

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEM**  
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER: REQ-4200-10-0057  
 PAGE OF: 1 OF 16  
 2. CONTRACT NO.: CPSC-S-10-0086  
 3. AWARD/EFFECTIVE DATE: 08/05/2010  
 4. ORDER NUMBER  
 5. SOLICITATION NUMBER  
 6. SOLICITATION ISSUE DATE

7. FOR SOLICITATION INFORMATION CALL: Germaine Myles  
 b. NAME: Germaine Myles  
 d. TELEPHONE NUMBER (No collect calls): (301) 504-7669  
 8. OFFER DUE DATE/LOCAL TIME

9. ISSUED BY: CONSUMER PRODUCT SAFETY COMMISSION  
 DIV OF PROCUREMENT SERVICES  
 4330 EAST WEST HWY  
 ROOM 517  
 BETHESDA MD 20814  
 CODE: FMPS  
 10. THIS ACQUISITION IS:  
 UNRESTRICTED OR  
 SET ASIDE: % FOR:  
 SMALL BUSINESS  
 EMERGING SMALL BUSINESS  
 NAICS:  HUBZONE SMALL BUSINESS  
 SOLE SOURCE  
 SIZE STANDARD:  SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS  
 8(A)

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED  
 SEE SCHEDULE  
 12. DISCOUNT TERMS: Net 30  
 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)  
 13b. RATING  
 14. METHOD OF SOLICITATION:  
 RFQ  IFB  RFP

15. DELIVER TO: CONSUMER PRODUCT SAFETY COMMISSION  
 DIRECTORATE FOR LABORATORY SCIENCES  
 10901 DARNESTOWN ROAD  
 GAITHERSBURG MD 20878  
 CODE: LS  
 18. ADMINISTERED BY: CONSUMER PRODUCT SAFETY COMMISSION  
 DIV OF PROCUREMENT SERVICES  
 4330 EAST WEST HWY  
 ROOM 517  
 BETHESDA MD 20814  
 CODE: FMPS

17a. CONTRACTOR/OFFEROR: NATIONAL INSTRUMENTS CORPORATION  
 ATTN CUSTOMER SERVICE  
 11500 N MOPAC EXPY BLDG B  
 AUSTIN TX 78759-3563  
 CODE: [REDACTED] FACILITY CODE:  
 18a. PAYMENT WILL BE MADE BY: CONSUMER PRODUCT SAFETY COMMISSION  
 DIVISION OF FINANCIAL SERVICES  
 4330 EAST WEST HWY  
 ROOM 522  
 BETHESDA MD 20814  
 CODE: FMFS  
 TELEPHONE NO.: (800) 433-3488

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER  
 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED  SEE ADDENDUM

| 19<br>ITEM NO. | 20.<br>SCHEDULE OF SUPPLIES/SERVICES  | 21.<br>QUANTITY | 22.<br>UNIT | 23.<br>UNIT PRICE | 24.<br>AMOUNT |
|----------------|---|-----------------|-------------|-------------------|---------------|
|                | DUNS Number: [REDACTED]<br>The contractor shall provide all necessary personnel, materials and equipment to conduct five (5) days on-site training to the U.S. Consumer Product Safety Commission (CPSC) for twelve (12) people as indicated below:<br><br>Quote #1357014 |                 |             |                   |               |
| 0001           | PART NUMBER 910795-21 LABVIEW CORE 1 (Ons)<br>Continued ...<br>(Use Reverse and/or Attach Additional Sheets as Necessary)   | 1               | LO          | 10,800.00         | 10,800.00     |

25. ACCOUNTING AND APPROPRIATION DATA: 0100A10DCC-2010-9992100000-EXHRTR4200-252L0  
 26. TOTAL AWARD AMOUNT (For Govt. Use Only): \$18,000.00

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED.  
 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED.

