Draft Basic Ordering Agreement

Checkpoint Property Screening System
Transportation Security Administration

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PART I – STANDARD FORM 1449

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PART II – CONTINUATION OF SF1449

1.1 GENERAL

The purpose of this action is to provide the Transportation Security Administration (TSA) with Checkpoint Property Screening Systems (CPSS) and all associated services and supplies.

The TSA anticipates issuing multiple Basic Ordering Agreements (BOAs) for CPSS, but reserves the right to issue one or none, per Federal Acquisition Regulation (FAR) 16.703 to accommodate anticipated technology updates under the TSA CPSS Program. Final BOAs will be issued to contractors that have products that meet agency testing standards in a qualification process resulting in the placement of those products on a CPSS Qualified Products List (QPL). The TSA will determine the need to open future QPL windows, which will be posted to FedBizOpps (FBO).

Following the issuance of a BOA, TSA will issue requests for proposals (RFPs) on FBO for CPSS requirements that incorporate the terms and conditions of the BOA, where the proposed product or system must be on the associated QPL in accordance with FAR 52.209-1 -- Qualification Requirements. This Draft BOA is designed to inform the public of the intended use of QPL windows, and issuing BOAs and RFPs for CPSS.

1.2 TYPE OF ORDERS

1.2.1 CLIN STRUCTURE

The CLIN structure will be determined at the Order level. TSA will obtain competition to meet the requirements of FAR 16.703(d)(1)(i) by issuing full and open RFPs on FBO. Appropriate CLINs and the method for determining fair and reasonable pricing, required by FAR 16.703(c)(1)(i), will be determined and outlined under each RFP posted to FedBizOpps.

1.2.2 CONTRACT TYPE

Following the competitive RFP process, Orders placed against BOAs may be Firm-Fixed Priced (FFP), Time and Materials (T&M) or Labor-Hour (LH), or hybrid FFP and T&M/LH. Each Order type will be based on the needs and requirements of the Government, and the determination of Order type will be at the discretion of the Contracting Officer (CO) at the Order level.

1.3 ORDERING PROCEDURES

Ordering procedures shall be in accordance with FAR 16.703, Basic Ordering Agreements, and shall incorporate the terms and conditions of the BOA. Following a full and open competition and receipt of proposals for specified CPSS requirements, TSA will issue orders to offerors that are on the BOA and that respond to the RFP. DHS Agencies and Components, other than TSA, reserve the right to issue their own Orders under the BOA following a full and open competition and receipt of proposals. However, only TSA has the authority to open QPL windows. The TSA may set aside a portion of a RFP to order QPL systems; all set asides will be noted in each RFP.

Contractors will be required to accept the terms and conditions of each RFP at time of proposal submission. Orders are binding contracts when the Order Form 347 has been signed by the CO.

1.4 CONTRACTING OFFICER'S AUTHORITY

The CPSS CO administering this BOA has responsibility for ensuring the performance of all necessary actions for ensuring compliance with the terms of this BOA, effective contracting, and safeguarding the interests of the United States in its contractual and legally binding agreements. The CPSS CO

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administering this BOA is the only individual who has the authority to enter into, administer, or terminate this BOA and is the only person authorized to approve changes to any of the requirements under this BOA. Notwithstanding any provision contained elsewhere in this BOA, this authority remains solely with the CPSS CO administering this BOA, who also is the only individual who has the authority to open individual CPSS QPL windows.

1.5 ORDERS FROM OTHER DHS AGENCIES AND COMPONENTS

Following a competitive process, each DHS Agency and Component other than TSA reserves the right to utilize the results of the CPSS QPL and the terms and conditions of the BOA to issue their own Orders under the BOA. However, only TSA has the authority to open QPL windows. Orders issued by non-TSA DHS Agencies and Components will incorporate the terms and conditions of the BOA. The DHS Agency or Component CO who issues and administers the Order for their agency or component will be identified in the Order document as the person with the authority to award BOA Orders as defined per FAR 16.703(d).

1.6 ANNUAL REVIEW OF BOA

Per FAR Section 16.703(c)(2), each BOA shall be reviewed annually before the anniversary of its effective date and revised as necessary to conform to the requirements of the FAR regulations. The Government reserves the right to revise BOAs before the annual review due to mandatory statutory requirements. A BOA shall be changed only by modifying the agreement itself and not by individual Orders issued under it. Modifying the BOA shall not retroactively affect Orders previously issued under it.

1.7 DELIVERABLES

All deliverables shall be created in the *Department of Homeland Security Systems Engineering Life Cycle (DHS SELC)* format whenever an applicable DHS SELC template is available.

Deliverables shall be provided to the COR via email in MS Office format clearly marked with:

- Title of the submittal
- BOA number
- RFP number
- Order number, and
- CLIN

The Contractor is hereby notified that TSA is a Microsoft based environment for office productivity tools. Document deliveries must be in a Microsoft format (where applicable). The below deliverables are the minimum required at the BOA Order level. Any additional deliverables will be identified at the Order level.

Item	RFQ Reference	Deliverable/ Event	Due By	Distribution
1	1.7.1	Post award Order Conference Meeting	Within 10 business days after Order award	N/A
2	1.7.2	Progress Meetings	Will be determined at Order Level	Order CO and COR

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1.7.1 Post Award Order Conference Meeting

The Contractor shall participate in a post award conference that will be held within ten (10) business days after Order award. The purpose of the post award conference is to aid both the Contractor and the Government in achieving a clear and mutual understanding of all Order requirements and identify and resolve potential problems (see FAR Subpart 42.5, Post award Orientation). The Order post award conference will establish work level points of contact for the Order, determine the Order administration strategy, roles, and responsibilities, and ensure prompt payment and Order closeout.

The CO is responsible for establishing the time and place of the conference and will notify the appropriate Government representatives and the Contractors. The CO will designate or act as the chairperson at the conference. The conference may be conducted at a location within the Washington, DC, commuting area at the Government's discretion.

1.7.2 Progress Meetings

Details concerning progress meetings will be determined at the Order level. Progress meetings shall take place at the Government's facility or via teleconference at the discretion of the CO.

1.8 PLACE OF PERFORMANCE

Order place of performance and delivery locations will be determined at the Order level. Contractors must be able to meet CPSS requirements on a nationwide basis with specific locations identified at the Order level.

1.9 PERIOD OF PERFORMANCE

1.9.1 BOA Period of Performance

The ordering period for all BOAs is the date of award through 10/31/2030. After the BOA ordering period expires, the BOA will remain active until the final Order performance is completed and shall govern the terms and conditions with respect to active Orders to the same extent as if it were completed during the BOA ordering period.

1.9.2 Order Period of Performance

The period of performance for each Order placed under the BOA shall be specified in the individual Order. All the following conditions apply:

1) An Order may not be placed under the BOA if the BOA has expired, or has been terminated or cancelled by the Government;
2) Orders may continue five (5) years after the expiration of the BOA;
3) Order Options, if included at initial issuance of the Order, may be exercised after the expiration date of the BOA; and
4) Notwithstanding anything to the contrary above, a multi-year Order placed under the BOA must be consistent with FAR Subpart 17.1 and any applicable funding restrictions.

1.10 BOA TERMINATION

A CPSS BOA may be terminated in its entirety by either party upon 30-day written notice to the other party.

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1.11 ON/OFF RAMPING

On/Off-Ramp Overview: The TSA, at its sole discretion, may exercise on-ramp and/or off-ramp provisions to maintain a pool of qualified, competitive Contractors. On-ramp and/or off-ramp events will not be conducted on a set schedule. The TSA will evaluate current Contractor performance, anticipated upcoming requirements, and current market conditions on an annual basis throughout the life of the BOA to determine if and when it may be in the Government's best interest to open a BOA on-ramp and/or to conduct an off-ramp event. Previously awarded Orders will not be affected by an on-ramp event.

1.11.1 On-Ramp and Opening Qualified Product List Windows

An on-ramp event will be initiated by opening a QPL window at the discretion of the TSA. Conditions that may trigger an on-ramp event include, but are not limited to:

1. New emerging technology requirements are anticipated.
2. Too few Order proposals are being submitted for adequate competition.
3. Submitted proposals are not yielding quality solutions.
4. The current pool of Contractors cannot satisfy new and emerging technologies.

On-Ramp Events: In the event the TSA elects to conduct a BOA on-ramp event, the QPL window opening will be posted to FBO.

1.11.2 Off-Ramp

Conditions that may trigger an off-ramp event include, but are not limited to:

1. A Contractor is rated with less than satisfactory performance as documented in the Contract Performance Assessment Reporting System (CPARS)/Past Performance Information Retrieval System (PPIRS).
2. A Contractor is placed on Debarment, Suspension, or Ineligibility as defined in FAR Subpart 9.4.
3. A Contractor is experiencing excessive vacancies or is not maintaining the staffing requirements of an individual Order SOW.

Off-Ramp events: During a BOA off-ramp, at the Contracting Officer’s discretion, the Contracting Officer may elect to remove Contractor(s) from the BOA by terminating the Agreement in accordance with the FAR.

1.12 SECURITY CLEARANCES

The BOA pre-established work is to be completed at the classified Secret level.

The Contractor is responsible for providing personnel with appropriate security clearances to ensure compliance with Government security regulations, as specified on individual Orders. The Contractor shall fully cooperate on all security checks and investigations by furnishing requested information to verify the Contractor employee's trustworthiness and suitability for the position. Clearances may require Special Background Investigations (SBI), Sensitive Compartmented Information (SCI) access or Special Access Programs (SAP), or agency-specific access, such as a Q clearance or clearance for restricted data.

1.13 GOVERNMENT PROPERTY, INFORMATION, WORKSPACE

The Government may provide the items listed below as necessary for the Contractor to fulfill the tasks described at the individual Order level.

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(a) Government Furnished Property (GFP). The Government may provide hardware and/or software requiring technical analysis, evaluation, verification, or study in support of a specific task. Such GFP will be specified in individual Orders. GFP provided to the Contractor in support of individual Orders shall be tracked through applicable procedures provided by the CO in accordance with the FAR. Property shall be accounted for and marked accordingly for identification and tracking purposes with the BOA Number, Order Number, Serial Number and other information as required by the CO. The Government does not intend to provide hardware/software equipment required to accomplish day-to-day work requirements in support of the overall contract-level effort. All GFP shall be returned to the Government at the completion of each Order unless otherwise specified.

(b) Government Furnished Information (GFI). The Government may provide information (e.g., technical data, applicable documents, software, plans, regulations, specifications, etc.) in support of a specific task, and other work product may be generated by the Contractor in the course of executing the Order, all of which is defined for purposes of the Order as GFI. Such GFI will be specified in individual Orders. The Contractor shall use these GFI only for the performance of work under the Order, and shall be responsible for returning all GFI to the Government at the end of the performance period.

The Contractor shall not release GFI to outside parties without the prior and explicit consent of the CO.

(c) *Government Furnished Workspace.* Government Furnished workspace will be specified in individual Orders.

1.14 ACCESSIBILITY REQUIREMENTS

Accessibility Requirements (Section 508)

Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (P.L. 105-220) requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), they must ensure that it is accessible to people with disabilities. Federal employees and members of the public who have disabilities must have equal access to and use of information and data that is comparable to that enjoyed by non-disabled Federal employees and members of the public.

All EIT deliverables within this work statement shall comply with the applicable technical and functional performance criteria of Section 508 unless exempt. Specifically, the following applicable EIT accessibility standards have been identified:

Section 508 Applicable EIT Accessibility Standards

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

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

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

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

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

Section 508 Applicable Exceptions

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

Section 508 Compliance Requirements

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

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

PART IIA – STATEMENT OF WORK

Please see Attachment A for the BOA Statement of Work (SOW).

PART III- CONTRACT CLAUSES

The following clauses are hereby included at BOA level and will be incorporated by reference into RFPs and shall remain unchanged. If a future applicable or required provision(s)/clause(s) are to the benefit of future Orders issued under the BOA, the future applicable or required provision/clause may be updated and a new effective date provided in a bi-lateral modification of the BOA.

The CO will identify any optional, and/or Agency-specific provisions/clauses for each individual RFP and subsequent Order awarded. The CO will provide the provision/clause number, title, date, and fill-in information (if any), as of the date the RFP is issued.

3.1 FAR CLAUSES INCORPORATED BY REFERENCE

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

This BOA incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text may be accessed electronically at the following Internet address: http://www.acquisition.gov/far/.

FAR Clause No.	Title and Date
52.203-3	Gratuities (Apr 1984)
52.203-16	Preventing Personal Conflicts of Interest (Dec 2011)
52.204-2	Security Requirements (Aug. 1996)
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)
52.204-18	Commercial and Government Entity Code Maintenance (July 2016)
52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)
52.227-1	Authorization and Consent (Dec 2007)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec. 2007)
52.227-14	Rights in Data -- General (May 2014)
52.242-15	Stop-Work Order (AUG 1989)
52.242.17	Government Delay of Work (APR 1984)

3.2 CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS

FAR 52.212-4 – Contract Terms and Conditions -- Commercial Items (Oct 2018)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price.

If repair/replacement or re-performance will not correct the defects or is not possible, the government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights --

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment*. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C.3727). However, when a third party makes payment (*e.g.*, use of the Government-wide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes*. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes*. This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions*. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice*.

