

U. S. Department of Homeland Security  
Immigration and Customs Enforcement  
HSCEDM-09-R-00003



Detention Services  
Seattle Area Contract Detention Facility

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<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1   50	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER HSCEDM-09-R-00003		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED 04/20/2009
7. ISSUED BY ICE/Detent Mngt/Detent Contract-LAG Immigration & Customs Enforcement OAQ Detention Management Laguna 24000 Avila Road, Room 3104 Laguna Niguel CA 92677		CODE ICE/DM/DC-LAGUNA		8. ADDRESS OFFER TO (If other than Item 7)		

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

**SOLICITATION**

9. Sealed offers in original and 8 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in \_\_\_\_\_ until \_\_\_\_\_ local time 05/29/2009  
(Hour) (Date)

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

<b>10. FOR INFORMATION CALL:</b>	A. NAME Rosemarie Mendoza	B. TELEPHONE (NO COLLECT CALLS)			C. E-MAIL ADDRESS rosemarie.mendoza@dhs.gov
	AREA CODE 949	NUMBER 425-7027	EXT.		

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(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
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<input checked="" type="checkbox"/>	A	SOLICITATION/CONTRACT FORM	1	<input checked="" type="checkbox"/>	I	CONTRACT CLAUSES	21
<input checked="" type="checkbox"/>	B	SUPPLIES OR SERVICES AND PRICES/COSTS	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.			
<input checked="" type="checkbox"/>	C	DESCRIPTION/SPECS./WORK STATEMENT	10	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS	37
<input checked="" type="checkbox"/>	D	PACKAGING AND MARKING	14	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
<input checked="" type="checkbox"/>	E	INSPECTION AND ACCEPTANCE	15	<input checked="" type="checkbox"/>	K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	38
<input checked="" type="checkbox"/>	F	DELIVERIES OR PERFORMANCE	16	<input checked="" type="checkbox"/>	L	INSTRS., CONDS., AND NOTICES TO OFFERORS	40
<input checked="" type="checkbox"/>	G	CONTRACT ADMINISTRATION DATA	17	<input checked="" type="checkbox"/>	M	EVALUATION FACTORS FOR AWARD	47
<input checked="" type="checkbox"/>	H	SPECIAL CONTRACT REQUIREMENTS	19				

**OFFER (Must be fully completed by offeror)**

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

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

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

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

15B. TELEPHONE NUMBER	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
AREA CODE NUMBER EXT.	<input type="checkbox"/>		

**AWARD (To be completed by government)**

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

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

**CONTINUATION SHEET**

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	FOB: Destination  ----- BASE PERIOD:  The Period of Performance shall commence upon the start date specified in the Notice to Proceed and continue for a period of one year.				
0001	DETENTION SERVICES IAW THE PERFORMANCE WORK STATEMENT (Estimated 1575 bed capacity)  The Government's minimum quantity of 431,065 bed-days (1,181 beds multiplied by 365 days/year) and maximum quantity of 574,875 bed-days (1575 beds multiplied by 365 days/year) to be ordered via task order.				
0001A	Bed-day rate for 1 - 1181 beds-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	431065	DA		
0001B	Bed-day rate for quantities in excess of 1181 bed-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	143810	DA		
0002	TRANSPORTATION SERVICES IAW THE PERFORMANCE WORK STATEMENT				
0002A	Labor Hours for Transportation Services Estimated quantity is based on fully burdened labor hours. Unit of Issue of HR is equivalent to Hour.	143104	HR		
0002B	Mileage Rate (40-48 Passenger Vehicles) Estimated quantity is based on a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Unit of Issue DH is equivalent to Mile.	371410	DH		
0002C	Mileage Rate (less than 40 Passenger Vehicles) This is a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Estimated quantity per year. Unit of Issue DH is equivalent to Mile.	1114230	DH		
	Continued ...				

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
0002D	Estimated Travel Cost inclusive of Lodging and Meals & Incidental Expenses (MI&E) for Detention Officers exceeding the standard working hours. Cost is based on actual charges per occurrence, not to exceed the allowable Federal Travel Regulation rates/costs in effect on the dates of travel. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. This is a Not-To-Exceed of \$36,000.00. Unit of Issue LO is equivalent to Lot.	1	LO		
0002E	OVERTIME Overtime must be pre-approved by the Government and tracked by the contractor (including name of approver, hours approved, and date of approval). Overtime hours not used in any base or option period will not roll over to the next performance period. The contractor shall not exceed the amount shown without prior approval by the Contracting Officer.	14310	HR		
0003	Detainee Volunteer Wages for the Detainee Work Program. Reimbursement for this line item will be at the actual cost of \$1.00 per day per detainee. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. Unit of Issue LO is equivalent to Lot.	1	LO		
	----- OPTION PERIOD ONE: The Period of Performance shall commence upon the expiration of the base period and extend for a period of one year.				
1001	DETENTION SERVICES IAW THE PERFORMANCE WORK STATEMENT (Estimated 1575 bed capacity)  The Government's minimum quantity of 431,065 bed-days (1,181 beds multiplied by 365 days/year) and maximum quantity of 574,875 bed-days (1575 beds multiplied by 365 days/year) to be ordered via task order.				
1001A	Bed-day rate for 1 - 1181 beds-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	431065	DA		
1001B	Bed-day rate for quantities in excess of 1181 bed-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day. Continued ...	143810	DA		

