required by Subsection 27 of the Office of Procurement Policy Act as amended (41 U.S.C. 423) (hereinafter referred to as "the Act") as implemented in the FAR. These companies are bound contractually by Organizational Conflict of Interest and disclosure clauses with respect to proprietary information. Contractor personnel assisting in the proposal evaluation are procurement officials within the meaning of the Act, and will take all necessary action to preclude unauthorized use or disclosure of a competing Contractor's proprietary data.

L-2 Solicitation Response Requirements

L-2.1 General

The Offeror shall submit documentation demonstrating their approach for satisfying the requirements of this solicitation. Proposals must be clear, coherent, and prepared in sufficient detail for effective evaluation of the offeror's proposal against the evaluation criteria. Also, this documentation shall cover all aspects of this solicitation and include the Offeror's approach for integration and program management activities. Proposals must clearly demonstrate how the Offeror intends to implement the requirements and must include convincing rationale and substantiation of all claims. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete effective response to the solicitation are not desired and will not be considered in the evaluation.

The Offeror shall describe in its proposal, through the use of graphs, charts, diagrams and narrative, in sufficient detail for the Government to understand and evaluate the nature of the approach. In its evaluation and confidence assessment, the Government will consider the degree of substantiation of the proposed approaches in the proposal volumes and in response to any discussions. Nonetheless, the Government is seeking substance, not gloss.

Due to budgetary constraints, offerors should assume no significant development efforts will be required within the first 12 months. Additionally, offerors should assume that the borrowers currently serviced via the offeror's existing TIVAS portfolio will

be serviced under the new contract as of award. Existing TIVAS contract pricing will continue until all requirements have been implemented, at which time, modified pricing will take effect (as set forth in Section B of this contract). Offerors shall not enter into any exclusivity agreements with subcontractors. Nothing in the offeror's teaming agreement or other arrangement with a proposed subcontractor should prohibit or restrict in any way the ability of the proposed subcontractor from pursuing subcontract or teaming arrangements with other offerors participating in this competition or from entering in any such arrangement. Proposals that include the use of exclusivity agreements will be considered by the Government as deficient.

All correspondence in conjunction with this solicitation should be directed to MPDSETeam@ed.gov.

L-2.2 Proposal Volume Requirements

The proposal shall be accompanied by a cover letter (letter of transmittal) prepared on the company's letterhead stationery. The cover letter (letter of transmittal) shall identify all enclosures being transmitted and shall be used only to transmit the proposal and shall include no other information. The first or title page of each proposal volume shall be in accordance with FAR 52.215-1, paragraph (c)(2).

Volume	Page Limit
Past Performance	50 Pages (applies only to L.2.4.g)
Technical Solution	50 Pages
Technical Approach	50 Pages (Detailed Plan/Project Schedule may be an additional 30 pages)
Subcontracting	25 Pages
Price	No Limit

L-2.2.1 Page Limitations. The cover letter, title page, as well as sections of proposals comprising table of contents, table of figures, list of tables, a glossary, abbreviations and acronyms do not count against page count limitations. The completed Attachment A – Federal Loan Servicing Requirements also does not count against page limitation. Proposal contents that are found in any page beyond the stated maximum number of pages (page limit in table above) will be removed from the proposal by the Contracting Officer, prior to turning the proposal over to the Government evaluation teams, and will not be considered in the evaluation.

L-2.2.2 Format. Text shall be single-spaced, on 8 ½ x 11 inch page (except as specifically noted), with a minimum one-inch margin all around. Pages shall be numbered consecutively. 11 x 17 inch sized sheets may be used for tables, charts, graphs, or pictures that cannot be legibly presented on a 8 ½ x 11 inch page. An 11 x 17 inch sheet is equivalent to two pages (with regards to the page count limitations).

Print shall be of a minimum 12-point font size and a maximum 10 characters per inch (10-pitch, pica) spacing. Bolding, underlining, and italics may be used to identify topic demarcations or points of emphasis. Graphic presentations, including tables, while not subject to the same font size and spacing requirements, shall have spacing and text that is easily readable.