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include --

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

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(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity*. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments*. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) Interest.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as

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provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period at fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience*. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles

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for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Reserved

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or

similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference*. The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of Clause)

3.3 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS

FAR 52.212-5 – Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (May 2019)

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

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

(2) 52.204-23, Prohibition on Contracting for Hardware,

Software, and Services Developed or Provided by Kaspersky Lab and

Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)

(4) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(5) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77, 108-78 (19 U.S.C. 3805 note)).

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

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

_X_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

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

_X_ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) [Reserved]

___ (6) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

___ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

_X_ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) (31 U.S.C. 6101 note).

_X_ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).

___ (10) [Reserved]

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

___ (ii) Alternate I (Nov 2011) of 52.219-3.

_X_ (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

___ (ii) Alternate I (Jan 2011) of 52.219-4.

___ (13) [Reserved]

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

___ (ii) Alternate I (Nov 2011).

___ (iii) Alternate II (Nov 2011).

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

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

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

_X_ (16) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).

___ (17) (i) 52.219-9, Small Business Subcontracting Plan (Aug 2018) (15 U.S.C. 637 (d)(4)).

___ (ii) Alternate I (Nov 2016) of 52.219-9.

___ (iii) Alternate II (Nov 2016) of 52.219-9.

___ (iv) Alternate III (Nov 2016) of 52.219-9.

___ (v) Alternate IV (Aug 2018) of 52.219-9.

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

___ (19) 52.219-14, Limitations on Subcontracting (Jan 2017) (15 U.S.C. 637(a) (14)).

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

___ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).

_X_ (22) 52.219-28, Post Award Small Business Program Representation (Jul 2013) (15 U.S.C. 632(a)(2)).

___ (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).

___ (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).

_X_ (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

_X_ (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jan 2018) (E.O. 13126).

_X_ (27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

_X_ (28) (i) 52.222-26, Equal Opportunity (Sep 2016) (E.O. 11246).

___ (ii) Alternate I (Feb 1999) of 52.222-26.

_X_ (29) (i) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

___ (ii) Alternate I (July 2014) of 52.222-35.

_X_ (30) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

___ (ii) Alternate I (July 2014) of 52.222-36.

_X_ (31) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).

_X_ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

_X_ (33) (i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

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

_X_ (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

___ (35) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

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

___ (36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O.13693).

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___ (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).

___ (38) (i) 52.223-13, Acquisition of EPEAT® -Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514

___ (ii) Alternate I (Oct 2015) of 52.223-13.

___ (39) (i) 52.223-14, Acquisition of EPEAT® -Registered Television (Jun 2014) (E.O.s 13423 and 13514).

___ (ii) Alternate I (Jun 2014) of 52.223-14.

___ (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

___ (41) (i) 52.223-16, Acquisition of EPEAT® -Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

___ (ii) Alternate I (Jun 2014) of 52.223-16.

_X_ (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011) (E.O. 13513).

___ (43) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).

___ (44) 52.223-21, Foams (Jun 2016) (E.O. 13696).

_X_ (45) (i) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

___ (ii) Alternate I (Jan 2017) of 52.224-3.

___ (46) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).

___ (47) (i) 52.225-3, Buy American--Free Trade Agreements--Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

___ (ii) Alternate I (May 2014) of 52.225-3.

___ (iii) Alternate II (May 2014) of 52.225-3.

___ (iv) Alternate III (May 2014) of 52.225-3.

_X_ (48) 52.225-5, Trade Agreements (Aug 2018) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

_X_ (49) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (50) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

___ (51) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (52) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (53) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505), 10 U.S.C. 2307(f)).

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___ (54) 52.232-30, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

_X_ (55) 52.232-33, Payment by Electronic Funds Transfer--System for Award Management (Oct 2018) (31 U.S.C. 3332).

___ (56) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (57) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

_X_ (58) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (59) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d) (13)).

___ (60) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

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

___ (iii) Alternate II (Feb 2006) of 52.247-64.

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

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

___ (2) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67.).

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

___ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C.206 and 41 U.S.C. chapter 67).

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

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

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

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

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

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

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

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

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

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

(e)

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Jan 2019) (41 U.S.C. 3509).

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

(iii) 52.204-23, Prohibition on Contracting for Hardware,

Software, and Services Developed or Provided by Kaspersky Lab and

Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $700,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

(viii) 52.222-35, Equal Opportunity for Veterans (Oct 2019) (38 U.S.C. 4212).

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

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

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

(xii) 52.222-41, Service Contract Labor Standards (Aug 2018), (41 U.S.C. chapter 67).

(xiii) (A) 52.222-50, Combating Trafficking in Persons (Jan 2019) (22 U.S.C. chapter 78 and E.O. 13627).

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

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

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

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

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

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

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

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

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

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

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

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

(End of Clause)

3.4 OPTION FOR INCREASED QUANTITY—SEPARATELY PRICED LINE ITEM

52.217-7 Option for Increased Quantity—Separately Priced Line Item (Mar 1987)

The Government may require the delivery of the numbered line item, identified in the Schedule as an option item, in the quantity and at the price stated in the Schedule. The Contracting Officer may exercise the option by written notice to the Contractor within fifteen (15) calendar days. Delivery of added items shall continue at the same rate that like items are called for under the contract, unless the parties otherwise agree.

(End of Clause)

3.5 OPTION TO EXTEND SERVICES

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 fifteen (15) calendar days.

(End of Clause)

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3.6 PACKAGING AND MARKING REQUIREMENTS

5200.204.001 Packaging and Marking Requirements for Transportation Security Screening Equipment under production and/or existing maintenance services (June 2019**)**

A. Government Property Management

For existing Government Property under this BOA, the Contractor shall not relocate and/or ship Government Property without prior notification to and approval from the Government Property Administrator (GPA). The GPA has authority only to provide instructions concerning the relocation and shipment of such property and required government paperwork. These instructions do not constitute a "change" to the BOA's requirements within the meaning of that term as defined by the "Changes" clause of this BOA. The Contracting Officer's Representative (COR) shall be included on all correspondence between the Contractor and GPA.

B. Packaging and Marking

The Contractor shall preserve, pack, and mark all supplies to be furnished under this contract in accordance with standard practices as defined in ASTM-D-3951 (Standard Practice for Commercial Packaging) for the packaging of supplies and equipment for shipment or storage.
The Contractor shall ensure that packaging meets Department of Transportation/ International Aviation Transport Association standards outlined in 49 CFR and is sufficient to prevent damage or deterioration to supplies and ensure packaging can sustain more than one shipment to minimize cost to the government. The Contractor shall be fully liable for any damage, diminution in value, or losses incurred during shipment, handling, and installation that is attributed to improper packaging.

The Contractor shall report any loss, stolen, or damaged equipment within 24 hours of the incident, along with an incident report as described herein. In addition, if an Order under this BOA is to acquire new Transportation Security Equipment (TSE) or provides qualifying peripherals (defined as those meeting the acquisition cost threshold of $5,000.00 or that have the ability to store Sensitive Security Information (SSI)) in support of a repair under a maintenance Order under this BOA, the Contractor shall ensure a "TSA Form 251/251-1 – Vendor Shipping and Receiving Report" is processed and included in each shipment. Existing equipment shall include a Department of Defense (DoD) "Requisition and Invoice/Shipping Document" Form 1149 in accordance to BOA specifications.

C. Marking of Deliverables

The Contractor shall mark all deliverables on the outside of the packaging with the following:

1. BOA and/or Order Number and modification number, if applicable
2. Contractor's Name and Address
3. List of Contents
4. Date of Submittal

D. Storage Requirements

If an Order under this BOA is to acquire TSE or provides qualifying peripherals in support of a repair under a maintenance contract, the Contractor shall identify any unique storage requirements for the unit(s) and related equipment. All materials will be packaged and marked in accordance with ASTM-D-3951. In addition, each unit, intermediate, and exterior container will be clearly marked to identify contents.

E. Marking of Reports

The Contractor shall mark all reports as follows:

1. BOA and/or Order Number and modification number, if applicable

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2. Report Title
3. Date of submittal
4. Distribution

F. Equipment/Parts Shipping Requirements

If an Order under this BOA is to acquire TSE or provides qualifying peripherals in support of a repair under a maintenance Order: Upon award of an Order, the Contractor shall request TSA barcodes from the GPA. Prior to packaging, the Contractor shall ensure TSA barcode(s) are physically attached on the units and peripherals each meeting the acquisition cost threshold of $5,000.00 or that have the ability to store SSI. The Contractor shall request exact placement instructions of TSA barcodes with the GPA and COR.

The balance of the PoP term applies to equipment and maintenance. The Contractor shall coordinate all inbound and outbound shipments and moves of government property with the GPA and the COR. The Contractor shall ship units F.O.B Destination for locations within the United States and U.S. Territories (if not instructed otherwise by the Contracting Officer in advance to ship elsewhere). The Contractor shall provide the Government with tracking information for all government property in transit.

The Contractor shall clearly identify the serial number on several sides of the crate/package. The Contractor shall notify the GPA if the equipment does not have a barcode. The serial number shall be clearly identified on the top and at least two sides of the crate/package.

The Contractor shall provide the following documents when shipping systems:

- Safety Data Sheet in accordance with Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS) (29 CFR 1910.1200(g) and Federal Acquisition Regulation (FAR) 52.223-3 – Hazardous Material Identification and Material Safety Data; and Federal Standard No. 313, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities; or an official letter affirming that the shipment does not contain radioactive/hazmat materials
- Standard Configuration Report which shall include the following:
    - Picture of the Equipment
    - Manufacturer
    - Model Number
    - Description
    - Standard (TSA Barcode Number, Acquisition Costs, Peripherals, Allocated Other Direct Cost, Expensed, etc.)
    - Networking & Integration Equipment

If an Order under this BOA is modified to have the Contractor upgrade the system, to provide additional equipment or provide qualifying peripherals in support of a repair under a maintenance contract, an updated configuration report must be submitted.

- "Vendor Shipping and Receiving Report" (TSA Form 251/251-1)
    - The Contractor shall complete and submit TSA Form 251 to the GPA no later than one business day after successful Factory Acceptance Test (FAT) and a revised TSA Form 251 upon successful Site Acceptance Test (SAT).

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- The contractor shall complete and submit TSA Form 251 to the GPA no later than one business day after successful Operational Readiness Test (ORT) for hardware upgrades/replacements over the $5,000 threshold or have the ability to store SSI.
- The Contractor shall complete and submit a TSA Form 251-1 (as needed) for additional equipment associated with the main unit.
- Equipment being replaced or refurbished (threshold of $5,000.00 and above) must be identified on the TSA Form 251 (by manufacturer, make, model, serial number, and TSA barcode number). The TSA Form 251 must also identify the equipment being replaced by manufacturer, make, model, serial number, and TSA barcode number).

- Department of Defense (DoD) "Requisition and Invoice/Shipping Document" Form DD-1149. A DD-1149, most current version, is required on all government-owned equipment being moved by the Contractor (this excludes the initial shipment from the OEM after FAT). The Contractor shall email this form to the GPA and COR for approval 3-5 business days prior to the movement of TSA equipment. The form shall include an itemized listing with description, make, model, serial number, full TSA barcode (if applicable), and BOA/Order number.
  - The subject line of the email and the DD-1149 file name shall both follow the below structure.
    - 1) From airport to depot: SerialNumber_Dateinblock5_ Site/location code _to_OEMName (e.g. 30787 21JUN2016 LRD to *"OEM name"*.docx; 21020041010 17JUNE2016 ORD to *"OEM name"*.docx).
    - 2) From depot to airport: SerialNumber_Dateinblock5_ OEMName_to_Site/location code (e.g. 54371 27JUN2016 *"OEM name"* to MHT; 53491_23Jun2016_"*OEM name"* to DVL).
- Block_1) From: Full Name Location including and Site Code_Full Shipping Address and 2 POCs (Name, Email Address, and Telephone Number)
- Block_2) To: Full Name Location including and Site Code_Full Shipping Address and 2 POCs (Name, Email Address, and Telephone Number)
- Block_3) Ship To: Mark for: (Only used to hold equipment for temporary storage location within one business day.)
- Block_4) Appropriation Symbol and Subhead: Manufacturer, make, model, SN#/TSA barcode number/condition code; quantity, type of container, container numbers
- Block_5) Requisition Date: (Always the date the document is being sent)
- Block_7) Date Material Required: (Date equipment needs to be at designation)
- Block_8) Priority (e.g. Standard or Expedite)
- Block_9) Authority or Purpose: (BOA Number and/or Order Number; TSA Loan Agreement (if applicable))
- Block_12) Date Shipped: (Always the date equipment shipped)
- Block_13) Mode of Shipment: Ground and or Water (E.g. Carrier Name, Driver's Name, Driver's Cell Number, Truck Number, Trailer Number)
- Block_18) Issued By: (Full Name of Person completing DD-1149), (Total containers, type of containers, description, total weight)

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The Contractor is responsible for safeguarding government property at all times until the Government takes possession in shipment, warehouses, manufacturer's depot, and/or loading/unloading to/from site locations including installations/decommissions, as applicable.

- The Contractor shall submit an incident report (including pictures) to the Contracting Officer, COR, and GPA for any government property loss, damage, destruction, or theft (from negligence, misuse, dishonesty, or willful destruction) within 24 hours of the incident.