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
1002	TRANSPORTATION SERVICES IAW THE PERFORMANCE WORK STATEMENT.				
1002A	Labor Hours for Transportation Services Estimated quantity is based on fully burdened labor hours. Unit of Issue of HR is equivalent to Hour.	143104	HR		
1002B	Mileage Rate (40-48 Passenger Vehicles) Estimated quantity is based on a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Unit of Issue DH is equivalent to Mile.	371410	DH		
1002C	Mileage Rate (less than 40 Passenger Vehicles) This is a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Estimated quantity per year. Unit of Issue DH is equivalent to Mile.	1114230	DH		
1002D	Estimated Travel Cost inclusive of Lodging and Meals & Incidental Expenses (MI&E) for Detention Officers exceeding the standard working hours. Cost is based on actual charges per occurrence, not to exceed the allowable Federal Travel Regulation rates/costs in effect on the dates of travel. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. This is a Not-To-Exceed of \$36,000.00. Unit of Issue LO is equivalent to Lot.	1	LO		
1002E	OVERTIME Overtime must be pre-approved by the Government and tracked by the contractor (including name of approver, hours approved, and date of approval). Overtime hours not used in any base or option period will not roll over to the next performance period. The contractor shall not exceed the amount shown without prior approval by the Contracting Officer.	14310	HR		
1003	Detainee Volunteer Wages for the Detainee Work Program. Reimbursement for this line item will be at the actual cost of \$1.00 per day per detainee. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. Continued ...	1	LO		

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	Officer. Unit of Issue LO is equivalent to Lot.  ----- OPTION PERIOD TWO: The Period of Performance shall commence upon the expiration of Option Period One and extend for a period of one year.				
2001	DETENTION SERVICES IAW THE PERFORMANCE WORK STATEMENT (Estimated 1575 bed capacity)  The Government's minimum quantity of 431,065 bed-days (1,181 beds multiplied by 365 days/year) and maximum quantity of 574,875 bed-days (1575 beds multiplied by 365 days/year) to be ordered via task order.				
2001A	Bed-day rate for 1 - 1181 beds-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	431065	DA		
2001B	Bed-day rate for quantities in excess of 1181 bed-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	143810	DA		
2002	TRANSPORTATION SERVICES IAW THE PERFORMANCE WORK STATEMENT.				
2002A	Labor Hours for Transportation Services Estimated quantity is based on fully burdened labor hours. Unit of Issue of HR is equivalent to Hour.	143104	HR		
2002B	Mileage Rate (40-48 Passenger Vehicles) Estimated quantity is based on a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Unit of Issue DH is equivalent to Mile.	371410	DH		
2002C	Mileage Rate (less than 40 Passenger Vehicles) This is a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Estimated quantity per year. Unit of Issue DH is equivalent to Mile.	1114230	DH		
2002D	Estimated Travel Cost inclusive of Lodging and Meals & Incidental Expenses (MI&E) for Detention Continued ...	1	LO		

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
2002E	<p>Officers exceeding the standard working hours. Cost is based on actual charges per occurrence, not to exceed the allowable Federal Travel Regulation rates/costs in effect on the dates of travel. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. This is a Not-To-Exceed of \$36,000.00. Unit of Issue LO is equivalent to Lot.</p> <p>OVERTIME Overtime must be pre-approved by the Government and tracked by the contractor (including name of approver, hours approved, and date of approval). Overtime hours not used in any base or option period will not roll over to the next performance period. The contractor shall not exceed the amount shown without prior approval by the Contracting Officer.</p>	14310	HR		
2003	<p>Detainee Volunteer Wages for the Detainee Work Program. Reimbursement for this line item will be at the actual cost of \$1.00 per day per detainee. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. Unit of Issue LO is equivalent to Lot.</p>	1	LO		
3001	<p>----- OPTION PERIOD THREE: The Period of Performance shall commence upon the expiration of Option Period Two and extend for a period of one year.</p> <p>DETENTION SERVICES IAW THE PERFORMANCE WORK STATEMENT (Estimated 1575 bed capacity)</p> <p>The Government's minimum quantity of 431,065 bed-days (1,181 beds multiplied by 365 days/year) and maximum quantity of 574,875 bed-days (1575 beds multiplied by 365 days/year) to be ordered via task order.</p>				
3001A	<p>Bed-day rate for 1 - 1181 beds-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.</p>	431065	DA		
3001B	<p>Bed-day rate for quantities in excess of 1181 bed-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.</p> <p>Continued ...</p>	143810	DA		