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.  
 29. AWARD OF CONTRACT REF. Quote 1357014 OFFER DATED 07/15/2010. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR  
 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)  
 30b. NAME AND TITLE OF SIGNER (Type or print)  
 30c. DATE SIGNED  
 31b. NAME OF CONTRACTING OFFICER (Type or print): Rudi M. Johnson  
 31c. DATE SIGNED: 8/16/2010

| 19.<br>ITEM NO. | 20.<br>SCHEDULE OF SUPPLIES/SERVICES   | 21.<br>QUANTITY | 22.<br>UNIT | 23.<br>UNIT PRICE | 24.<br>AMOUNT |
|-----------------|--|-----------------|-------------|-------------------|---------------|
| 0002            | <p>12 Students</p> <p>PART NUMBER 910796-21 LABVIEW CORE 2 (Ons)</p> <p>12 Students</p> <p>The course date shall be scheduled and mutually agreed upon between the government and the contractor. The course shall be conducted no later than September 30, 2010.</p> <p>The total amount of award: \$18,000.00. The obligation for this award is shown in box 26.</p> | 1               | LO          | 7,200.00          | 7,200.00      |

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED     INSPECTED     NOTED: \_\_\_\_\_

ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS

|  |                        |   |  |                       |
|--|------------------------|---|--|-----------------------|
| 32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE                             | 32c. DATE              | 32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE |  |                       |
| 32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE                       |                        | 32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE       |  |                       |
|  |                        | 32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE                 |  |                       |
| 33. SHIP NUMBER<br><input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | 34. VOUCHER NUMBER     | 35. AMOUNT VERIFIED CORRECT FOR                                     | 36. PAYMENT<br><input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | 37. CHECK NUMBER      |
| 38. S/R ACCOUNT NUMBER   | 39. S/R VOUCHER NUMBER | 40. PAID BY   |  |                       |
| 41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT                      |                        | 42a. RECEIVED BY ( <i>Print</i> )                                   |  |                       |
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER                                     |                        | 41c. DATE   | 42b. RECEIVED AT ( <i>Location</i> )   |                       |
|  |                        |   | 42c. DATE REC'D ( <i>YY/MM/DD</i> )  | 42d. TOTAL CONTAINERS |

LC 1B CONTRACTOR'S NOTE - DELIVERIES TO THE CPSC LABORATORY SITE,  
GAITHERSBURG, MARYLAND

Delivery Address:

Directorate for Laboratory Sciences  
U.S. Consumer Product Safety Commission  
10901 Darnestown Rd. (MD route 28)  
Gaithersburg, MD 20878  
301-424-6421, x101 (main reception)

The Consumer Product Safety Commission (CPSC) Laboratories are located in Gaithersburg, MD. The entrance to the Laboratory site is protected by a security gate, which is normally closed during business hours. If the gate is closed, use the intercom box at the gate to request entry. **All visitors must report to Building B**, which is adjacent to the main parking lot.

Deliveries may not be left outside any building or loading dock, unless specifically directed by appropriate CPSC staff. All deliveries shall be considered "inside deliveries" to the appropriate building in accordance with the instructions below. When scheduling deliveries, the purchase order number shall always be referenced and all packages shall clearly display the Purchase Order Number on the outside of the cartons and/or packages and include the packing slip.

ATTENTION GOVERNMENT VENDOR:

a. DELIVERY INSTRUCTION FOR SMALL ITEMS

Small packages may be delivered to Building B. Deliveries should be made between 9:00 a.m. and 4:00 p.m. on Monday through Friday (except holidays). Deliveries outside these hours require prior arrangements.

Contacts:

Sondra Adkins, Secretary, 301-424-6421, x101  
OR  
Andrew Stadnik, Lab Director, 301-424-6421, x131

b. DELIVERY INSTRUCTIONS FOR LARGE OR HEAVY ITEMS:

Large or heavy items must be delivered directly to the appropriate building, after checking in at Building B. Deliveries of large or heavy items should be scheduled 24 hours in advance and should be made between 9:00 a.m. and 4:00 p.m. on Monday through Friday (except holidays). Contact information is the same as above.

c. SAMPLE STORAGE FACILITY

Deliveries which indicate the Sample Storage Facility or Building I, should be made between 9:00 a.m. and 4:00 p.m. on Monday through Friday (except holidays).

Contacts:

Ralph King, Sample Custodian, 301-424-6421 x 155  
Iris Parks, Director, Division of Administrative Services, 301-504-7078  
OR if not available  
Sondra Adkins, Secretary, 301-424-6421, x101  
OR  
Andrew Stadnik, Lab Director, 301-424-6421, x131

d. **BILLING INSTRUCTIONS:** At a minimum, each invoice shall include:

1. The name and address of the business concern (and separate remittance address, if applicable).

Taxpayer Identification Number (TIN).