The Contractor incident report shall, at a minimum, contain the following information:

1. Date of Incident
2. OEM/Manufacturer, Make, Model, Serial Number (if applicable), TSA Barcode Number (if applicable) (e.g. #057000000xxxxxx), Condition Code (e.g. 1 = New (never been installed), 4 = Used (installed at least once), 7 = Need Evaluation/Repair or X = Final Disposition/Disposal), Requisition and Invoice/Shipping Document/Government Paperwork, and quantity
3. BOA and/or Order Number
4. Cause and Corrective Action taken or to be taken to prevent recurrence
5. Copies of all supporting documentation (including pictures)
6. Last known location of the property
7. A statement that the property did or did not contain hazardous material, and if so, that the appropriate agencies were notified.

(End of term)

3.7 CONTRACTING OFFICER'S REPRESENTATIVE (COR) AND TECHNICAL MONITORS

5200.242.001 Contracting Officer's Representative (COR) and Technical Monitors (Jul 2015)

The principle role of the COR is to support the Contracting Officer in managing the BOA/Order. This is done through furnishing technical direction within the confines of the BOA/Order, monitoring performance, ensuring requirements are met within the terms of the BOA/Order, and maintaining a strong relationship with the Contracting Officer. As a team the Contracting Officer and COR must ensure that program requirements are clearly communicated and that the agreement is performed to meet them. The principle role of the Technical Monitor (TM) is to support the COR on all work orders, tasks, deliverables and actions that require immediate attention relating to the approved scope and obligated funding of the BOA/Order.

The Contracting Officer hereby designates the individual(s) named below as the Contracting Officer's Representative(s) and Technical Monitor(s). Such designations(s) shall specify the scope and limitations of the authority so delegated.

BOA COR
NAME: TBD

Order COR
Identified at Order level

TSA TM
Identified at Order level

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The COR(s) and TM(s) may be changed at any time by the Government without prior notice to the Contractor, but notification of the change, including the name and phone number of the successor COR, will be promptly provided to the Contractor by the Contracting Officer in writing.

The responsibilities and limitations of the COR are as follows:

- The COR is responsible for the technical aspects of the project and technical liaison with the Contractor. The COR is also responsible for the final inspection and acceptance of all reports and such other responsibilities as may be specified in the BOA/Order.
- The COR may designate assistant COR(s) to act for him/her by naming such assistant in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.
- The COR will maintain communications with the Contractor and the Contracting Officer. The COR must report any observed fraud, waste, or opportunities to improve performance of cost efficiency to the Contracting Officer.
- The COR will immediately alert the Contracting Officer to any possible Contractor deficiencies or questionable practices so that corrections can be made before the problems become significant.
- The COR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the contract's price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COR. No such changes shall be made without the expressed prior authorization of the Contracting Officer.
- The COR is not authorized to direct the Contractor on how to perform the work.
- The COR is not authorized to issue stop-work orders. The COR may recommend the authorization by the Contracting Officer to issue a stop work order, but the Contracting Officer is the only official authorized to issue such order.
- The COR is not authorized to discuss new proposed efforts or encourage the Contractor to perform additional efforts on an existing Order.

The responsibilities and limitations of the TM are as follows:

- Coordinating with the COR on all work orders, task, deliverables and actions that require immediate attention relating to the approved scope and obligated funding of the Order.
- Monitoring the Contractor's performance in relation to the technical requirements of the assigned functional area of the BOA/Order to ensure that the Contractor's performance is strictly within the Order's scope and obligated funding.
- Ensuring that all recommended changes in any work under the Order are coordinated and submitted in writing to the COR for consideration.
- Informing the COR if the Contractor is not meeting performance, cost, schedule milestones.
- Performing technical reviews of the Contractor's proposals as directed by the COR.
- Performing acceptance of the Contractor's deliverables as directed by the COR.
- Reporting any threats to the health and safety of persons or potential for damage to Government property or critical national infrastructure which may result from the Contractor's performance or failure to perform the contract's requirements.

(End of term)

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3.8 SUBMISSION OF INVOICES

5200.242.003 Submission of Invoices Alternate I (JUNE 2019)

Background: The Transportation Security Administration (TSA) partners with the United States Coast Guard Finance Center for financial services in support of TSA operations, including the payment of contractor invoices. Therefore, all contractor invoices must be submitted to, and will be paid by, the U.S. Coast Guard Finance Center (FinCen).

A. **Invoice Submission Method**: Invoices may be submitted via facsimile, U.S. Mail, or email. Contractors shall utilize ONLY ONE method per invoice submission. The submission information for each of the methods is as follows in order of preference:

1. Facsimile number is: 757-413-7314

The facsimile number listed above shall be used by contractors for ORIGINAL invoice submission only. If facsimile submission is utilized, contractors shall not submit hard copies of invoices via the U.S. mail. It is the responsibility of the contractor to verify that invoices are received, regardless of the method of submission used. Contractors may inquire regarding the receipt of invoices by contacting the U.S. Coast Guard Finance Center via the methods listed in subparagraph (d) of this clause.

2. Address to mail invoices:
   United States Coast Guard Finance Center
   Commercial Invoices
   P.O. Box 4111
   Chesapeake, VA 23327-4111

3. Email Address: FIN-SMB-TSAInvoices@uscg.mil or www.fincen.uscg.mil

B. **Invoice Process**: Upon receipt of contractor invoices, FinCen will electronically route invoices to the appropriate TSA Contracting Officer's Representative and/or Contracting Officer for review and approval. Upon approval, the TSA will electronically route the invoices back to FinCen. Upon receipt of certified invoices from an Authorized Certifying Official, FinCen will initiate payment of the invoices.

C. **Discounts on invoices**. If desired, the Contractor should offer discounts directly upon the invoice submitted, clearly specifying the terms of the discount. Contractors can structure discounted amounts for payment for any time period less than the usual thirty-day payment period specified under Prompt Payment requirements; however, the Contractor should not structure terms for payment of net amounts invoiced any sooner than the standard period required under FAR Subpart 32.9 regarding prompt payments for the specified deliverables under contract.

Discounts offered after invoice submission. If the Contractor should wish to offer a discount on a specific invoice after its submission for payment, the Contractor should submit a letter to the Finance Center identifying the specific invoice for which a discount is offered and specify the exact terms of the discount offered and what time period the Government should make payment by in order to receive the discount. The Contractor should clearly indicate the contract number, invoice number and date, and the specific terms of the discount offered. Contractors should not structure terms for net amount payments any sooner than the standard period required under FAR Subpart 32.9 regarding prompt payments for the specified deliverables under contract.

D. **Payment Statu**s: Contractors may inquire on the payment status of an invoice by any of the following means:

1. Via the internet: https://www.fincen.uscg.mil

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Contacting the FinCen Customer Service Section via telephone at 1-800-564-5504 or (757) 523-6940 (Voice Option #1). The hours of operation for the Customer Service line are 8:00 AM to 5:00 PM Eastern Time, Monday through Friday. However, the Customer Service line has a voice-mail feature that is available 24 hours per day, 7 days per week.

2. Via the Payment Inquiry Form: https://www.fincen.uscg.mil/secure/payment.htm

E. **Invoice Elements**: Invoices will automatically be rejected if the information required in subparagraph (a)(2) of the Prompt Payment Clause, contained in this Section of the Contract, including EFT banking information, Taxpayer Identification Number (TIN), and DUNS number are not included in the invoice. All invoices must clearly correlate invoiced amounts to the corresponding contract line item number and funding citation. The Contractor shall work with the Government to mutually refine the format, content and method of delivery for all invoice submissions during the performance of the Contract.

F. **Supplemental Invoice Documentation**: Contractors shall submit all supplemental invoice documentation (e.g. copies of subcontractor invoices, travel vouchers, etc.) necessary to approve an invoice along with the original invoice. The Contractor invoice must contain the information stated in the Prompt Payment Clause in order to be received and processed by FinCen. Supplemental invoice documentation required for review and approval of invoices may, at the written direction of the Contracting Officer, be submitted directly to either the Contracting Officer, or the Contracting Officer's Representative. Note for "time-and-material" type contracts: The Contractor must submit the following statement with each invoice for labor hours invoiced under a "time-and-materials" type contract, order, or contract line item: "The Contractor hereby certifies in accordance with paragraph (c) of FAR 52.232-7, that each labor hour has been performed by an employee (prime or subcontractor) who meets the contract's specified requirements for the labor category invoiced."

G. **Additional Invoice Preparation Instructions for Software Development and/or Hardware**. The Contractor shall clearly include a separate breakdown (by CLIN) for any software development activities (labor costs, subcontractor costs, etc.) in accordance with Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Standards Number 10 (Preliminary design costs, Development costs and post implementation costs) and cite payment terms. The contractor shall provide make and model descriptions as well as serial numbers for purchases of hardware and software (where applicable.)

H. **Frequency of Invoice Submission**. The frequency of invoice submission will be determined at the TO level.

Invoices for Transportation Security Equipment, related peripheral equipment, and/or associated services (e.g., site surveys, site preparation, upgrades, shipping, temporary storage, travel, testing, rigging, installation, integration, and networking) shall:

1. Be submitted with TSA Form 251/251-1, Vendor Shipping and Receiving Report for all equipment (base unit and peripheral equipment) signed by the COR with a cost of at least $5,000 including any equipment with data storage billed on the invoice.
2. Cite the site code, site name, location, serial number(s) and full TSA barcode number(s) of the equipment or peripheral equipment. For associated service(s), cite the serial number(s) and TSA barcode number(s) of the equipment or peripheral equipment for which the service(s) were provided. If the serial number(s) and TSA barcode number(s) are cited on supporting documentation rather than the invoice, the invoice must state, "See attached (title of supporting documentation) for detail."

(End of term)

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3.9 TRANSPORTATION SECURITY EQUIPMENT PROPERTY MANAGEMENT CONTRACT

5200.242.004 Transportation Security Equipment Property Management Contract (JUNE 2019)

The Government Property Administrator: The Government Property Administrator (GPA) for Transportation Security Equipment (TSE) is responsible for documenting and accounting for all property purchased under this contract. The GPA is the TSA point of contact for any questions concerning government property. The GPA has authority only to provide instructions concerning the relocation and shipment of such property. These instructions do not constitute a "change" to the contract's requirements within the meaning of that term as defined by the "Changes" clause of this contract. The Contracting Officer's Representative (COR) shall be included on all correspondence between the Contractor and GPA.

TSA Government Property Administrator for TSE

Email address:
TSA_APM_Government_Property_Management@tsa.dhs.gov

(End of term)

3.10 CONTRACTING OFFICER (CO)

5200.243.001 Contracting Officer (CO) (JUL 2015)

The Contracting Officer is the only person authorized to make any changes, approve any changes in the requirements of this contract, issue Orders, obligate funds and authorize the expenditure of funds, and notwithstanding any term contained elsewhere in this contract, such authority remains vested solely in the Contracting Officer. (For further information, the Contracting Officer is a federal government employee who is specifically authorized and appointed in writing under specified agency procedures and granted the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.) In the event, the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been without authority and no adjustment will be made in the contract price to cover any increase in costs incurred as a result thereof.

The following Contracting Officer is assigned to this BOA. Additional Contracting Officers may be assigned at the Order level:

BOA Contracting Officer
NAME: Jacqueline Stader
PHONE NUMBER: 571-227-5858
EMAIL: jacqueline.stader@tsa.dhs.gov

Order Contracting Officer
Identified at Order level

(End of term)

3.11 CONTRACTOR PERSONNEL ACCESS TO TSA FACILITIES, INFORMATION AND/OR SYSTEMS

5200.204.002 Contractor Personnel Access to TSA Facilities, Information and/or Systems (Sep 2018)

A. All Contractor personnel requiring access to TSA facilities, information systems, and/or information will be subject to the security procedures set forth in this contract.

B. All contractor employees seeking to provide services to TSA under a TSA contract are subject to a fitness determination to assess whether their initial employment or continued employment on a TSA contract protects or promotes the efficiency of the agency. TSA, by and through the Law Enforcement/Federal Air Marshall Service's, Personnel Security Section (PerSec), will allow a contractor employee to commence work on a TSA contract only if a review of the contractor employee's preliminary background check is favorable. Contractor employees with unfavorable preliminary background checks will not be allowed to work on a TSA contract.

C. A fitness determination involves the following three phases:

   1. Phase 1: Enter On Duty Fitness Determination: a review of a contractor employee's consumer credit report, criminal history records, and submitted security forms to determine, to the extent possible, if the contractor employee has bad debt and/or criminal offenses and/or falsification issues that would prohibit employment as a TSA contractor. This determination may include verification of citizenship for contractor employees born outside of the United States. A favorable Enter On Duty Suitability Determination is not a final fitness determination; rather, it is a preliminary review of external data sources that allows the contractor employee to commence work prior to the required background investigation being completed. When a contractor employee is deemed eligible to commence work on a TSA contract, TSA PerSec will notify the appropriate Contracting Officer's Representative (COR) of the favorable determination. Similar notifications will be sent when a contractor employee has not passed the preliminary background check and has been deemed unsuitable.

   2. Phase 2: Background Investigation: Once the contractor employee commences work on a TSA contract, TSA PerSec will process all submitted security forms to determine whether the contractor has previously been the subject of a federal background investigation sufficient in scope to meet TSA minimum investigative requirements. Contractor employees who have a federal investigation sufficient in scope will immediately be processed for final fitness adjudication. Those contractor employees who do not have a previous federal background investigation sufficient in scope will be scheduled for the appropriate level background investigation through the submission of their security forms to the Office of Personnel Management (OPM).