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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
3002	TRANSPORTATION SERVICES IAW THE PERFORMANCE WORK STATEMENT.				
3002A	Labor Hours for Transportation Services Estimated quantity is based on fully burdened labor hours. Unit of Issue of HR is equivalent to Hour.	143104	HR		
3002B	Mileage Rate (40-48 Passenger Vehicles) Estimated quantity is based on a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Unit of Issue DH is equivalent to Mile.	371410	DH		
3002C	Mileage Rate (less than 40 Passenger Vehicles) This is a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Estimated quantity per year. Unit of Issue DH is equivalent to Mile.	1114230	DH		
3002D	Estimated Travel Cost inclusive of Lodging and Meals & Incidental Expenses (MI&E) for Detention Officers exceeding the standard working hours. Cost is based on actual charges per occurrence, not to exceed the allowable Federal Travel Regulation rates/costs in effect on the dates of travel. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. This is a Not-To-Exceed of \$36,000.00. Unit of Issue LO is equivalent to Lot.	1	LO		
3002E	OVERTIME Overtime must be pre-approved by the Government and tracked by the contractor (including name of approver, hours approved, and date of approval). Overtime hours not used in any base or option period will not roll over to the next performance period. The contractor shall not exceed the amount shown without prior approval by the Contracting Officer.	14310	HR		
3003	Detainee Volunteer Wages for the Detainee Work Program. Reimbursement for this line item will be at the actual cost of \$1.00 per day per detainee. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. Unit of Issue LO is equivalent to Lot. Continued ...	1	LO		

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	----- OPTION PERIOD FOUR: The Period of Performance shall commence upon the expiration of Option Period Three and extend for a period of one year.				
4001	DETENTION SERVICES IAW THE PERFORMANCE WORK STATEMENT (Estimated 1575 bed capacity)  The Government's minimum quantity of 431,065 bed-days (1,181 beds multiplied by 365 days/year) and maximum quantity of 574,875 bed-days (1575 beds multiplied by 365 days/year) to be ordered via task order.				
4001A	Bed-day rate for 1 - 1181 beds-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	431065	DA		
4001B	Bed-day rate for quantities in excess of 1181 bed-days. This is a fully burdened rate. Unit of Issue DA is equivalent to Bed-Day.	143810	DA		
4002C	Mileage Rate (less than 40 Passenger Vehicles) This is a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Estimated quantity per year. Unit of Issue DH is equivalent to Mile.	1114230	DH		
4002	TRANSPORTATION SERVICES IAW THE PERFORMANCE WORK STATEMENT.				
4002A	Labor Hours for Transportation Services Estimated quantity is based on fully burdened labor hours. Unit of Issue of HR is equivalent to Hour.	143104	HR		
4002B	Mileage Rate (40-48 Passenger Vehicles) Estimated quantity is based on a fully burdened rate inclusive of the mileage rate in accordance with GSA Federal Travel Regulation, equipment, maintenance and fuel costs. Unit of Issue DH is equivalent to Mile.	371410	DH		
4002D	Estimated Travel Cost inclusive of Lodging and Meals & Incidental Expenses (MI&E) for Detention Officers exceeding the standard working hours. Continued ...	1	LO		

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NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
4002E	<p>Cost is based on actual charges per occurrence, not to exceed the allowable Federal Travel Regulation rates/costs in effect on the dates of travel. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. This is a Not-To-Exceed of \$36,000.00. Unit of Issue LO is equivalent to Lot.</p> <p>OVERTIME Overtime must be pre-approved by the Government and tracked by the contractor (including name of approver, hours approved, and date of approval). Overtime hours not used in any base or option period will not roll over to the next performance period. The contractor shall not exceed the amount shown without prior approval by the Contracting Officer.</p>	14310	HR		
4003	<p>Detainee Volunteer Wages for the Detainee Work Program. Reimbursement for this line item will be at the actual cost of \$1.00 per day per detainee. Contractor shall not exceed the amount shown without prior approval by the Contracting Officer. Unit of Issue LO is equivalent to Lot.</p>	1	LO		

SECTION C – DESCRIPTION/SPECIFICATIONS

Statement of Objectives  
Detention Services  
Seattle Area Contract Detention Facility

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## **STATEMENT OF OBJECTIVES**

### **U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT DETENTION SERVICES**

#### **C.1 U. S. IMMIGRATION AND CUSTOMS ENFORCEMENT GOALS**

The United States Department of Homeland Security (DHS), U.S. Immigration & Customs Enforcement (ICE) is responsible for the detention, health, welfare, transportation and deportation of illegal aliens in removal proceedings, and aliens subject to final order of removal from the United States. ICE houses detainees in Contract Detention Facilities (CDF), Service Processing Centers (SPC), and other federal, state, local and private facilities.

#### **C.2 PURPOSE**

##### **C.2.1 ICE DRO Mission**

The mission of the Detention and Removal Operations Program (DRO) is the planning, management, and direction of broad programs relating to the supervision, detention and deportation of detainees who are in the United States illegally. These activities are chiefly concerned with the processing and enforcement of departure from the United States of detainees who have entered illegally or have become removable after admission.

In implementing its mission, DRO is responsible for carrying out all orders for the securing and departure activities of detainees who are designated in removal proceedings and for arranging for the detention of detainees when such becomes necessary and prescribed by law.

##### **C.2.2 Statement of Objectives**

This Statement of Objectives (SOO) is for performance-based services and applies to designated ICE solicitations and contracts for detention and transportation services at contractor-owned and contractor-owned facilities. This SOO sets forth the contract objectives and other relevant information that applies to solicitations and contracts that incorporate this SOO.