Invoice date (use of invoice number in addition to invoice date is prudent but not required).

The contract or purchase order number (see block 2 of OF347 or block 4 of SF1449 on page 1 of this order), or other authorization for delivery of goods or services.

Description, price and quantity of goods or services actually delivered or rendered.

Shipping cost terms (if applicable).

Payment terms.

All vendors must include the following information when invoicing for payment: ACH Vendor Information which includes the financial Institution, routing transit number, and depositor account number. In addition please specify whether the account is a checking account or savings account.

Other substantiating documentation or information as specified in the contract or purchase order.

Name (where practicable), title, phone number and mailing address of responsible official to be notified in the event of a deficient invoice.

e. **ORIGINAL VOUCHERS/INVOICES SHALL BE SENT TO the PAYMENT ADDRESS** indicated on page one of this document.

Invoices not submitted in accordance with the above stated minimum requirements will not be processed for payment. Deficient invoices will be returned to the vendor within seven days or sooner. Standard forms 1034 and 1035 will be furnished by CPSC upon request of the contractor. Inquiries regarding payment should be directed to the Finance Office at 301-504-7172 or 301-504-7130.

**f. ALL OTHER INFORMATION RELATING TO THE PURCHASE ORDER**

Contact: Germaine Myles at (301) 504-7669

**g. PROCESSING INSTRUCTIONS FOR REQUESTING OFFICES**

The Purchase Order/Receiving Report (Optional Form 347 or Standard Form 1449) must be completed at the time the ordered goods or services are received. Upon receipt of the goods or services ordered, each item should be inspected, accepted (partial or final) or rejected. The Purchase Order/Receiving Report must be appropriately completed, signed and dated by the authorized receiving official. In addition, the acceptance block shall be completed (Blocks 32 a, b & c on the SF 1449 and column G and page 2 of the OF 347). The receiving report shall be retained by the requesting office for confirmation when certifying invoices.

**h. PROPERTY/EQUIPMENT PURCHASES**

In the case of Purchase Orders/Receiving Reports involving the purchase and receipt of property/equipment, a copy of the Purchase Order/Receiving Report must also be immediately forwarded directly to the Property Management Officer in the Division of Administrative Services. The transmittal of Purchase Orders/Receiving Reports to the property management officer is critical to the integrity and operation of CPSC's Property Management System. Receiving officials should also forward copies to their local property officer/property custodian consistent with local office procedures.

## **j. Directions to the U.S. Consumer Product Safety Commission Laboratory**

From the East – Silver Spring/Prince Georges County

Take the Beltway, Rt. 495, outer loop, toward Baltimore, Bethesda, Frederick.  
Take Rt 270 north toward Frederick, Maryland  
At Rt. 270, take exit 6 and go west on Darnestown Rd./Rt. 28  
At the 3<sup>rd</sup> traffic light, turn left on Darnestown Road.  
Continue west to the traffic light at the Key West Blvd. intersection. Turn left.  
Pass straight through the traffic light at Muddy Branch Road.  
The second right turn has a sign “U.S. Consumer Product Safety Commission Laboratory.”  
Turn right and proceed to the parking lot.  
Report to the lobby of the second building, Building B.

From the North, Frederick, Maryland

Take Rt. 270 south to exit 6 west, Darnestown Rd/Rt 28.  
Turn right at the light.  
At the second traffic light turn left on Darnestown Road.  
Continue west to the traffic light at the Key West Blvd. intersection, turn left.  
Pass straight through the traffic light at Muddy Branch road.  
The second right turn has a sign “U.S. Consumer Product Safety Commission Laboratory.”  
Turn right and proceed to the parking lot.  
Report to the lobby of the second building, Building B.