   3. Phase 3: Final Fitness Adjudication: TSA PerSec will complete the final fitness determination after receipt, review, and adjudication of the completed OPM background investigation. The final fitness determination is an assessment made by TSA PerSec to determine whether there is reasonable expectation that the continued employment of the TSA contractor will or will not protect or promote the efficiency of the agency. An unfavorable final fitness determination will result in a notification to the COR that the contractor employee has been deemed unfit for continued contract employment and that he/she shall be removed from the TSA contract.

D. The period of performance may begin 60 days after contract award to allow for the Enter On Duty Fitness Determination. A contract modification shall be executed to revise the period of performance once the determination process is completed. For Fixed price awards, in the event of staggered completed determinations the parties may negotiate fixed monthly rates so that performance can begin with partial staff.

E. Whenever personal identity verification (PIV) cards are required for issuance or re-issuance to contractor personnel for authorized access to Government facilities, under the guidance of the Contracting Officer's Representative (COR), the Contractor is responsible for making all

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arrangements for affected Contractor personnel to report in-person at the nearest Government issuing facility to initiate and complete procedures for PIV card issuance. The Government will not be able to provide PIV card issuance at any other locations than those officially designated as available. PIV card issuing facilities that are available for the completion of this requirement for TSA contractors are as listed by the TSA Personnel Security Section, and the COR will advise the Contractor about Government PIV card issuing facility locations that are nearby the contractor's location(s) of performance that will be potentially available for card issuance when required.

F. Computer Access Agreement. All Contractor employees (users, managers, and operators of the TSA network) must sign TSA Form 1403, Computer Access Agreement. A copy of which shall be provided to the TSA contracting officer's representative for retention for the duration of the contract.

G. Personnel Security.

1. Privileged access users are individuals who have access to an information technology (IT) system with privileges of Administrator or above and have access to sensitive network infrastructure data. Privileged access users will be appropriately screened on entry into the privileged access position and the initial screening shall be refreshed every two years,

2. Individuals terminating voluntarily or involuntarily from a Contractor performing under contract at TSA must have an exit briefing, conducted by a supervisory or management-level employee of the Contractor in order to identify and explain their post-employment responsibilities to the TSA.

3. Records of exit interviews will be signed and maintained by the Contractor as part of the individual employment record for a period of not less than two years following the termination of the individual's employment.

4. The Contractor shall notify the Contracting Officer's Representative and the Contracting Officer with proposed personnel changes. Written confirmation is required. This includes, but is not limited to, name changes, resignations, terminations, and reassignments to another contract.

5. The Contractor shall notify the TSA, in writing of any requested change in access requirements for its employees no later than one day after any personnel changes occur. This includes name changes, resignations, terminations, and transfers to other company engagements. The Contractor shall provide the following information to TSA: full name, social security number, effective date, and reason for change.

6. The Contracting Officer must approve all personnel replacements. Estimated completion of the necessary background investigation for employee access to government facilities and information systems is approximately 30 days from the date the completed forms are received (and acknowledged as complete) in the Security Programs Division.

Failure of any Contractor personnel to pass a background investigation, without timely substitution that meets the contracts requirements, may be grounds for termination of the contract.

H. Non-Disclosure Agreements.

1. All TSA contractor employees and consultants must execute a DHS Form 11000-6, Sensitive But Unclassified Information Non-Disclosure Agreement (NDA) upon initial assignment to TSA and before being provided access to TSA "sensitive and/or mission critical information." The original NDA will be provided to the TSA contracting officer's representative for retention for the duration of the contract.

2. The Contractor, and those operating on its behalf, shall adhere to the requirements of the

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non-disclosure agreement unless otherwise authorized in writing by the Contracting Officer.

I. Performance Requirements.

1. The Contractor shall not be liable for any injury to Government personnel or damage to Government property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor.

2. Contracting Officer's Representative (COR) and IT Security Division shall conduct reviews to ensure that the security requirements in the contract are implemented and enforced.

J. All Contractor personnel with TSA IT accounts requiring unescorted access to TSA facilities, information systems, or information will be required to complete Workplace Violence Prevention training available through the TSA Online Learning Center. The course, entitled "Preventing Workplace Violence at TSA" shall be completed within 60 days of onboarding.

(End of term)

3.12 REQUIREMENTS FOR HANDLING CLASSIFED NATIONAL SECURITY INFORMATION

5200.204.003 Requirements for Handling Classified National Security Information (Sep 2018)

A. Clearance Level. This BOA requires a Secret security clearance.

B. Access to Classified Information. Contractor personnel are required to have access to classified information at the Secret level.

C. Place of Performance. The location of performance where classified information will be accessed, produced, safeguarded, or stored is as identified below:

[Determined at individual TO level]

If the Contractor supports other government agencies on classified contracts at the same facility, the TSA classified material shall be stored alone in a separate, GSA-approved safe. Classified information pertaining to other government agencies shall not be stored with the TSA classified information.

(End of term)

3.13 REQUIREMENTS FOR HANDLING SENSITIVE SECURITY INFORMATION (SSI)

5200.204.004 Requirements for Handling Sensitive Security Information (SSI) (Sep 2018)

Pursuant to 49 U.S.C. § 114(r), *Sensitive Security Information* and *Nondisclosure of Security Activities*, Sensitive Security Information (SSI) is a category of sensitive but unclassified (SBU) information that must be protected because it is information that, if publicly released, would be detrimental to the security of transportation. Under 49 C.F.R. § 1520.5(a), the SSI Regulation also provides additional reasons for protecting information as SSI beyond the condition that the release of the information would be detrimental to the security of transportation. TSA, however, primarily uses the criterion of "detrimental to the security of transportation" when determining whether information is SSI.

The scope, categorization, handling requirements, and disposition of information deemed SSI is defined in 49 C.F.R. § 1520 (http://ecfr.gpoaccess.gov/). Persons authorized to access specific SSI (i.e., covered persons) include those contracted to DHS or TSA with a need-to-know basis for specific information in the course of fulfilling their TSA contractual obligations. TSA may deliver SSI materials to the Contractor. Also, materials created by the Contractor may require SSI designation and

protection, and the Contractor has the responsibility to identify such materials to TSA as possible SSI. For guidance while working on TSA and DHS matters, see the TSA SSI Application Guide, 2011_04_01 for identifying the type of information covered by the regulation.

For purposes of this clause, the term "Contractor" shall include an individual or other legal entity who performs work for or on behalf of TSA or DHS under a contract, interagency agreement, or other transaction agreement. Such contracts include, but are not limited to, contracts between any non-Federal entity and/or TSA or DHS and subcontracts, joint venture agreements, and teaming agreements between any non-Federal entity and another non-Federal entity to perform work related to the primary contract with the TSA or DHS.

While SSI is not classified national security information subject to the handling requirements governing classified information, it is subject to certain legal disclosure limitations. To ensure regulatory compliance, the Contractor shall be subject to the following requirements and include this entire clause as flow-down in subcontracts, etc.:

A. **Handling and Safeguarding.** The TSA Contractor shall safeguard and handle any SSI in accordance with the policies and procedures outlined in 49 C.F.R. Part 1520, as well as the DHS and TSA policies and procedures for handling and safeguarding SSI. These safeguarding procedures shall include SSI recognition, identification and marking of materials that possibly contain SSI, including Contractor-created materials, as well as following restrictions on disclosure, storage, handling, sharing, dissemination and destruction of SSI. The Contractor, without exception, shall place this requirement in all subcontracts, joint venture agreements, and teaming agreements related to the performance of this contract.

B. **Non-Disclosure Agreements (NDAs).** (DHS Form 11000-6, NDAs are required to be signed by all Contractor personnel when access to SSI is necessary for performance of the contract. By signing the NDA, the recipient certifies in writing that they will take the necessary steps to prevent the unauthorized disclosure and use of information.

C. **Request for Access to SSI materials.** Pursuant to 49 C.F.R. § 1520.9(a)(3), the Contractor must contact SSI@tsa.dhs.gov for guidance on handling requests to access to SSI (before using SSI materials) for any other purpose besides activities falling within the scope of the contract by other persons, including requests from experts, consultants, and legal counsel ("requesters") hired by the Contractor. The Contractor shall include the Contracting Officer (CO) and Contracting Officer Representative (COR) as a carbon copy "cc" recipient of its contact to SSI@tsa.dhs.gov. The TSA SSI Office must first make a determination as to whether the requesters are a "covered person" with a "need to know" under 49 C.F.R. § 1520.7 and 1520.11. Special request processing and handling requirements apply to contractor employees who may be foreign nationals. The Contractor must clearly identify any employees who are not US citizens who are otherwise requested to have access to SSI; the requirements of TSA Management Directive 2810.3" Management of Foreign Access to Sensitive Information" apply.

D. **Training and Certification.** All Contractor personnel who are covered persons with a need-to-know basis must complete the TSA-mandated SSI Awareness Training course prior to accessing SSI, and on an annual basis for the duration of the contract or for the duration of the requester's need for access to SSI, whichever is later. Contractor personnel must also review and adhere to the SSI Quick Reference Guide for DHS Employees and Contractors. The Contractor shall certify to the Contracting Officer annually that all covered persons have completed the mandated SSI training, that all SSI policies and procedures have been followed, and that those individuals with access understand their responsibilities to protect the information.

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E. **Breach.** In accordance with 49 C.F.R. § 1520.9(c), the Contractor agrees that in the event of any actual or suspected breach of SSI (i.e., loss of control, compromise, unauthorized disclosure, access for an unauthorized purpose, or other unauthorized access, whether physical or electronic), the Contractor shall immediately, and in no event later than one hour of discovery, report the breach to the Contracting Officer and the COR. The Contractor is responsible for positively verifying that notification is received and acknowledged by at least one of the foregoing Government officials.

In the event that an SSI breach occurs as a result of the violation of a term of this contract by the Contractor or its employees, or the Contractor's covered persons, the Contractor shall, as directed by the Contracting Officer and at no cost to the Government, without delay correct or mitigate the violation.

For unauthorized disclosure of SSI, the Contractor and Contractor's employees and Contractor's covered persons may also be subject to civil penalties and other consequences as set forth in 49 CFR § 1520.17.

(*End of term*)

3.14 NON-FEDERAL ACCESS TO TSA NATIONAL CAPITAL REGION FACILITIES

5200.204.005 Non-Federal Access to TSA National Capital Region Facilities (Sep 2016)

A. Background. Department of Homeland Security (DHS) Visitor Access Policy mandates that visitors, to include all parties such as proposed subcontractors, accessing DHS National Capital Region (NCR) Component Headquarters and related Headquarters NCR facilities be subject to a criminal history check. To that end, in July 2016, TSA began requiring the submission of Personally Identifiable Information (PII) for all non-federal visitors and foreign national visitors entering TSA facilities in the National Capital Region, including TSA Headquarters, the Freedom Center, Annapolis Junction, Walker Lane, and the Transportation Security Integration Facility (TSIF), in order to process the required screening checks. Of note, for contracts requiring access to TSA facilities, information systems, or sensitive but unclassified information as part of contract performance, contractor employees are subject to a suitability determination. (See H.5200.204.002, CONTRACTOR PERSONNEL ACCESS TO TSA FACILITIES, INFORMATION AND/OR SYSTEMS).

B. Purpose: The submitted information will be used to conduct screening checks to permit and maintain records of access to DHS NCR facilities pursuant to the authority of 40 U.S.C. § 1315; 41 C.F.R. Part 102-81; Executive Order. 9397.

C. Applicability: A Non-Federal Visitor or Foreign National Visitor is an individual who has not been issued a DHS Personal Identity Verification (PIV) card or is not a current Federal government employee. Non-TSA current Federal government employees will be recorded in the Visitor Request Form excluding any PII.

D. Routine Uses: The information requested may be shared externally as a "routine use" to the Department of Justice, Federal Bureau of Investigation and other government agencies as part of the screening process. A complete list of the routine uses can be found in the system of records notice, "Department of Homeland Security/ALL-024 Facility and Perimeter Access Control and Visitor Management System of Records."

E. Consequences of Failure to Provide Information: Providing this information, including Social Security Number (SSN), is voluntary. However, failure to provide the information requested may result in being denied access to a DHS facility; failure to provide the SSN may prevent completion of screening.

F. Information Requirements. In accordance with the above:

1. Non-Federal Visitors. Non-Federal visitors to TSA facilities will need to provide Date of Birth and Social Security Number information. The required information shall be provided in a password protected Microsoft Excel spreadsheet emailed to the Contracting Officer at least one (1) full business day prior to the visit date. (For further information, the Contracting Officer is a federal government employee who is specifically authorized and appointed in writing under specified agency procedures and granted the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.) The Contracting Officer may delegate the receipt of this information to the respective Contracting Officer Representative (COR). In order to ensure protection of this information, the password for the password protected spreadsheet shall be sent to the Contracting Officer (or delegated COR) in a separate email, at the same time. If multiple non-federal visitors from one company require access to TSA Headquarters facilities, that company should submit a single complete spreadsheet. A DHS/TSA employee shall be responsible for both inputting the information into the Visitor Request Form and actual escorting the visitor(s) at all times. The submitted emails shall then be deleted by TSA.