##### **C.2.3 Performance Work Statement**

This SOO and the relevant solicitation contain ICE-developed model performance work statements (PWS) that are germane to the designated location. The solicitation invites offerors to modify the sample PWS and propose a PWS that both complies with ICE operational and legal requirements and specifically correlates with the offeror's proposed solution. Accordingly, a final PWS will become a part of the resultant contract. See Section J-Attachment 1 for a sample PWS.

#### **C.3 CONTRACT OBJECTIVES – TOP LEVEL**

- C.3.1 A fully controlled, secured, safe and supervised facility and its detainees will be achieved, with no detainee escapes and no unauthorized entries.
- C.3.2 The staffing of fully trained, knowledgeable and responsive detention officers (armed/unarmed) and support personnel, including managers, who have proper security clearances and efficiently carry out the law enforcement and administrative duties required by the contract, laws and regulations.
- C.3.3 The timely acquiring and/or accomplishing of training, certifications, licenses, drug testing, uniforms, equipment, supplies and vehicles necessary to provide the full range of required detention and transportation services seven (7) days a week, twenty-four (24) hours per day throughout the contract period of performance.

## **C.4 SPECIFIC OBJECTIVES**

### **C.4.1 Facility Security and Control**

Each facility is fully guarded and controlled. Access and egress points are fully secured to ensure that no escapes and unauthorized entries occur. Records and reports are maintained and submitted in a timely and accurate manner. Detainee inspections, counts, handling and supervision are carried out in a timely, courteous and, if applicable, force-appropriate manner. Contraband will be secured, controlled, inventoried and timely reported to ICE, as prescribed under the applicable contract.

### **C.4.2 Health, Safety and Emergency**

The facility shall be fully compliant with all applicable health and safety codes and standards. Detainee supervision shall be effective so as to minimize and quickly stop disturbances. Medical services and responses to injuries and illness shall be prompt and provide the proper medical care and attention.

### **C.4.3 Property, Equipment, Supplies and Information**

Government-owned property, equipment, supplies and information shall be safeguarded, timely inventoried, and controlled, in accordance with applicable procedures. Firearm usage and storage at facilities shall be in accordance with ICE and state standards and licensing requirements. All valuables, whether Government-owned, contractor-owned, detainee-owned, or contraband, will be properly controlled, secured, managed and released or disposed of.

### **C.4.4 Contractor Employee Training**

The Contractor's employees satisfactorily complete all required training on schedule and properly perform their duties during the course of the contract period of performance. The employees' performance, reports, response to situations, and other duties are in accordance with the standards, procedures, and training that apply to the circumstances at hand.

## **C.5 PERFORMANCE MEASURES**

The following measures are applicable to this SOO and resultant PWS. The PWS may include additional objectives and measures that are relevant and specific to the site for which services are being acquired.

**C.5.1** All guard posts are staffed and patrols and inspections are accomplished in accordance with the contract and applicable standards. No escapes and unauthorized entries occur. Records and reports are maintained and submitted in a timely and accurate manner. Detainee inspections, counts, handling and supervision are carried out in a timely, courteous and, if applicable, force-appropriate manner.

The contractor's preventive actions, searches and detection processes shall ensure that all contraband is timely seized, controlled and reported to ICE officials. No loss or misplacement of contraband or other controlled items occur.

**C.5.2** No health and safety code violations occur. Emergency safety plans are complete, effective and in place. Detainee supervision minimizes and stops disturbances within 3 minutes following occurrences. Responses to injuries and illness are provided immediately in the cases of emergencies, and within one hour in cases of non-emergency situations.

**C.5.3** Government-owned property, equipment, supplies and information are safeguarded, inventoried, and controlled, in accordance with applicable contract requirements and procedures. No loss of property by negligence or theft occurs. Inventory reports of controlled property are submitted on time, and detainee property is accurately logged, secured and returned.

No accidents or violations of firearm usage occur and weapon storage at facilities shall be in accordance with ICE

and state standards and licensing requirements. Firearm safety is exercised and no unauthorized use or firings occur.

**C.5.4** The Contractor's employees satisfactorily complete all required training on schedule and properly perform their duties during the course of the contract period of performance. The employees' performance, reports, response to situations, and other duties are in accordance with the standards, procedures, and training that apply to the circumstances at hand. No more than 10% of the contractor's employees require remedial or repeat training per year due to poor or substandard performance.

## **C.6 PARTNERING PHILOSOPHY**

A major intent of this acquisition is to create a "partnership" between ICE and the Contractor. ICE intends to structure the contract in a manner that ensures the Contractor's goals and objectives are in alignment with those of ICE. Superior performance on the Contractor's part will have both an indirect and direct effect on the accomplishment of ICE's mission. Within the context of the ICE/Contractor partnership, ICE does not use the terms "partner" and "partnership" as legal terms. The ICE/Contractor partnership will reflect the attributes of an open, collaborative, customer-oriented, and professional relationship. In addition to meeting the program objectives, the contractor is encouraged to:

1. Consistently take steps to understand ICE's crucial national security mission, its business issues and opportunities, and its responsibilities under Section 287(g) of the Illegal Immigration Reform and Immigrant Responsibility Act;
2. Work collaboratively with other Federal, state and local law enforcement organizations, contractors, government agencies, and business partners to ensure success; and
3. Under a performance-based contract, performance measures and metrics will be used extensively to monitor contractor performance. ICE and the Contractor will monitor progress using agreed-upon performance metrics.