Each volume in the proposal shall include a copy of the cover letter (letter of transmittal), title page and table of contents. The table of contents shall list sections, subsections and page numbers. Each volume shall contain a glossary of all abbreviations and acronyms used. Each acronym used shall be spelled out in the text the first time it appears in each proposal volume.

L-2.2.3 Blind Copy. In addition to the proposal volumes identified above, offerors shall submit a duplicate Blind Proposal for the Technical Solution, Technical Approach, and Subcontracting volumes. This version shall not contain any company names, including teaming members or subcontractors. The Contracting Officer will assign each Offeror as Vendor A, Vendor B, or Vendor C, and this form of anonymous identification shall be used when referencing any company in the Blind Proposal.

L-2.2.4. Redacted Proposals. The Contractor shall be prepared to provide a redacted copy of its technical proposal (Technical Solution, Technical Approach and Subcontracting volumes) to the Contracting Officer within thirty (30) days after contract award. The redacted proposal shall be suitable for release by the Government under a Freedom of Information Act (FOIA) request. The redacted proposal shall be submitted in an Adobe electronic file format. Contractor shall also provide a redacted copy of any subsequent order or modification to this contract upon request by the Contracting Officer.

L-2.2.5 Submission Address. Offerors shall submit electronic proposals to MPDSETeam@ed.gov. Offerors must identify the RFP number in the Subject Line of the email and should include "# of #" if multiple emails are required for submission of entire proposal. Offerors are advised to submit electronic documents early and confirm successful transmission/receipt. Offerors also may want to consider sending more than one email to ensure size limitations will not hinder transmission.

L-2.2.6 Submission Due Dates. All volumes must be received by ~~December 12, 2016~~January 9, 2017. The Government POC will provide a receipt showing the time and date of delivery.

L-2.2.7 Cross Referencing. Each volume, other than the Price volume, shall be written to the greatest extent possible on a stand-alone basis so that its content may be evaluated with a minimum of cross-referencing to other volumes of the proposal. Cross-referencing within a proposal volume is permitted where its use would conserve space without impairing clarity. Hyperlinking of cross-references is permissible. Information required for proposal evaluation, which is not found in its designated volume or cross-referenced, is assumed omitted from the proposal.

L-2.2.8 Electronic Submission Of Proposal. (a) By submission of a proposal on electronic media, the Offeror must ensure that the submission is readable, in the format specified in the solicitation, and has been verified as free of computer viruses. Prior to any evaluation, the Government will check all files for viruses and ensure that all information is readable. In the event that any files are defective (unreadable), the Government may only evaluate the readable electronic files. However, if the defective (unreadable) media renders a significant deficiency in the Offeror's proposal, the government may consider the proposal incomplete and not further consider such proposals for evaluation.

(b) The Offeror must ensure that:

(1) It has verified that its electronic proposal is readable on the hardware and software operating system format specified in Section L2.2.2

(2) It has verified that the electronic proposals are free of computer viruses using standard commercial anti-virus software.

(c) A proposal that fails to conform to the requirements of paragraphs (a) and (b) above may be subject to interception or delay at Governmental electronic communications portals. This interception or delay may result in the proposal being lost, deleted, destroyed, or forwarded in such a manner that the proposal arrives at the target destination past the time and date of the deadline for submission established in the solicitation. In the event that a proposal is lost, deleted, or destroyed due to the Offeror's failure to conform to the requirements of paragraphs (a) and (b) above, such proposal will be considered to have never been delivered to the Government. In the event that a proposal is delayed due to the Offeror's failure to conform to the requirements of paragraphs (a) and (b) above, the proposal will be treated as late in accordance with FAR 52.215-1(c).

L-2.3 Communication with the Contracting Office

Solicitation and amendments will be distributed via email to offerors. Offerors may e-mail written questions requesting clarification of the RFP to the Government at MPDSETeam@ed.gov. The Government will answer questions received up to November 9, 2016 regarding the Past Performance volume, and up to November 16, 2016, regarding the Technical and Price volumes. The Government will answer any additional questions received in response to the solicitation amendments by December 14, 2016. Questions received after this date may not be answered. Only proposals submitted in accordance with section L-2.2 entitled "Proposal Volume Requirements" of this solicitation will be accepted.