2. Foreign National Visitors. Foreign Nationals visiting TSA facilities in the U.S. and its territories will need to submit additional information to screening purposes, specifically:

- Date of Birth
- Gender
- Country of Citizenship
- Country of Birth
- Passport Number and Expiration Date
- Position/Title

The required information shall be provided in a password protected Microsoft Excel spreadsheet emailed to the Contracting Officer at least seven (7) full business days prior to the visit date. The Contracting Officer may delegate the receipt of this information to the respective Contracting Officer Representative (COR). In order to ensure protection of this information, the password for the password protected spreadsheet shall be sent to the Contracting Officer (or delegated COR) in a separate email, at the same time. If multiple Foreign National visitors from one company require access to TSA Headquarters facilities, that company should submit a single complete spreadsheet. A DHS/TSA employee shall be responsible for both inputting the information into the Visitor Request Form and actual escorting the visitor(s) at all times. The submitted emails shall then be deleted by TSA.

(End of term)

3.15 PERFORMANCE BY FOREIGN NATIONAL CONTRACTOR EMPLOYEES

5200.204.006 Performance by Foreign National Contractor Employees (Jul 2018)

Special request processing and handling requirements apply to contractor employees who may be foreign nationals. The Contractor must clearly identify any employees who are not US citizens who are otherwise requested to have access to SSI; the requirements of TSA Management Directive 2810.3" Management of Foreign Access to Sensitive Information" apply. Notwithstanding the requirements in HSAR 3052.204-71, Contractor Employee Access, contractors who propose to have contract work performed by contractor employees who are not United States Citizens or Lawful Permanent Residents and who will have access to sensitive by unclassified information in performance of their job shall be required to submit biographical information (e.g. name, date of birth, passport information, etc.) for vetting purposes.

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The required vetting must occur both prior to the start of the contract, and annually thereafter. As such, the contractor must submit the necessary biographical information no later than ninety (90) days prior the start of the contract and prior to the end of the contract's annual performance period. In the event such Contractor employees are no longer utilized for performance under the contract, the Contractor shall notify the Contracting Officer and Contracting Officer Representative (COR) by xx day and begin the replacement of personnel and vetting. The re-vetting of all said current personnel shall remain on the above annual schedule. Please note that this requirement under this contract's Key Personnel clause(s) for any non-United States Citizens or Lawful Permanent Residents that are deemed key personnel remain in effect.

This annual vetting process requirement does not and will not affect the Government's separate and unilateral discretion on whether to exercise the contract's option(s) to extend the contract nor the Contracting Officer's discretion on whether to issue a notification to exercise the contract's option period. The administrative requirement for contractor submission of vetting information (along with any vetting clearance results) will have no relationship as to whether the Contracting Officer issues a notice of intent to exercise an option and the Government's discretion to exercise the option.

The required information shall be provided in a password protected Microsoft Excel spreadsheet emailed to the Contracting Officer. The Contracting Officer may delegate the receipt of this information to the respective COR. In order to ensure protection of this information, the password for the password protected spreadsheet shall be sent to the Contracting Officer (or delegated COR) in a separate email, at the same time. If multiple Foreign National employees from one company require vetting, that company must submit a single complete spreadsheet. All password protected submissions shall be protected by the Government and destroyed upon conclusion of the annual vetting exercise.

The Contracting Officer and/or COR will notify the contractor of the conclusion of the vetting process.

(*End of term)*

3.16 TSA HEADQUARTERS LOCATION CONSOLIDATION

5200.204.007 TSA Headquarters Location Consolidation (Jul. 2018)

The new Transportation Security Administration (TSA) headquarters location will be near the Franconia-Springfield Metro Station at 6595 Springfield Center Drive in Springfield, Virginia. TSA will be consolidating and physically moving its headquarters locations over a staggered period within calendar years 2020 and 2021, as currently planned. The consolidation will include existing TSA locations at:

- 6354 Walker Lane, Springfield, VA
- 1900 Oracle Way, Reston, VA
- 601/701 South 12th St., Arlington, VA

Moving expenses for contractors and/or contractor employees now assigned by their employers to perform under contract at any of these present TSA locations will not be considered or paid under contract, and plans for company employees' and their company equipment or property to these new locations will be the responsibility of the company.

Additional instructions under existing contracts for facility access instructions for contractors, visitors, and mail/parcel and other deliveries will be added to each affected contract as necessary.

(End of Term)

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3.17 PUBLICITY AND DISSEMINATION OF CONTRACT INFORMATION

5200.205.001 Publicity and Dissemination of Contract Information (October 2017)

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to the award and/or performance of this contract without the prior written consent of the Contracting Officer. The Contractor shall submit any request for public release at least ten (10) business days in advance of the planned release. Under no circumstances shall the Contractor release any requested submittal prior to TSA approval.

Any material proposed to be published or distributed shall be submitted via email to the Contracting Officer. The Contracting Officer will follow the procedures in Management Directives 1700.3 and 1700.4. The Administrator retains the authority to deny publication authorization. Any conditions on the approval for release will be clearly described. Notice of disapproval will be accompanied by an explanation of the basis or bases for disapproval.

(End of term)

3.18 CONTINGENCY AND/OR CONTINUITY OF OPERATIONS SUPPORT OF TRANSPORTATION SECURITY ADMINISTRATION OPERATIONS

5200.218.001 Contingency and/or Continuity of Operations Support of Transportation Security Administration Operations (Jul 2018)

A. Background. The Transportation Security Administration (TSA) is a component of the Department of Homeland Security (DHS) and is responsible for the security of the nation's transportation system. This includes not only the security screening operations conducted for passenger air travel, but also security operations protecting air cargo and shipping, surface and other transportation modes including rail, and pipelines and other transportation infrastructure. To those ends, the TSA must be able to respond quickly to incidents, and increase and re-constitute its operational posture ("continuity of operations") in response to threats and the possibility of actual attacks upon or disruption to government operations or national infrastructure. The TSA has an internal capacity to establish and operate Critical Incident Management Groups in response to a specific, TSA-only incident, or as a part of larger DHS operation due to orders from the DHS Secretary, or due to increased threat levels under the National Terrorism Advisory System, or federal operations up to and including responsibilities assigned under the National Response Framework. To these ends, the TSA must be able to count upon a correlated contractor capability to surge capacity in response to incidents or quickly re-constitute capability to recover from a catastrophe. Accordingly, TSA contractors must be prepared and able to provide surge capacity and to reconstitute operational capability to perform under contract as required in response to an emergency.

B. Definitions. The meaning of specific contingency or emergency-related terms herein proceeds from those definitions within the National Response Framework and are available from the National Response Framework Resource Center glossary at http://www.fema.gov/emergency/nrf/.

C. Force and effect of this clause. Without regard to the extent that the Contractor's actual responses in order to meet the requirements of this clause may be necessitated by occurrences or conditions as described in the "Excusable Delays" paragraph of FAR 52.212-4, "Contract Terms and Conditions—Commercial Items" clause or those described in the FAR 52.249-14, "Excusable Delays" clause (or such related conditions as described in other clauses, such as the

FAR 52.249-8 "Default (Fixed-Price Supply and Service)," 52.249-9 "Default (Fixed-Price Research and Development)," and/or FAR 52.249-10 (Fixed-Price Construction)," if included in the contract), the Contractor shall provide surge capacity, re-establish functions, and reconstitute capability and performance under this contract as quickly as possible in response to an incident and/or as ordered by the Contracting Officer.

D. Response functions and capabilities. The Contractor shall establish and maintain the following capabilities as a requirement of this contract.

1. Continuity of Operations (COOP) Plan. The Contractor shall establish a written continuity of operations plan in accordance with "Continuity Guidance Circular 1 (CCG1), Continuity Guidance for Non-Federal Agencies" of January 2009. In general, COOP plans must be designed in order to:

   a) Minimize loss of life, injury, and property damage.

   b) Mitigate the duration, severity, or pervasiveness of disruptions that do occur.

   c) Achieve the timely and orderly resumption of essential functions and the return to normal operations.

   d) Protect essential facilities, equipment, records, and assets.

   e) Be executable with or without warning.

   f) Meet the operational requirements of the TSA. Continuity plans need to be operational within minutes of activation, depending on the essential function or service, but certainly should be operational no later than 12 hours after activation.

   g) Meet the sustainment needs of the TSA. An organization may need to plan for sustained continuity operations for up to 30 days or longer, depending on resources, support relationships, and the respective continuity strategy adopted.

   h) Ensure the continuous performance of essential functions and operations during an emergency, including those such as pandemic influenza that require additional considerations beyond traditional continuity planning.

   i) Provide an integrated and coordinated continuity framework that takes into consideration other relevant organizational, governmental, and private sector continuity plans and procedures.

2. The Contractor's COOP Plan is intended to be executed in response to an incident, and the COOP Plan shall address each of the following requirements in depth, in addition to the essential functions described in CCG1:

   a) Communications. In the case of an applicable incident or a notification per paragraph (e) "Response Requirement" below, the Contractor shall maintain or be able to re-establish active, real-time communication with its employees under the contract during the 24-hour day period on all days during the week such that the Contractor can ensure performance under the contract will continue at such alternate locations under the contract to meet specified deliverables and/or response to surge capacity. Likewise, the Contractor shall ensure that effective communication about its contract performance can continue with the Contracting Officer, taking into account the operational profile or location of TSA facilities or assets in response to an incident in order to meet specified deliverables and/or response to surge capacity orders from the Contracting Officer.

   b) Facilities. In the case of an applicable incident or a notification per paragraph (e) "Response Requirement" below, the Contractor shall be able to re-constitute contractor presence at self-provided facilities or at Government-provided facility space as may be

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required in order to meet specified deliverables and/or response to surge capacity orders from the Contracting Officer.

c) Information Systems/Network. In the case of an applicable incident or a notification per paragraph (e) "Response Requirement" below, the Contractor shall maintain and be able to re-constitute an information systems network at its facilities or for use at alternate facilities as may be necessary in order to meet specified deliverables and/or respond to surge capacity orders from the Contracting Officer.

d) Annual or Periodic COOP Exercise. Under the monitoring of the Contracting Officer and Contracting Officer's Representative (COR), the Contractor shall conduct an annual exercise to test the capabilities of its COOP Plan, or the Contractor may be included in periodic TSA COOP exercises as a means of fulfilling this requirement. Typically, a simulated scenario for the exercise will be developed, and the contractor's management team will place the scenario into action on a simulated basis. As with all exercises, responses to the exercise must be based on the known capacities and capabilities of the contractor's personnel and assets and take the actual disposition and locations of personnel and assets into account at the initiation and during the conduct of the exercise. Thus, while the exercise's scenario is simulated, the contractor's ability to initiate and to plan the execution of a response to the scenario via the COOP Plan is actual and will be assessed by the Government. The Contractor shall implement recommendations as a consequence of the Government's assessment of its performance in response to the exercise. The Government's assessment of COOP plan practice may be likewise included at the Government's discretion as a portion of the "management" element assessed under the Contractor Performance Assessment Reporting System. Initiation of an exercise in response to the requirements of this clause does not entitle the Contractor to an equitable adjustment or otherwise constitute a change to this contract.

e) Surge capacity and Continuity of Operations (COOP). The Contractor may be required to provide either surge capacity and/or a COOP response to conditions related to this clause. "Surge capacity" means that the volume and pace of the contractor's performance is required to increase to meet the TSA's increased volume of work and tempo of operations in an emergency situation. "COOP" means that the contractor may have to conduct various activities to re-establish or reconstitute operations in response to an incident, which could also include a necessity to provide for surge capacity.

E. Response Requirement. The Contractor shall provide surge capacity to implement an increased workload within **(determined at Order level)** hours of notification by the Contracting Officer in the event of:

1. a specific declaration of national emergency by the Executive Office of the President and/or the occurrence of an Incident of National Significance or Major Disaster;
2. a contingency operation initiated by DHS and/or the TSA;
3. a continuity of operations re-establishment of DHS and/or its components' locations, deployments, or operational profiles;
4. an emergency or event that affects DHS or TSA operations, requires a specific response as directed by the President, Secretary of Homeland Security, or Principal Federal Official so designated, and/or actuates part or all of the requirements within the National Response Framework;
5. an increase in the Threat Levels published via the Homeland Security Advisory System, either on a national or an industry/sector specific basis (especially with respect

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to the Threat Conditions of "High," and/or "Severe"); and/or

6. the establishment of a specific TSA Critical Incident Management Group related to the functional area supported by this contract.

Staffing requirements may increase dramatically during such contingency operations or events. During the beginning of a contingency, the contractor shall be prepared to augment staffing for the duration of the contingency in order to not impact the timeliness of other tasks, which may also be critical during a contingency.

F. Ordering Surge Support. When the contractor's support to provide surge capacity in response to the requirements of this clause is required under the contract, a duly appointed and warranted Contracting Officer will order such support in writing. Only such a designated Contracting Officer is authorized to direct Contractor's performance in support of the requirements of this clause.

G. Annual Statement Affirming Compliance. During each year of performance while this contract is in force, the Contractor is required to submit to the Contracting Officer, on the first day of December or the next following business day, a statement affirming the contractor's intent to comply fully with the requirements of this clause and to indicate sufficient internal capacity to do so.

H. Right to an Equitable Adjustment. This clause in no way diminishes or alters the right of the Contractor to an equitable adjustment for performance initiated in response to the Contracting Officer's direction from paragraph (e) above.