## **C.7 PLACE OF PERFORMANCE**

Program objectives for this SOO will be monitored by and reported to the U. S. Immigration and Customs Enforcement, Office of Acquisition Management-Laguna, 24000 Avila Road, Room 3104, Laguna Niguel, CA 92677. Services on this contract will be performed at the Seattle, Washington area.

## **C.8 PERIOD OF PERFORMANCE**

The anticipated total period of performance of each contract is five years, inclusive of any options.

## **C.9 CONSTRAINTS**

The following constraints comprise the statutory, regulatory, policy and operational considerations that will impact the contractor. The contractor is expected to become familiar with all constraints affecting the work to be performed. These constraints may change over time; the contractor is expected to be knowledgeable of any changes to the constraints and perform in accordance with the most current version of the constraints. Constraints include, but are not limited to:

- a) Memoranda of Understanding between ICE and individual law enforcement jurisdictions that may apply
- b) Department of Homeland Security Management Directive (MD) 11042.1 - Safeguarding Sensitive but Unclassified (For Official Use Only) Information
- c) Department of Homeland Security Management Directive (MD) 11050.2 - Personnel Security and Suitability Program
- d) Other applicable Executive Orders and Management Directives
- e) Post Orders
- f) General Directives
- g) American Correctional Association (ACA) Standards for Adult Detention Facilities (most current edition) and the most recent copy of the supplement issued every two years. A copy is obtainable for purchase through the Internet website <http://www.aca.org/store/bookstore/>
- h) ICE/ DHS Officer's Handbook (current and future editions, as issued)



- i) A Guide to Proper Conduct and Relationships with Aliens and the General Public – <http://onlineplus.uscis.dhs.gov/lpbinplus/lpext.dll/infobase/ddm/ddm-1/ddm-10477?f=templates&fn=document-frame.htm#ddm-appendix-32-26-1>
- j) The ICE/DHS Performance Base Detention Standards – A copy is obtainable on the internet website <http://www.ice.gov/partners/dro/PBND/index.htm>
- k) All rules and regulations governing usage of firearms, public buildings and grounds
- l) All regulations provided to the Contractor through the COTR
- m) Computer Security Act of 2002
- n) The Patriot Act of 2001
- o) The Illegal Immigration Reform and Immigrant Responsibility Act (IIAIRA), P. L. 104-208
- p) Federal Acquisition Regulations (FAR) and Department of Homeland Security Acquisition Regulations (HSAR)
- q) Applicable federal, state facility codes, rules, regulations and policies
- r) Applicable federal, state and local labor laws and codes
- s) Applicable federal, state and local firearm laws, regulations and codes
- t) Alignment with external sources (e.g. state and local law enforcement organizations)
- u) Pre-clearance approvals are required for access to ICE field staff, facilities and information
- v) Pre-employment suitability clearance is required for contract employees before any access is granted to ICE field staff, facilities and information
- w) All applicable environmental requirements, including Executive Orders and Management Directives
- x) Existing lease agreements
- y) DHS Non-Disclosure Agreement Requirements
- z) Organizational Conflict of Interest Provisions

Accomplishments of some ACA standards are augmented by DHS/ICE policy and/or procedure. In these instances, the PWS identifies and provides direction for the enhanced requirements. In cases where other standards conflict with DHS/ICE policy or standards, DHS/ICE policy and standards prevail.

#### **C.10 MODEL QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)**

ICE developed a model Quality Assurance Surveillance Plan (QASP) see Section J-Attachment 2, which sets forth the procedures and guidelines that ICE will use to inspect the technical performance of the Contractor. It presents the financial values and mechanisms for applying adjustments to the Contractor's invoices as dictated by work performance measured to the desired level of accomplishment.

The purpose of the QASP is to:

1. Define the roles and responsibilities of participating Government officials.
2. Define the types of work to be performed.
3. Describe the evaluation methods that will be employed by the Government in accessing the Contractor's performance.
4. Describe the process of performance documentation.

#### **C.11 MODEL QUALITY ASSURANCE SURVEILLANCE TEMPLATE**

See Section J-Attachment 2- for a model quality assurance surveillance plan template. It is not necessarily fully applicable and representative of all detention and transportation quality assurance review steps.

The Offeror shall submit a specific plan to reflect the components of its proposed approach and the survey topics and items to be reported and evaluated.

**SECTION D - PACKAGING AND MARKING**

This section is intentionally left blank.

## SECTION E - INSPECTION AND ACCEPTANCE

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

- (a) *Definition:* Services, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish; and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) If any of the services do not conformed with the contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Government may -
- (1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
  - (2) Reduce the contract price to reflect the reduced value of the services performed.
- (f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may -
- (1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or
  - (2) Terminate the contract for default.