L-2.4 Information to be submitted as part of the proposal:

1. Past Performance Volume.
   Submit information on the quality of the past performance of the Offeror and its teaming partners/subcontractors in performing student loan servicing work during the past five (5) years. The submission should include, at a minimum, the following information:
   a. Independently-derived* performance metrics, appraisal reports or other assessments of the work;
   b. Independently-derived* assessments of ratings and or other performance metrics of the quality of the customer service provided, including, but not limited to: customer satisfaction scores, survey results, and the like;
   c. Evidence of success in keeping borrowers in good repayment status;
   d. Information on the implementation of large scale operational enhancements to the Offeror's loan servicing system while keeping to cost, schedule, and quality goals.

* - Independently-derived means not originated by the offeror or its agents.

In addition, submit the following information relating to the past performance of the Offeror, any of its affiliates, the Offeror's teaming partners/subcontractors, and/or any of their affiliates, at any time in the past five (5) of years:

e. Determinations or Findings of Past Performance Failures. Provide a brief description of every instance in which a determination or finding has been made by the Offeror or its agents, by the Offeror's teaming partners/subcontractors or their agents, by a court or other tribunal, or by a government agency at any level of government (Federal, state or local) of a performance failure involving borrowers being misled, ignored, or provided wrong information or otherwise constituting abusive or improper customer service practices. Such determinations or findings may be found in compliance reviews and other reports prepared by the offeror and its proposed subcontractors, their affiliates or agents, in judgements, consent decrees and orders of a court or other tribunal, in administrative rulings, audits, and reports of investigation of government agencies, among other types of records. For each such determination or finding, state briefly:
    i. the nature of the performance failure, when and why it happened, and the entities/individuals involved;
    ii. the name, title and contact information for the judge, official, or other individual making the determination or finding.

f. Lawsuits, Administrative Actions, and other Proceedings. Provide a list of every lawsuit, legal action or proceeding (including but not limited to administrative proceedings and suspension and debarment proceedings) filed, instituted, or joined by a government agency at any level of government (Federal, state or local) and which is based at least in part on allegations of wrongdoing or violations of law in loan servicing practices. In addition, the list should include every class action involving such allegations. For every such matter, also provide the following information:
    i. Point of Contact at the responsible government agency or class action plaintiffs' counsel(s);
    ii. Status of the matter;
    iii. If the matter has been resolved, a description of the outcome;
    iv. If the matter was settled, provide the principal terms of the settlement, indicating whether the Offeror, its teaming partners or affiliate, agreed to pay a fine, damages, or other amounts. If a fine or other amount was due, indicate as well whether it has been paid, and if not, why not.

g. For any information provided, in particular information about allegations of improper loan servicing practices, the Offeror shall submit a narrative (limited to one-page) providing any context, fact or argument, as well as any corrective action, that the Offeror believes should be considered when assessing the relevance and merit of the information. For every item of information provided, the project or contract involved and the entity involved (whether the Offeror, its teaming partner(s)/subcontractor(s) and or an affiliated entity) should be specified.

The information listed above must be submitted for all team partners (whether subcontractors or in some other arrangement) that will be performing 10% or more of the work (as measured by dollars). The withholding of information contained in internal reports which is subject to the attorney-client privilege will not be deemed a weakness in a proposal.

The term affiliate has the same meaning as in the definition contained at FAR 19.101.

FSA reserves the right to obtain past performance information other than that described above and to consider such other past performance information in the evaluation and selection for award.