(End of term)

3.19 SECTION 504 COMPLIANCE

5200.223.002 Section 504 Compliance (Apr 2017)

The Contractor/Provider shall comply fully with Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities. No otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Contractor/Provider is awarded a contract and/or receives Federal financial assistance from the Transportation Security Administration. This includes, but is not limited to, providing reasonable accommodations and effective communication to persons with disabilities and ensuring physical accessibility to all participants. The Contractor/Provider shall ensure this requirement flows to all affected subcontracts.

(End of term)

3.20 CONTROLLED UNCLASSIFIED INFORMATION DATA PRIVACY AND PROTECTION

5200.224.002 Controlled Unclassified Information Data Privacy and Protection (Dec 2015)

The Contractor shall be responsible for the security of: i) all data that is generated by the contractor on behalf of the Government ii) Government data transmitted by the contractor, and iii) Government data otherwise stored or processed by the contractor, regardless of who owns or controls the underlying systems while that data is under the contractor's control. All Government data, including but not limited to Personal Identifiable Information (PII), Sensitive Security Information (SSI), and Sensitive But Unclassified (SBU), and/or Critical Infrastructure Information (CII), shall be protected according to Department of Homeland Security information security policies and mandates.

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At the expiration of the contract, the contractor shall return all Government information and IT resources provided to the contractor during the contract.

The contractor must satisfy requirements to work with and safeguard Sensitive Security Information (SSI), and Personally Identifiable Information (PII). All support personnel must understand and rigorously follow all applicable DHS Component Agency's requirements, policies, and procedures for safeguarding SSI and PII. Contractor personnel will be required to complete online training for SSI, Informational Security and Privacy training, if required by the DHS Component Agency

The Contractor, and those operating on its behalf, shall adhere to the requirements of the non-disclosure agreement unless authorized in writing by the Contracting Officer.

The Government will identify IT systems transmitting unclassified/SSI information that will require protection based on a risk assessment as applicable. If encryption is required, the following methods are acceptable for encrypting sensitive information:

a. Products Advanced Encryption Standard (AES) algorithms that have been validated under FIPS 140-2.

b. National Security Agency (NSA) Type 2 or Type 1 encryption.

c. Public Key Infrastructure (PKI) (see paragraph 5.5.2.1 of the Department of Homeland Security (DHS) IT Security Program Handbook (DHS Management Directive (MD) 4300A) for Sensitive Systems).

The contractor shall maintain data control according to the applicable DHS Component Agency's security level of the data. Data separation will include the use of discretionary access control methods, VPN encryption methods, data aggregation controls, data tagging, media marking, backup actions, and data disaster planning and recovery. Contractors handling PII must comply with TSA MD 3700.4 if applicable.

Users of Government IT assets shall adhere to all system security requirements to ensure the confidentiality, integrity, availability, and non-repudiation of information under their control. All users accessing Government IT assets are expected to actively apply the practices specified in the TSA Information Technology Security Policy (ITSP) Handbook, Chapter 3, Section 6, Privacy and Acceptable Use, or similar DHS Component Agency's guidance or policy.

The contractor shall comply with the all data disposition requirements stated in the applicable DHS Component Agency's Information Security Policy. For all TSA orders the contractor shall comply with Information Security Policy Handbook Chapter 3, Section 17 Computer Data Storage Disposition, as well as TSA Management Directive 3700.4.

(End of term)

3.21 SECURITY REQUIREMENTS FOR HANDLING PERSONALLY IDENTIFIABLE INFORMATION AND PRIVACY INCIDENT REPONSE

5200.224.004 Security Requirements for Handling Personally Identifiable Information and Privacy Incident Reponse (Jul 2018)

A. Definitions.

1. "Breach" (may be used interchangeably with "Privacy Incident') as used in this clause means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar situation where persons other than authorized users, and for other than authorized purpose, have access or potential access to Personally Identifiable Information, in usable form whether physical or electronic.

2. "Personally Identifiable Information (PII)" as used in this clause means any information that permits the identity of an individual to be directly or indirectly inferred, including any other information that is linked or linkable to that individual regardless of whether the individual is a citizen of the United States, legal permanent resident, or a visitor to the United States. Examples of PII include: name, date of birth, mailing address, telephone number, Social Security Number (SSN), email address, zip code, account numbers, certificate/license numbers, vehicle identifiers including license plates, uniform resource locators (URLs), Internet protocol addresses, biometric identifiers (e.g., fingerprints), photographic facial images, or any other unique identifying number or characteristic, and any information where it is reasonably foreseeable that the information will be linked with other information to identify the individual.

3. "Sensitive Personally Identifiable Information (Sensitive PII)" as used in this clause is a subset of Personally Identifiable Information, which if lost, compromised or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Complete social security numbers (SSN), alien registration numbers (A-number) and biometric identifiers (such as fingerprint, voiceprint, or iris scan) are considered Sensitive PII even if they are not coupled with additional PII. Additional examples include any groupings of information that contains an individual's name or other unique identifier plus one or more of the following elements:

   a. Driver's license number, passport number, or truncated SSN (such as last 4 digits)

   b. Date of birth (month, day, and year)

   c. Citizenship or immigration status

   d. Financial information such as account numbers or Electronic Funds Transfer Information

   e. Medical Information

   f. System authentication information such as mother's maiden name, account passwords or personal identification numbers (PIN)

Other Personally Identifiable information may be "sensitive" depending on its context, such as a list of employees with less than satisfactory performance ratings or an unlisted home address or phone number. In contrast, a business card or public telephone directory of agency employees contains Personally Identifiable Information but it is not sensitive.

B. Systems Access. Work to be performed under this contract requires the handling of Sensitive PII. The Government may elect to conduct random periodic reviews to ensure that the security requirements contained in this contract are being implemented and enforced. The contractor shall provide the Government access to, and information regarding the contractor's systems, when requested by the Government, as part of its responsibility to ensure compliance with security requirements, and shall otherwise cooperate with the Government in assuring compliance with such requirements. Government access shall include independent validation testing of controls, system penetration testing by the Government, Federal Information Security Management Act (FISMA) data reviews, and access by agency Inspectors General for its reviews.

C. Systems Security.

1. In performing its duties related to management, operation, and/or access of systems containing Sensitive PII under this contract, the contractor, its employees and subcontractors shall comply with applicable security requirements described in the most

current versions of DHS Sensitive System Publication 4300A or any replacement publication and rules of conduct as described in TSA Management Directive (MD) 3700.4.

2. All Contractor-operated systems that input, store, process, output, and/or transmit SPII shall meet or exceed the continuous monitoring requirements identified in the Fiscal Year 2014 DHS Information Security Performance Plan, or successor publication. The plan is updated on an annual basis. The Contractor shall also store monthly continuous monitoring data at its location for a period not less than one year from the date the data is created. The data shall be encrypted in accordance with FIPS 140-2 Security Requirements for Cryptographic Modules and shall not be stored on systems that are shared with other commercial or Government entities. The Government may elect to perform continuous monitoring and IT security scanning of Contractor systems from Government tools and infrastructure.

3. Use of contractor-owned laptops or other media storage devices to process or store PII is prohibited under this contract until the contractor provides, and the contracting officer in coordination with CISO approves, written certification by the contractor that the following requirements are met:

   a. Laptops employ encryption using a NIST Federal Information Processing Standard (FIPS) 140-2 or successor approved product;

   b. The contractor has developed and implemented a process to ensure that security and other applications software are kept current;

   c. Mobile computing devices utilize anti-viral software and a host-based firewall mechanism;

   d. When no longer needed, all removable media and laptop hard drives shall be processed (i.e., sanitized, degaussed, or destroyed) in accordance with DHS security requirements.

   e. The contractor shall maintain an accurate inventory of devices used in the performance of this contract;

   f. Contractor employee training requirements are covered in FAR 52.224-3.

   g. All Sensitive PII obtained under this contract shall be removed from contractor-owned information technology assets upon termination or expiration of contractor work. Removal must be accomplished in accordance with DHS Sensitive System Publication 4300A, which the contracting officer will provide upon request. Certification of data removal will be performed by the contractor's Project Manager and written notification confirming certification will be delivered to the contracting officer within 15 days of termination/expiration of contractor work.

D. Data Security.

1. Contractor shall limit access to the data covered by this clause to those employees and subcontractors who require the information in order to perform their official duties under this contract.

2. The contractor, contractor employees, and subcontractors must physically secure Sensitive PII when not in use and/or under the control of an authorized individual, and when in transit to prevent unauthorized access or loss. When Sensitive PII is no longer needed or required to be retained under applicable Government records retention policies, it must be destroyed through means that will make the Sensitive PII irretrievable. The contractor shall only use Sensitive PII obtained under this contract for purposes of the contract, and shall not collect or use such information for any other purpose without the prior written approval of the

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contracting officer. At expiration or termination of this contract, the contractor shall turn over all Sensitive PII obtained under the contract that is in its possession to the Government.

3. The Contractor's invoicing, billing, and other recordkeeping systems maintained to support financial or other administrative functions shall not maintain Sensitive PII. It is acceptable to maintain in these systems the names, titles and contact information for the COR or other Government personnel associated with the administration of the contract, as needed.

E. Breach Response. The contractor agrees that in the event of any actual or suspected breach of SPII (i.e., loss of control, compromise, unauthorized disclosure, access for an unauthorized purpose, or other unauthorized access, whether physical or electronic), it shall immediately, and in no event later than one hour of discovery, report the breach to the Contracting Officer, the Contracting Officer's Representative (COR), and the TSA Director of Privacy Policy & Compliance (TSAprivacy@tsa.dhs.gov<mailto:TSAprivacy@tsa.dhs.gov>). The contractor is responsible for positively verifying that notification is received and acknowledged by at least one of the foregoing Government parties. The report of a breach shall not, by itself, be interpreted as evidence that the contractor failed to provide adequate safeguards for SPII.

Award fee contracts:

1. For any portions of this contract that involve an award fee, the contractor may be awarded no award fee for any evaluation period in which there is a breach of privacy or security, including any loss of sensitive data or equipment containing sensitive data. Lost award fee due to a breach of privacy or security may not be allocated to future evaluation periods.

2. For any portions of this contract that involve an award fee, to ensure that the final award fee evaluation at contract completion reflects any breach of privacy or security in an interim period, the overall award fee pool shall be reduced by the amount of the fee available for the period in which the breach occurred if a zero fee determination was made because of a breach of privacy or security.

F. Personally Identifiable Information Notification Requirement.

1. The contractor shall have in place procedures and the capability to promptly notify any individual whose Sensitive PII was, or is reasonably believed to have been, breached, as determined appropriate by the Government. The method and content of any notification by the contractor shall be coordinated with, and subject to the prior approval of the Government, based upon a risk-based analysis conducted by the Government in accordance with DHS Privacy Incident Handling Guidance. Notification shall not proceed unless the Government has determined that: (i) notification is appropriate; and (ii) would not impede a law enforcement investigation or jeopardize national security.

   Subject to Government analysis of the breach and the terms of its instructions to the contractor regarding any resulting breach notification, a method of notification may include letters to affected individuals sent by first class mail, electronic means, or general public notice, as approved by the Government. At minimum, a notification should include: (i) a brief description of how the breach occurred; (ii) a description of the types of personal information involved in the breach; (iii) a statement as to whether the information was encrypted or protected by other means; (iv) steps an individual may take to protect themselves; (v) what the agency is doing, if anything, to investigate the breach, to mitigate losses, and to protect against any further breaches; and (vi) point of contact information identifying who affected individuals may contact for further information.

2. In the event that a PII breach occurs as a result of the violation of a term of this contract by the contractor or its employees, the contractor shall, as directed by the contracting officer and at no cost to the Government, take timely action to correct or mitigate the violation,

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which may include providing notification and/or other identity protection services to affected individuals for a period not less than18 months from discovery of the breach. Should the Government elect to provide and/or procure notification or identity protection services in response to a breach, the contractor will be responsible for reimbursing the Government for those expenses.

G. Pass-Through of Security Requirements to Subcontractors. The contractor agrees to incorporate the substance of this clause, its terms and requirements, in all subcontracts under this contract, and to require written subcontractor acknowledgement of same. Violation by a subcontractor of any provision set forth in this clause will be attributed to the contractor.

(End of term)

3.22 REQUIREMENTS FOR CONTRACTOR EMPLOYEES PERFORMING AT OR IN AIRPORT LOCATIONS

5200.237.003 Requirements for Contractor Employees Performing at or in Airport Locations (Sep 2018)

Contractor employees are required to meet:

A. all airport security screening requirements which include criminal history, background and fingerprint check. Contractor employees working in this facility will be required to obtain, possess and display a Secure Identification Display Area (SIDA) badge in accordance with the airport's physical and personnel security requirements. The Contractor is responsible for any fees associated with obtaining and/or replacing SIDA badges. For further information regarding Security Requirements, please contact **[determined at the Order level]**.

B. The contractor shall obtain all necessary permits and approvals from regulatory authorities at the airport location(s) to allow for the timely completion of the work required under the contract. For further information regarding Permitting Requirements, please contact **[determined at the Order level]**.