### E.1 - Inspection by the Government

The Government has the right to inspect the posts manned by the Contractor's personnel. The COTR will note deficiencies and refer them to the Contractor for corrective action. After taking corrective action, the Contractor shall inform the COTR in writing.

The Government shall have the right to inspect all services and work that is performed by the Contractor. The Government has the right to review, collect, or seize documents, materials, logs, books, reports, and equipment. The Government has the right to test equipment and tools used by the Contractor, or its employees. The Government shall not unduly disrupt or delay Contractor work when inspecting.

### E.2 - Methodology to Be Used to Monitor the Contractor's Performance

100 Percent Inspection: This is the most appropriate method for tasks with stringent performance requirements, e.g., where safety or health is a concern. With this method, performance is inspected and evaluated at each occurrence.

Random Sampling: This is the most appropriate method for frequently recurring tasks. With random sampling, services are sampled sporadically to determine if the level of performance is acceptable.

Planned Inspection: This method is appropriate to evaluate tasks at a set time.

Customer Complaint: This method is based on subjective opinions regarding performance standards and includes data elements necessary to begin an investigation. Any required service can have a valid Customer Compliant as an alternative method of surveillance.

### E.3 - Customer Complaint

All Customer Complaints will be reviewed by the COTR. The COTR shall verify the performance and determine the validity of the compliant. The COTR will notify the Project Manager of the customer compliant, annotating the time of the notification on the Customer Compliant. The Project Manager will respond in writing to the COTR within two (2) working days of notification.

## **SECTION F - DELIVERIES OR PERFORMANCE**

### **52.242-15 Stop-Work Order (AUG 1989)**

### **52.242-17 Government Delay of Work (APR 1984)**

#### **F.1 - Period of Performance**

The period of performance for the Base Period shall commence upon the start date specified in the Notice to Proceed and continues for a period of twelve (12) months.

#### **F.2 - Notice to the Government of Delays**

If the Contractor has difficulty or anticipates difficulty meeting performance requirements, the Contractor shall immediately notify the Contracting Officer and the COTR in writing. The Contractor shall give pertinent details. This data is information only. The Government receipt of this information shall not be construed as Government waiver of any delivery schedule, rights or remedies provided by law or under this contract.

#### **F.3 - Deliverables of Written Documentation**

Written documentation and/or deliverables must be submitted as prescribed in Section J-Attachment 5.

#### **F.4 - Reporting Requirements**

The Contractor shall prepare and submit a Monthly Status Report concurrently with each invoice presented for payment to the COTR. The report shall cover the term for which the invoice is submitted and shall list by site any significant events that occurred during the reporting period with respect to the accomplishments of the tasks, a summary of what work was accomplished, problems and resolutions (address problem areas, results obtained relating to previously identified problem areas, and recommendations involving impact on technical, price and scheduling).

#### **F.5 - Monetary Adjustments for Unsatisfactory and Non Performance of Required Standards**

ICE developed a model Quality Assurance Surveillance Plan (QASP) see Section J-Attachment 2, which sets forth the procedures and guidelines that ICE will use to inspect the technical performance of the Contractor. It presents the potential withholdings and mechanisms for applying adjustments to the Contractor's invoices as dictated by work performance measured to the desired level of accomplishment.

1. Define the roles and responsibilities of participating Government officials.
2. Define the types of work to be performed.
3. Describe the evaluation methods that will be employed by the Government in assessing the Contractor's performance.
4. Describe the process of performance documentation

#### **F.6 - Report Cards on Contractor Performance**

Contractor performance information is relevant for award of future Government contracts. Performance information includes such things as a Contractor's ability to conform to contract requirements and specifications, adherence to contract schedules, and commitment to customer satisfaction.

Federal agencies are required to evaluate Contractor performance. The Government completes and forwards the Contractor performance evaluation to the Contractor for review within 30 calendar days at the end of each period of performance or contract year. The Contractor has 30 days to make comments, rebut the statements, or add information that will be made part of the official record. Contractor performance evaluations shall be available to contracting personnel of other Federal agencies to make responsibility determinations on future contract actions.

## SECTION G - CONTRACT ADMINISTRATION DATA

### G.1 - CONTRACT ADMINISTRATION OFFICE

DHS, Immigration & Customs Enforcement  
Office of Acquisition Management-Laguna  
24000 Avila Road, Room 3104  
Laguna Niguel, CA 92677

#### G.1.1 – CONTRACTING OFFICER’S AUTHORITY

The **Contracting Officer** is the only person authorized to approve changes in any of the requirements under this contract. Notwithstanding any clause contained elsewhere in this contract, the said authority remains solely with the Contracting Officer.

In the event the Contractor effects any change at the direction of any person other than the Contracting Officer, including any change beyond the scope of authority given to the duly authorized Contracting Officer’s Representative identified in the contract, the change will be considered to have been made without authority and no adjustment will be made in the contract cost to cover any increase in charges incurred as a result thereof. The Contracting Officer has the authority to perform any and all post-award functions in administering and enforcing this contract in accordance with its terms and condition. The Contracting Officer may execute contract modifications de-obligating unexpended DHS/ICE dollar balances considered excess to known contracting requirements. All modifications and/or changes to this contract must be in writing, signed and approved by the Contracting Officer.