From the West (Fairfax County/Northern Virginia)

Take 495 Capital Beltway to Maryland  
At the 270/495 divide, bear left to take 270 North.  
Take Rt 270 north toward Frederick, Maryland  
At Rt. 270, exit 6 go west on Darnestown Rd./Rt. 28  
At the 3<sup>rd</sup> traffic light, turn left on Darnestown Road.  
Continue west to the traffic light at the Key West Blvd. intersection. Turn left.  
Pass straight through the traffic light at Muddy Branch Road.  
The second right turn has a sign “U.S. Consumer Product Safety Commission Laboratory.”  
Turn right and proceed to the parking lot.  
Report to the lobby of the second building, Building B.

### **From CPSC Headquarters**

From the main entrance of Bethesda Towers, turn left on East-West Highway, then right on Wisconsin Ave. (route 355 North).  
After passing the National Institutes of Health and Pooks Hill Road, take I-270 North (Frederick), which is the second left after Pooks Hill Road.  
Take exit 6 go west on Darnestown Road (route 28).  
At the 3<sup>rd</sup> traffic light, turn left on Darnestown Road.  
Continue west to the traffic light at the Key West Boulevard intersection. Turn left.  
Pass straight through the traffic light at Muddy Branch Road. Stay in the right lane, which ends just after our entrance.  
The second right turn has a sign “U.S. Consumer Product Safety Commission Laboratory.”  
Turn right and proceed to the parking lot.  
Report to the lobby of the second building, Building B.

**52.212-4 Contract Terms and Conditions - Commercial Items. (JUN 2010)**

(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 reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance 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 Governmentwide 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 the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). 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, contract 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.

(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--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), 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 contract 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 provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), 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 as 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 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. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 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, and Compliance with Laws Unique to Government Contracts 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) Central Contractor Registration (CCR). (1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures

specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

**52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders--Commercial Items. (JUL 2010)**

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

- (1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).
- (2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

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

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

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

[ ](4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2010) (Pub. L. 109-282)(31 U.S.C. 6101 note).

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

(6) 52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999) (15 U.S.C. 657a).

(7) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(8) (Reserved)

(9)(i) 52.219-6, Notice of Total Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).

(ii) Alternate I (OCT 1995) of 52.219-6.

(iii) Alternate II (MAR 2004) of 52.219-6.

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

(ii) Alternate I (OCT 1995) of 52.219-7.

(iii) Alternate II (MAR 2004) of 52.219-7.

(11) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d)(2) and (3)).

(12)(i) 52.219-9, Small Business Subcontracting Plan (JUL 2010) (15 U.S.C. 637(d)(4)).

(ii) Alternate I (OCT 2001) of 52.219-9.

(iii) Alternate II (OCT 2001) of 52.219-9.

(iv) Alternate III (JUL 2010) of 52.219-9.

(13) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).

(14) 52.219-16, Liquidated Damages--Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).

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

(ii) Alternate I (JUN 2003) of 52.219-23.

(16) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (APR 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(17) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

(18) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (MAY 2004)(15 U.S.C. 657 f).

(19) 52.219-28, Post Award Small Business Program Rerepresentation (APR 2009) (15 U.S.C. 632(a)(2)).

(20) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).

(21) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (JUL 2010) (E.O. 13126).

(22) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).

(23) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(24) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).

(25) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(26) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).

(27) 52.222-54, Employment Eligibility Verification (JAN 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

(28)(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.)

(29) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

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

(ii) Alternate I (DEC 2007) of 52.223-16.

(31) 52.225-1, Buy American Act - Supplies (FEB 2009) (41 U.S.C. 10a-10d).

(32)(i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (JUN 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

(ii) Alternate I (JAN 2004) of 52.225-3.

(iii) Alternate II (JAN 2004) of 52.225-3.

(33) 52.225-5, Trade Agreements (AUG 2009) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

(34) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s,

proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(35) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).

(36) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).

(37) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(38) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(39) 52.232-33, Payment by Electronic Funds Transfer - Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).

(40) 52.232-34, Payment by Electronic Funds Transfer - Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).

(41) 52.232-36, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).

(42) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

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

(ii) Alternate I (APR 2003) of 52.247-64.

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

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

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

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

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

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

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

(7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247).

[ ](8) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

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

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

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

(ii) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) (Reserved)

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

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(vii) (Reserved)

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

seq.).

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

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

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

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

(xii) 52.222-54, Employment Eligibility Verification (JAN 2009).

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

(xiv) 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)