C. The Contractor must have approved insurance on file with **[determined at the Order level].** The Contractor is required to procure at its own expense, and keep in effect at all times during the term of the contract, the types and amounts of insurance specified. Typically, companies whose work is performed within buildings and terminals are required to have a minimum of **[determined at the Order level]** of liability insurance. Companies who require tools and/or equipment, and airfield access must have a minimum of **[determined at the Order level]** of liability insurance. Air Carrier Operating Permits and Leases may have additional insurance coverage requirements.

(End of term)

3.23 CONTRACTOR RESPONSIBILITY, CONDUCT AND PERFORMANCE UNDER TSA SERVICE CONTRACTS

5200.237.004 Contractor Responsibility, Conduct and Performance under TSA Service Contracts (JUNE 2019)

A. **BASIC REQUIRED STANDARDS OF CONDUCT RELATED TO BUSINESS UNDER GOVERNMENT CONTRACTS**

1. General. The Government has the basic inherent expectations of timely, focused, effective, and competent performance by the Contractor under a contract. The Contractor has the basic inherent expectation of fair treatment under the contract, where the Contractor's employees, when in

Government facilities or in circumstances where the Government has primary control or responsibility, have the expectation of performance in a safe and non-hostile work environment.

2. Adherence to Standards. The Contractor shall adhere to the same professional and ethical standards of conduct required of Government personnel. See TSA Management Directive (MD) 1100.73-5, Employee Responsibilities and Code of Conduct. Contractor employees performing work under this contract shall not:

-Solicit new business (on-site at government spaces, or while on work during periods paid by Government) while performing work under the contract;

-Conduct business other than that which is covered by this contract during periods paid by the Government;

-Conduct business not directly related to this contract while on Government premises;

-Use Government computer systems or networks, Government property or materials, and/or Government facilities for company or personal business;

-Recruit while on Government premises or otherwise act to disrupt official Government business while on Government premises.

-Discuss with unauthorized persons any information obtained during the performance of work under this contract. -

-Engage in harassment. See TSA MD 1100-73.3 Anti-Harassment Program.

3. Reporting Matters.

Illegal, and Unethical, or Inappropriate Conduct. The Contractor, and its employees shall immediately report to the Contracting Officer and/or Contracting Officer's Representative, any illegal, or unethical, or inappropriate conduct observed, noticed, or discovered while on Government premises or during periods paid by the Government under this contract, without regard as to the source of such conduct (except that any matter involving only contractor employees, apart from any Government requirements or the specific requirements of this contract, is deemed to be strictly the concern of the Contractor). The Contractor shall immediately report to the Government all actual or suspected violations of Government information, personnel, or physical security requirements. The Contractor shall fully comply with all of the reporting requirements that are expressed for specified circumstances and issues identified in discrete Federal Acquisition Regulation or Homeland Security Acquisition Regulation terms in force under this contract.

4. Emergency Situations While on Government Premises. Contractor employees shall immediately report any emergency situations they may witness (any circumstance where actual or potential loss of life, serious injury, or critical damage to property, or other serious incidents, such as fires, or workplace violence, terrorist activities, or other criminal behavior is occurring) per standing TSA procedures while they are performing under contract in government facilities.

5. Government Employee Misconduct. In the event of misconduct by a government employee which is observed or witnessed by a Contractor employee, (or in the event of any unauthorized conduct to which a Government employee may subject a Contractor employee) the Contractor employee shall immediately report such to their on-site Contractor supervisor or other company-designated management official, the Contracting Officer and/or Contracting Officer's Representative.

6. Workplace safety. In the event of any situation involving workplace safety, the Contractor employee shall immediately report such to their on-site Contractor supervisor or other company-designated management official, the Contracting Officer and/or Contracting Officer's Representative.

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7. The Contracting Officer may require dismissal from work under this contract and/or removal of access to government facilities, property, information and/or information systems those employees whose conduct the Contracting Officer deems contrary to the public interest or inconsistent with the best interest of national security.

8. Non-Disclosure Agreements are required to be signed by all Contractor personnel when their role requires them to come into contact with Sensitive but Unclassified, Government procurement sensitive information, and/or other sensitive information, or proprietary business information from other Contractors (e.g., cost data, plans, and strategies). The recipient certifies in writing that they will take the necessary steps to prevent the unauthorized disclosure and use of information. The Contracting Officer will provide the prescribed non-disclosure forms as necessary to the Contractor when circumstances warrant.

B. **BASIC REQUIREMENTS AFFECTING CONTRACTOR PERFORMANCE**

1. Contractor Responsibility for Performance Management. The Contractor shall provide all management, administrative, clerical, and supervisory functions required for the effective and efficient performance of this contract.

2. Limitation on Government Liability. The Government shall not be liable for any injury to the Contractor's personnel or damage to the Contractor's property unless such injury or damage is due to negligence on the part of the Government and is recoverable under the Federal Torts Claims Act, or pursuant to another Federal statutory authority.

3. Responsibility for Effective Contract Transitions. A smooth and orderly transition between the Contractor and a predecessor or successor Contractor is necessary to ensure minimum disruption to vital Government business. The Contractor shall cooperate fully in the transition. See below Section K -- INTERRELATIONSHIP OF ASSOCIATE CONTRACTORS.

4. The Government observes the following holidays (and government facilities are generally closed on these days, or restricted access or entrance requirements may apply due to security procedures):

New Year's Day

Martin Luther King, Jr. Birthday

Washington's Birthday (President's Day)

Memorial Day

Independence Day

Labor Day

Columbus Day

Veteran's Day

Thanksgiving Day

Christmas Day

a) In addition to the days designated as holidays, the Government observes also the following days:

- Any other day designated by Federal Statute, and
- Any other day designated by Executive Order, and
- Any other day designated by President's Proclamation, such as extreme weather conditions.

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- Inauguration Day (Washington, DC metropolitan area) (Likewise government facilities in the DC area are generally closed on these days, or restricted access or entrance requirements may apply due to security procedures):

b) When the Government grants excused absence to its employees in a specific location, assigned Contractor personnel at that same location may also be dismissed. The Contractor agrees to continue to provide sufficient personnel to perform critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the Contracting Officer or the Contracting Officer's Representative. Observance of such holidays by Government personnel shall not be a reason for the Contractor to request an extension of the period of performance, or entitlement of compensation except as set forth within the contract.

c) In the event the Contractor's personnel work during the holiday or other excused absences, they may be compensated by the Contractor, however, no form of holiday or other premium compensation will be considered either as a direct or indirect cost, other than their normal compensation for the time worked. For cost reimbursement and time and materials (T&M)/ labor hour (LH) contracts, the Government will only consider as direct and/or indirect costs those efforts actually performed during the holiday or excused absences in the event contractor personnel are not dismissed. This provision does not preclude reimbursement for authorized overtime work if applicable to this contract.

Otherwise, the management responsibility for contractor functions approved by the Contracting Officer for offsite work, in the event of inaccessibility of federal workplaces, is the sole responsibility of the contractor. The contractor may propose telework or other solutions when critical work is required, however, the Contractor is solely responsible for any cost differential in performance, all liabilities that may be due to performance at an alternate location, and all resources necessary to complete such performance.

d) In the event of an actual emergency, the Contracting Officer may direct the contractor to change work hours or locations or institute telework, utilize personal protective equipment, or other mandated items.

e) In the event of a Government closure (furlough) caused by a lapse in appropriations, which can occur at the beginning of a fiscal year if no funds have been appropriated for that year, or upon expiration of a continuing resolution if a new continuing resolution or appropriations law is not passed, the Contractor shall continue performance under the contract unless otherwise instructed in writing by a Contracting Officer. Unless the Contractor is provided a formal notification to the contrary, usually via a Stop Work Order pursuant to FAR 52.242-15, the Contractor must continue to comply with all terms and conditions of the contract. If a contract will not be affected by a shutdown, generally no separate notification or communication of that fact will be provided. Processing of contractor invoices for payment may or may not be deemed an excepted duty during a furlough. As such, contractor performance is expected even though invoices are pending payment processing. The Prompt Payment Act still applies.

(f) 1) Department of Homeland Security (DHS) may close a DHS facility for all or a portion of a business day as a result of-

(A) Granting administrative leave to non-essential DHS employees (e.g., unanticipated holiday);

(B) Inclement weather;

(C) Failure of Congress to appropriate operational funds;

(D) Or any other reason.

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(2) In such cases, contractor personnel not classified as essential, i.e., not performing critical round-the-clock services or tasks, who are not already on duty at the facility shall not report to the facility. Such contractor personnel already present shall be dismissed and shall leave the facility. The contractor is responsible for notifying all of its affected personnel in such circumstances once the Contracting Officer or Contracting Officer's Representative provides notice of such.

(3) The contractor agrees to continue to provide sufficient personnel to perform continual requirements of critical tasks already in operation or scheduled for performance during the period in which DHS employees are dismissed, and shall be guided by any specific instructions of the Contracting Officer or his/her duly authorized representative.

(g) When contractor personnel services are not required or provided due to closure of a DHS facility as described in this term, the contractor's payment under the contract shall be affected as follows--

(1) For cost-reimbursement, time-and-materials and labor-hour type contracts, DHS shall not reimburse as direct costs, the costs of salaries or wages of contractor personnel for the period during which such personnel are dismissed from, or do not have access to, the facility.

(2) For fixed-price contracts, the price will not be prorated and the contractor is expected to satisfy the contract requirement during the period of performance without requested extension.

(3) The Government may also terminate a contract for convenience either in partial or full.

C. **CONTRACTOR'S RESPONSIBILITY FOR ASSIGNED SPACE, EQUIPMENT, AND SUPPLIES**. If, due to the fault or neglect of the Contractor, his agents, or employees, damages are caused to any Government property, equipment, stock or supplies, during the performance of this contract, the Contractor shall be responsible for such loss or damage and the Government, at its option, may either require the Contractor to replace all property or to reimburse the Government for the full value of the lost or damaged property. The Contractor is responsible for maintaining all assigned space(s) in a clean and orderly fashion during the course of this contract. All telephones are for conducting official Government business only.

D. **CONTRACTOR EMPLOYEE TRAINING REQUIREMENTS**. The contractor shall provide fully trained and experienced personnel. Training of contractor personnel shall be performed by the contractor at its expense, except as directed by the Government through written authorization by the Contracting Officer to meet special requirements peculiar to the contract. The Contracting Officer's Representative will identify any specified government training which the contractor's employees with access to TSA IT accounts will be required to complete as a precursor to or coincident with their authorized access to or use of government space or facilities, equipment, information, or information systems as a necessary component of performance required under the contract. Contractor employees are responsible for providing required evidence of timely training completion when the Government assigns such training. Training includes attendance at seminars, symposia or user group conferences. Training will not be authorized for the purpose of keeping contractor personnel abreast of advances in the state-of-the-art or for training contractor employees on equipment, computer languages and computer operating systems that are available on the commercial market or required by a contract. This includes training to obtain or increase proficiency in word processing, spreadsheets, presentations, and electronic mail.

E. **COOPERATION WITH AUDITORS AND INVESTIGATORS**. The Contractor shall cooperate fully with all auditors and investigators on all matters arising under or directly related to this contract and/or any other matter that may occur in relation to the contractor's presence within

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Government facilities or due to access to Government information, information systems, property or equipment.

F. **EMPLOYEE REMOVAL**. The Government may identify to the Contractor any contractor employee for removal from contract performance upon notification of failure to comply with the requirements herein.

G. **EMPLOYEE TERMINATION**. The contractor shall notify the Contracting Officer and the Contracting Officer's Representative within 48 hours when an employee performing work under this contract who has been granted access to government information, information systems, property, or government facilities access terminates employment, no longer is assigned to the contract, or no longer requires such access. The contractor shall be responsible for returning, or ensuring that employees return, all DHS/TSA -issued contractor/employee identification, all other TSA or DHS property, and any security access cards to Government offices issued by a landlord of commercial space.

H. **PERSONNEL CHANGES**. The Contractor shall notify the Contracting Officer's Representative (COR) in writing of any changes needed in building, information systems, or other information access requirements for its employees in order to meet contract requirements not later than one day after any personnel changes occur. This includes name changes, resignations, terminations, and transfers to other Contractors. The Contractor shall provide the following information to the COR: full name, social security number, effective date, and reason for change.

I. **SUBSTITUTION OF KEY PERSONNEL.** The Contractor shall notify the Contracting Officer (CO) and the Contracting Officer's Technical Representative (COR) prior to making any changes in Key Personnel. No changes in Key Personnel will be made unless the Contractor can demonstrate that the qualifications of prospective replacement personnel are equal to or better than the qualifications of the Key Personnel being replaced or otherwise meet the standards applicable in the contract. All proposed substitutes shall have qualifications equal to or higher than the qualifications of the person to be replaced. The CO shall be notified in writing of any proposed substitution at least fifteen (15) days, or forty-five (45) days if either a background investigation for building or information system access and/or a security clearance (due to classified contract requirements that relate specifically to personnel) must be obtained to meet the contract's requirements, in advance of the proposed substitution. Such notification from the contractor shall include:

1. an explanation of the circumstances necessitating the substitution;
2. a complete resume of the proposed substitute; and
3. any other information requested by the CO to enable him/her to judge whether or not the Contractor is maintaining the same high quality of personnel that provided the partial basis for award.

The CO and COR will evaluate substitution requests and promptly notify the Contractor of his/her approval or disapproval in writing. All disapprovals will require resubmission of another substitution within 15 calendar days by the Contractor.