#### G.2 - CONTRACTING OFFICER’S TECHNICAL REPRESENTATIVES (COTR(s))

- a. The Contracting Officer’s Technical Representatives (COTR(s)) below are designated to coordinate the technical aspects of this contract and inspect items/services/invoices furnished hereunder, however, he/she shall not be authorized to change any terms and conditions of the resultant contract, including price.
- b. The COTRs are authorized to certify (but not to reject or deny) invoices for payment in accordance with Item G-3. The authority to reject or deny performance and associated invoice payment is expressly reserved for the Contracting Officer.
- c. The Contracting Officer Representatives are:  
TBD (Primary)  
TBD (Secondary)  
Immigration & Customs Enforcement  
Detention & Removal Operations-Seattle

The COTR(s) are responsible for monitoring the performance of work under this contract. In no event, however, will any understanding, agreement, modification, change order or other matter deviating from the terms and conditions of this contract be effective or binding upon the Government unless formalized by proper contractual documents executed by the Contracting Officer. The COTR(s) may give technical direction to the Contractor that fills in details, requires pursuit of certain lines of inquiry or otherwise serves to facilitate the Contractor’s compliance with the contract.

To be valid, the technical directions by the COTR(s):

- Must be consistent with the general scope of work set for the in this contract
- May not constitute new assignment of work nor change the expressed terms, conditions or specifications of this contract, and
- Shall not constitute a basis for any increase in the contract’s estimated cost or extension to the contract or period of performance.

In the event any Government technical direction is interpreted by the Contractor to fall within the clause of this contract entitled ‘CHANGES’ (FAR 52.243-1 Alternate 1), the Contractor shall not implement such direction but shall notify the Contracting Officer in writing of such interpretation within ten (10) working days after the contractor’s receipt of such direction.

If after reviewing the information presented by the Contractor, the Contracting Officer is of the opinion that such direction is within the purview of the "Changes" clause and considers such change desirable, a unilateral direction will be issued to the contractor to proceed pursuant to the authority granted in that clause.

In the event a determination is made that it is necessary to avoid a delay in performance of the contract, the Contracting Officer may direct the contractor to proceed with the implementation of the technical direction pending receipt of the information to be submitted by the contractor. Should the Contracting Officer later determine that a change direction is appropriate; the written direction issued hereunder shall constitute the required change direction.

### **G.3 - SUBMISSION OF INVOICES/VOUCHERS FOR PAYMENT OF SERVICES**

ICE shall pay for accepted services rendered under this contract. When invoicing on a monthly basis, the Contractor shall include the required information with the actual number of bed days, mileage, stipend, labor hours, and travel costs or as listed contract line items performed at the agreed contract price. Contract Number and/or Task Order Number must be clearly marked on the invoice. All invoices shall be submitted via one of the following methods:

a). By Mail:

DHS, ICE Burlington Finance Center (BFC)  
P.O. Box 1620  
Williston, VT 05495-1620  
Attn: ICE-DRO-FOD-FSE

b). By Fax: 802-288-7658 (include a cover sheet with point of contact and number of pages)

c). By Email: [Invoice.Consolidation@dhs.gov](mailto:Invoice.Consolidation@dhs.gov)

Invoices submitted by other than these three methods will be returned. The Contractor Taxpayer Identification Number (TIN) must be registered in the Central Contractor Registration (<http://www.ccr.gov>) prior to award and shall be notated on every invoice submitted to ICE to ensure prompt payment provisions are met. The ICE program office identified in the delivery order/contract shall also be notated on every invoice.

If deficiencies and errors were found on the invoice, BFC shall return the invoice and will notify the COTR and Contracting Officer regarding invoice deficiencies and errors. For performance issues and deficiencies, the COTR shall notify and forward the invoice to the Contracting Officer for contractual action.

## **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

### **H.1 - CLAUSE AND PROVISION NUMBERING:**

The clauses and provisions in this document are in numerical order but may not be numbered sequentially.

### **H.2 –SENIORITY LISTS**

If a contract is performed at a Federal facility where employees may be hired/retrained by a succeeding contractor, the incumbent prime contractor is required to furnish a certified list of all service employees on the contractor's or subcontractor's payroll during the last month of the contract, together with anniversary dates of employment, to the contracting officer no later than 10 days before contract completion in accordance with FAR Clause 52.222-41(n), Service Contract Act of 1964 as amended. At the commencement of the succeeding contract, the contracting officer shall provide a copy of the list to the successor contractor for determining employee eligibility for vacation or other fringe benefits; which are based upon length of service, including service with predecessor contractors if such benefit is required by an applicable wage determination. See Section J- Attachment 4, Seniority Listing.

### **H.3 – BACKGROUND AND SECURITY CLEARANCE PROCEDURES**

The Contractor shall process all background investigations through the ICE Security Office via the COTR prior to contract start date. ICE shall have complete control over granting, denying, suspending, and terminating employment suitability checks for Contractor employees and prospective employees. If the COTR receives a report indicating the unsuitability of any employee or prospective employees, the COTR shall inform the Contractor that the Government will not allow the individual on site. See Section J-Attachment 10 for the E-QIP instructions and forms.