2. Technical Solution Volume. The Technical Solution Volume shall contain the following information in distinct and separate sections:
    a. A detailed description of the solution to be used (architecture(s), security, system boundary, locations, capabilities, telephony, networking, etc.). This shall include:
        i. A high level technical architectural diagram of the solution (Web Layer, Batch Layer, Business Layer, Database Layer, Business Intelligence, Customer Relationship Management (CRM), Content Management , etc.). Include references and/or descriptions of the key technologies/design patterns in each layer along with the anticipated platform/operating system. Provide a description of the hosting solution and management of the datacenter, if applicable.
        ii. Identification of the key technical elements of the proposed architecture that will support the scaling requirements for the acquisition (for example, Web, Batch, Database, Business intelligence, CRM). Include a description of how the production environment will scale up as usage grows.

iii. State whether the solution being proposed as a Commercial-Off-The-Shelf (COTS) product with an installed user base, and/or whether FSA will be the exclusive or primary customer of the solution. If Operations & Maintenance (O&M) responsibilities need to be transferred at the end of the contract, describe how that would be accomplished.

iv. Explain how your solution has been maintained and/or enhanced over the solution's life span to remain technically current while improving operational, maintenance and enhancement efficiencies over time. Provide a high level plan for how these improvements will continue post award.

v. If the solution includes new development that will take place during the period of performance (such as a new Web Site), demonstrate how the design and architecture of this development effort will reflect current best practices. Be specific and include topics such as coding approaches, API support, device support, frameworks, licenses, and libraries used to implement the solution.

b. A detailed description of current technical capabilities of the solution, including any third-party/independent assessments that have been completed on the current and future solution capabilities.

c. A detailed description of the planned enhancements to meet the requirements and projected volumes, and how those enhancements will impact overall system performance (at least 8 million student borrowers upon award, at least 20 million borrowers within two years, and at least 35 million within three years).

3. Technical Approach Volume. The Technical Approach volume shall contain the following distinct sections:

a. A detailed plan describing the offeror's approach and a project schedule that shows all tasks, dependencies, resources, and estimated dates of completion. This includes a deliverable-oriented decomposition of the servicing solution development effort into small manageable components. Resources and time needed to deliver each component shall be identified in detail.

b. A detailed description of the proposed web solution, including whether the offeror will update the existing website or create a new website. Additionally, describe how the offeror plans to provide transitional support for borrowers to the proposed web solution.

c. A description of the activities, tools and procedures, the offeror will use to control the processes that will deliver the loan servicing solution and support the servicing of student loans. In respect to the servicing solution the offeror must demonstrate what controls the offeror has in place, as well as planned controls to manage development, testing, schedule, etc. In respect to loan servicing, the offeror must demonstrate what controls the offeror has in place, as well as planned controls, to ensure billing is accurate, information provided borrowers is accurate and meets the specific borrower's needs, etc.

d. A detailed description of the process the offeror will follow to complete the build-out of the servicing solution within a 30 month period, including well defined stages, and the dedicated resources they will use to complete the solution.

e. A detailed description of the systematic processes used to ensure that the organization has the right number of people with the right skills to fulfill business needs for both the servicing system development, and the performance of loan servicing.

f. A listing and description of the risk(s) the offeror perceives they will need to manage in developing the servicing solution and in performing loan servicing. Offerors shall likewise explain how they will manage these risks, and explain the process they use to identify and manage future risk (eg. Functionality is available in current system, including availability of post-award enhancements identified in Attachment A).

g. Complete Attachment A (Federal Loan Servicing Requirements), Columns C through J. For all items with enhancements to be done to the offeror's solution, include the schedule of when each of the requirements will be met, as well as logical groupings of systematic and/or operational implementations (releases). Further instructions can be found on Attachment A.

4. Subcontracting

a. The offeror's proposal must detail the proposed team members/subcontractors to perform the work to be subcontracted.

b. The offeror's proposal must include a description of their proposed process to manage multiple teaming partners/subcontractors, including management controls in place.

c. Identify what work each entity will be performing, how the work will be divided between the prime and each of the teaming partners or subcontractors, and describe how the prime contractor will implement the allocation of borrowers to contact centers as described in the detailed requirements (Attachment A).