J. **FAILURE TO COMPLY**. Any failure by the Contractor to comply with these requirements may result in a contract termination and/or any other remedy available to the Government, up to and including criminal prosecution where provided for by law.

K. INTERRELATIONSHIP OF ASSOCIATE CONTRACTORS. The TSA may enter into contractual agreements with other Contractors (i.e., "Associate Contractors") in order to fulfill requirements separate from the work to be performed under this contract, yet having a relationship to performance under this contract. It is expected that contractors working under TSA contracts will have to work together under certain conditions in order to achieve a common solution for TSA. The Contractor may be required to coordinate with other such Contractor(s) through the cognizant

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Contracting Officer (CO) and/or designated representative in providing suitable, non-conflicting technical and/or management interface and in avoidance of duplication of effort. Information on deliverables provided under separate contracts may, at the discretion of the TSA and/or other Government agencies, be provided to such other Contractor(s) for the purpose of such work.

Where the Contractor and an associate Contractor fail to agree upon action to be taken in connection with their respective responsibilities, each Contractor shall promptly bring the matters to the attention of the cognizant CO and furnish the Contractor's recommendations for a solution. The Contractor shall not be relieved of its obligations to make timely deliveries or be entitled to any other adjustment because of failure of the Contractor and its associate to promptly refer matters to the CO or because of failure to implement CO directions.

Where the Contractor and Associate Contractors are required to collaborate to deliver a service; the Government will designate, in writing and prior to the definition of the task, to both Contractors, a "lead Contractor" for the project. In these cases, the Associate Contractors shall also be contractually required to coordinate and collaborate with the Contractor. TSA will facilitate the mutual execution of Non-Disclosure Agreements.

L. **PERSONAL SERVICES.**

"Personal services" are those in which contractor personnel would appear to be, in effect, Government employees via the direct supervision and oversight by Government employees. No personal services shall be performed under this contract. No Contractor employee will be directly supervised by a Government employee. All individual Contractor employee assignments, and daily work direction, shall be given by the applicable employee supervisor of the Contractor. If the Contractor believes any Government action or communication has been given that would create a personal services relationship between the Government and any Contractor employee, the Contractor shall promptly notify the Contracting Officer of this communication or action.

The Contractor shall not perform any inherently Governmental actions as defined by FAR 7.500. No Contractor employee shall hold him or herself out to be a Government employee, agent, or representative. No Contractor employee shall state orally or in writing at any time that he or she is acting on behalf of the Government. In all communications in connection with this contract, Contractor employees shall identify themselves as Contractor employees and specify the name of the company for which they work. In all communications with other Government Contractors in connection with this contract, the Contractor employee shall state that they have no authority to in any way change any contract and that if the other Contractor believes this communication to be a direction to change their contract, they should notify the Contracting Officer for that contract and not carry out the direction until a clarification has been issued by the Contracting Officer.

The Contractor shall ensure that all of its employees working on this contract are informed of the substance of this term. Nothing in this special contract requirement shall limit the Government's rights in any way under any other term of the contract, including those related to the Government's right to inspect and accept the services to be performed under this contract. The substance of this special contract requirement shall be included in all subcontracts at any tier.

Compliance with this Special Contract Requirement is included in the contract price and shall not be a basis for equitable adjustment.

(End of term)

3.24 CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM (CPARS)

5200.242.004 Contractor Performance Assessment Reporting System (CPARS) (Jan 2017)

In accordance with FAR 42.15, the Transportation Security Administration (TSA) is required to report the contractor's performance under contract. The TSA reporting thresholds, in accordance with the Department of Homeland Security's (DHS) FAR class deviation, is $1,000,000 for contracts and orders for services, and $500,000 for contracts and orders for supplies.

In order to support thorough and timely Contractor Performance Assessment Reporting System (CPARS) reports, the contractor shall provide a self-assessment of their performance within 10 days after the end of the base period and within 10 days after the end of any exercised option period(s) of the contract. The contractor shall provide a detailed narrative for each of the relevant evaluation areas (Quality, Schedule, Cost Control, Management, Utilization of Small Business, and Regulatory Compliance). The contractor may also provide their own self-assessment rating (Exceptional, Very Good, Satisfactory, Marginal or Unsatisfactory) per FAR Table 42-1 for each area for Government consideration.

The following are elements to be addressed in each area in order to support the narrative and any self-rating:

- Quality: Requirements; conformance to specifications; workmanship; accurate reports/data.
- Schedule: Milestones; delivery schedules; administrative requirements; schedule variance.
- Cost Control: Causes and contractor-proposed solutions for cost overruns/underruns; contractor adherence to total estimated cost; billings current, accurate, and complete. (Not required to be addressed for Fixed Price type contracts unless specifically required elsewhere in the contract)
- Management: Contractor oriented toward customer; interaction between contractor and Government; adequacy of the contractor's accounting, billing, estimating systems and management of Government Furnished Property (GFP); effort devoted to managing subcontractors; risk management practices; supporting key personnel; replace key personnel as necessary.
- Utilization of Small Business: Small business participation goals stated in contractor/order; achievement on each individual goal stated within contract/order or subcontracting plan including good faith efforts if goal was not achieved.
- Regulatory Compliance: Contractor complied with contract clause requirements; complied with reporting requirements; complied with Quality Assurance Surveillance Plan (QASP); complied with specifications, reporting into databases as required under the contract, and reporting requirements in response to the solicitation provisions and clauses effective under the contract, or other requirements.
- The contractor should utilize the Guidance for the Contractor Performance Assessment Reporting System (CPARS) located on the CPARS website, https://www.cpars.gov/, to assist in preparation of the self-evaluation. The contractor shall submit their self-evaluation, preferably via email, as a MS Word or other Office compatible document to the Contracting Officer and Contracting Officer's Representative (COR) identified in the contract within the time period identified above. Standard USPS mail may also be utilized, if required. The TSA may consider the contractor's self-assessment, along with all available relevant data and information, when completing the contractor's past performance evaluation for each specific performance period. Submission of a contractor's self-evaluation is considered information regarding the contractor's performance and may not represent the final CPARS rating. Submission of this contractor self-assessment to the Government does not otherwise alter, change, or diminish any rights of the Government as expressed under Federal Acquisition Regulation Part 42 concerning the use of past performance information about any contractual vehicle.

(End of term)

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3.25 NOTICE TO OFFERORS/CONTRACTORS CONCERNING TRADE AGREEMENTS TERMS APPLICABILITY TO THE TRANSPORTATION SECURITY ADMINISTRATION

5200.225.001 Notice to Offerors/Contractors Concerning Trade Agreements Terms Applicability to the Transportation Security Administration (September 2018)

A. With respect to the following Federal Acquisition Regulation (FAR) provisions and clauses listed directly below (which the Contracting Officer has included herein as applicable):

FAR 52.225-5 "Trade Agreements,"

FAR 52.225-6 "Trade Agreements Certificate,"

Offerors are hereby notified that the TSA is subject to the World Trade Organization Government Procurement Agreement and the countries it includes as presently defined in FAR 25.003. Otherwise, the only other trade agreements that presently cover the TSA are the North American Free Trade Agreement and the U.S.-Chile Free Trade Agreement. Offerors must analyze their intended offerings proposals and provide information in response to the required FAR 52.225- series provisions accordingly.

The European Union participation is as defined at http://www.wto.org/english/thewto_e/countries_e/european_communities_e.htm

B. In applying the Buy American Act, the Transportation Security Administration advises offerors that, as it affects Federal Acquisition Regulation (FAR) Sub-part 25.4 "Trade Agreements" requirements and the associated contract clauses and provisions at:

FAR 52.225-5 "Trade Agreements,"

FAR 52.225-6 "Trade Agreements Certificate,"

Only domestic products or products from Canada, Mexico, and/or Chile which can be treated as a "eligible product" as defined in FAR 25.003 due to the sole applicability, respectively, of the North American Free Trade Agreement and the U.S.-Chile Free Trade Agreement are acceptable for offer under a solicitation or delivery under a contract that specifies the delivery of products in the Federal Supply Class (FSC) code 8300 series "Textiles, Leathers, Furs, Apparel and Shoes, Tents and Flags" and the FSC 8400 series "Clothing and Individual Equipment."

(End of term)

3.26 Notification to Offerors of Contractor Support of the Selection Process

5200.209.005 Notification to Offerors of Contractor Support of the Selection Process (Jul 2018)

A. Offerors are advised that employees of the firms identified below may serve as Source Selection Organization members or provide other support in the source selection process. These individuals will be authorized access to only those portions of proposal data and discussions that are necessary to enable them to perform their respective duties. Such firms are expressly prohibited from competing on the subject acquisition, from rating of proposals or recommending the selection of a source, and from revealing who the competing firms are to anyone without a valid need-to-know.

Legal Business Name(s) of Firm(s): Determined at Order Level

Current Address of Firm (Official Street, City, State, Zip Code and Telephone #): Determined at Order Level

B. In accomplishing their duties related to the source selection process, the aforementioned firms may require access to proprietary information contained in the offerors' proposals. Therefore, pursuant

to FAR 9.505-4, these firms must execute an agreement with each Offeror that states that they will: (1) protect the offerors information from unauthorized use or disclosure for as long as it remains proprietary, and (2) refrain from using the information for any purpose other than that for which it was furnished. To expedite the evaluation process, each Offeror must contact the above companies to effect execution of such an agreement prior to submission of proposals. Each Offeror shall submit copies of the agreement with their proposal.

(End of term)

3.27 CONTRACT TERMS AND CONDITIONS APPLICABLE TO DHS ACQUISITION OF COMMERCIAL ITEMS

3052.212-70 CONTRACT TERMS AND CONDITIONS APPLICABLE TO DHS ACQUISITION OF COMMERCIAL ITEMS (SEP 2012)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

(a) *Provisions*.
_x___3052.209-72 Organizational Conflicts of Interest.

____3052.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause.

____3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.
(b) *Clauses*.
__x__3052.203-70 Instructions for Contractor Disclosure of Violations.
__x__3052.204-70 Security Requirements for Unclassified Information Technology Resources.
__x__3052.204-71 Contractor Employee Access.
____Alternate I
__x__3052.205-70 Advertisement, Publicizing Awards, and Releases.
____3052.209-73 Limitation on Future Contracting.

____3052.215-70 Key Personnel or Facilities.

____3052.216-71 Determination of Award Fee.

____3052.216-72 Performance Evaluation Plan.

____3052.216-73 Distribution of Award Fee.

____3052.217-91 Performance. (USCG)

____3052.217-92 Inspection and Manner of Doing Work. (USCG)

____3052.217-93 Subcontracts. (USCG)

____3052.217-94 Lay Days. (USCG)

____3052.217-95 Liability and Insurance. (USCG)

____3052.217-96 Title. (USCG)

____3052.217-97 Discharge of Liens. (USCG)

____3052.217-98 Delays. (USCG)

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____3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)

____3052.217-100 Guarantee. (USCG)

____3052.219-70 Small Business Subcontracting Plan Reporting.

____3052.219-71 DHS Mentor Protégé Program.

__x__3052.228-70 Insurance.

____3052.228-90 Notification of Miller Act Payment Bond Protection. (USCG)

____3052.228-91 Loss of or Damage to Leased Aircraft. (USCG)

____3052.228-92 Fair Market Value of Aircraft. (USCG)

____3052.228-93 Risk and Indemnities. (USCG)

__x__3052.236-70 Special Provisions for Work at Operating Airports.

__x__3052.242-72 Contracting Officer's Technical Representative.

____3052.247-70 F.o.B. Origin Information.

____Alternate I

____Alternate II

____3052.247-71 F.o.B. Origin Only.
__x__3052.247-72 F.o.B. Destination Only.

(End of clause)

PART IV SOLICITATION DOCUMENTS, EXHIBITS, OR ATTACHMENTS

4.1 ATTACHMENTS

Attachment	Title
A	BOA SOW

PART V SOLICITATION PROVISIONS

5.1 AVAILABILITY OF INTERNAL APPEAL PROCESS

5200.233.001 Availability of Internal Appeal Process Per FAR 33.103 (JUNE 2017)

In the event of receipt of the Contracting Officer's final decision of an agency-level protest in accordance with Federal Acquisition Regulation 33.103, the offeror is hereby advised that an appeal process is available from within the agency. The Assistant Administrator of the Office of Contracting and Procurement in the Transportation Security Administration is the independent appeal authority. All appeals must be submitted in writing and signed by a company official who is authorized to commit the company and contain the same elements required in FAR 33.103(d) as well as an explanation of the Contracting Officer's decision (and copy of such decision). Appeals must be sent either in writing or

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via email to Transportation Security Administration, ATTN: APPEAL OF AGENCY PROTEST, Office of Contracting and Procurement, 601 S. 12th Street, Arlington, VA 20598-6025 , or via email to TSAProcurementPolicy@tsa.dhs.gov. The subject line for the email should clearly indicate "APPEAL OF AGENCY PROTEST".

(End of provision)

5.2 PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES

3052.209-70 Prohibition on Contracts with Corporate Expatriates (Jun 2006)

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

(b) Definitions. As used in this clause:

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

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986. Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Treatment of Certain Rights.

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

(i) warrants;

(ii) options;

(iii) contracts to acquire stock;

(iv) convertible debt instruments; and

(v) others similar interests.

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

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

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

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

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

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

(End of provision)

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