5. Price. The existing TIVAS contract pricing will continue until all requirements have been implemented, at which point, modified pricing will take effect. Offerors shall provide the following:

a. Detailed pricing plan providing a price for each development item (requirements not met by current solution). See template provided (Attachment A). This shall be submitted in Excel format. No pricing information shall be included in Columns C through G. Additional instructions can be found on the attachment.
b. A total price for each Release identified in Attachment A.
c. For servicing after all requirements have been implemented, offerors shall propose pricing per borrower for the following categories:

CLINs	In School	Not in school Non-IDR	Not in school IDR
Hosting			
Back-End			
Customer Service			
Fulfillment			
Total – Per Aid Recipient			

Hosting – a price associated with maintaining system(s), interfaces, security, telephony, imaging system, email system, record storage, and other related functions required by the Offerors' solution.
Back-End – a price associated with scanning, reviewing, and processing incoming correspondence, reconciliations, payment applications, audit support, and other related functions required by the Offerors' solution.
Customer Service – a price for all borrower contacts via calls, emails, chat, and other related functions required by the Offerors' solution.
Fulfillment – a price related to all creating, preparing for mail, postage and other related functions required by the Offerors' solution.

d. Offerors shall propose Disincentives for all items on Attachment 50000 (found in Attachment A-1, Attachments to Federal Loan Servicing Requirements), Service Level Agreements. Offerors shall also propose incentives for performance beyond the minimum required standards for those certain SLAs (as specified in Attachment 50000).
e. ~~Offerors shall propose a cancellation ceiling for each program year. The estimated cancelation ceiling shall consider nonrecurring costs and be presented in an amortization schedule (see FAR 17.106-1(c) and FAR 52.217-2).~~Reserved.
f. Offerors shall propose pricing for all Development and Implementation CLINs identified in Section B. In addition to submitting Section B pricing, offerors may also propose an alternate CLIN structure.
g. Offerors shall propose Liquidated Damages for each of the SLAs (as specified in Attachment 50000) that may have a direct negative impact on borrowers. For example, SLA 1 "Abandoned Call Percentage" has a standard of "Not to exceed 3.0% for any hour." Offerors shall propose at what percentage the borrower is harmed. Likewise, offerors shall propose a reasonable amount of Liquidated Damages at that proposed percentage. Additionally, offerors shall propose Liquidated Damages for misinformation provided to borrowers or miss-calculations by the servicer that has a negative financial impact on borrowers. An example of the former is providing incorrect information that results in the borrower being placed in a wrong repayment plan not in the borrower's interest; an example of the later is failure to afford eligible borrowers SCRA benefits.

SECTION M – EVALUATION FACTORS FOR AWARD

52.217-5 Evaluation of Options (JUL 1990)
52.232-15 Progress Payments not Included (APR 1984)

M-1 Evaluation Factors and Rating Methodology

M-1.1 Evaluation Factors

The evaluation will be based on a complete assessment of the Offeror's proposal. Proposals shall be evaluated on the following factors. Past Performance is more important than all other non-price factors combined. All non-price factors are more important than Price.

1. Factor 1 – Past Performance. The Government will evaluate whether the Offeror clearly demonstrated the capability to effectively service student loans, provide high-quality customer service, keep borrowers in good repayment status, and avoid abusive or otherwise improper customer service practices, as demonstrated by its relevant past performance. The offeror's past performance will also be evaluated to determine its capability to successfully implement systematic and operational enhancements to a loan servicing system while continuing to meet cost, schedule and quality goals.
2. Factor 2 - Technical Solution. The Government will evaluate whether the Offeror's proposal clearly demonstrates that its technical solution (including the servicing solution and all peripheral systems used to support servicing loans) can meet the expected volumes and all requirements while minimizing risk and ensuring long term efficient operations of the solution.
3. Factor 3 - Technical Approach. The Government will evaluate whether the Offeror's proposed technical approach clearly demonstrates that it will have the ability to deliver high-quality customer service meeting all requirements, implement effective oversight to ensure compliance, ensure accountability and minimize risk of negative borrower impacts.
4. Factor 4 - Subcontracting. The Government will evaluate the extent to which the Offeror's proposed approach clearly meets the requirements to obtain teaming partners/subcontractors, to ensure high-quality, consistent customer service.
5. Factor 5 - Price. The Government will evaluate the reasonableness of the proposed price.