### **H.4 - PRICING OF MODIFICATIONS**

The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added, or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. Base line values and percentages used to prepare the proposal shall be as agreed upon by the Contractor and Contracting Officer. In addition, if the proposal includes a time extension, justifications therefore, will also be furnished. The proposal, with all supporting documentation, shall be furnished by the date specified by the Contracting Officer.

### **H.5 - ORDERING ACTIVITY**

Supplies or services to be furnished under this contract shall be ordered by issuance of task orders issued by a Contracting Officer, Immigration & Customs Enforcement, Office of Acquisition Management, Detention Management (DM)-Laguna, California.

### **H.6 - INDEMNIFICATION**

#### **A. Responsibility for Government Property**

1. The Contractor assumes full responsibility for and shall indemnify the Government against any and all losses or damage of whatsoever kind and nature to any and all Government property, including any equipment, supplies, accessories, or parts furnished, while in his custody and care for storage, repairs, or service to be performed under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or subcontractor.
2. If due to the fault, negligent acts (whether of commission or omission) and/or dishonesty of the Contractor or its employees, any Government-owned or controlled property is lost or damaged as a result of the Contractor's performance of this contract, the Contractor shall be responsible to the Government for such loss or damage, and the Government, at its option, may in lieu of payment thereof, require the Contractor to replace at his own expense, all property lost or damaged.

#### **B. Hold Harmless and Indemnification Agreement**

The Contractor shall save and hold harmless and indemnify the Government against any and all liability claims, and

cost of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any Contractor property or property owned by a third party occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation, or performance of work under the terms of this contract, resulting in whole or in part from the acts or omissions of the Contractor, any subcontractor, or any employee, agent, or representative of the Contractor or subcontractor.

C. Government's Right of Recovery

Nothing in the above paragraphs shall be considered to preclude the Government from receiving the benefits of any insurance the Contractor may carry which provides for the indemnification of any loss or destruction of, or damages to property in the custody and care of the Contractor where such loss, destruction or damage is to Government property. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss, destruction of, or damage to Government property, and upon the request of the Contracting Officer shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

D. 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 other Federal statutory authority.



**SECTION I - CONTRACT CLAUSES****52.252-2 Clauses Incorporated by Reference (FEB 1998)**

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

**52.202-1 Definitions (JUL 2004)****52.203-3 Gratuities (APR 1984)****52.203-5 Covenant Against Contingent Fees (APR 1984)****52.203-6 Restrictions on Subcontractor Sales to the Government (SEP 2006)****52.203-7 Anti-Kickback Procedures (JUL 1995)****52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)****52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)****52.203-12 Limitation on Payments to Influence Certain Federal Transactions (SEP 2007)****52.203-13 Contractor Code of Business Ethics and Conduct (DEC 2008)****52.203-14 Display of Hotline Poster(s) (DEC 2007)**

(b) (3) DHS OIG Hotline Poster; [http://www.dhs.gov/xoig/assets/DHS\\_OIG\\_Hotline.pdf](http://www.dhs.gov/xoig/assets/DHS_OIG_Hotline.pdf)

**52.203-15 Whistle Protections under the American Recovery and Reinvestment Act of 2009 (MAR 2009)****52.204-4 Printed or Copied Double-Sided on Recycled Paper (AUG 2000)****52.204-7 Central Contractor Registration (APR 2008)****52.204-9 Personal Identity Verification of Contractor Personnel (SEP 2007)****52.204-10 Reporting Subcontract Awards (SEP 2007)****52.204-11 American Recovery and Reinvestment Act-Reporting Requirements (MAR 2009)****52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (SEP 2006)****52.215-2 Audit and Records - Negotiation (MAR 2009)****52.215-8 Order of Precedence - Uniform Contract Format (OCT 1997)****52.215-10 Price Reduction for Defective Cost or Pricing Data (OCT 1997)****52.215-11 Price Reduction for Defective Cost or Pricing Data - Modifications (OCT 1997)****52.215-12 Subcontractor Cost or Pricing Data (OCT 1997)****52.215-13 Subcontractor Cost or Pricing Data - Modifications (OCT 1997)**

**52.215-14 Integrity of Unit Prices (OCT 1997)****52.215-15 Pension Adjustments and Asset Reversions (OCT 2004)****52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JUL 2005)****52.215-19 Notification of Ownership Changes (OCT 1997)**

(a) The Contractor shall make the following notifications in writing:

- (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.
- (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall -

- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
- (2) Provide the ACO or designated representative ready access to the records upon request;
- (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and
- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

**52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (OCT 1997)****52.216-18 Ordering (OCT 1995)**

Contract Award; Last Day of 4<sup>th</sup> Option Period, if exercised.

**52.216-19 Order Limitations (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than:

CLIN 1 - Detention Service	431,065 Bed-Days
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The Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor -

(1) Any order for a single item in excess of:

CLIN 1 - Detention Service	574,875 Bed-Days
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(2) Any order for a combination of items in excess of 100 percent of (b) (1) above; or

(3) A series of orders from the same ordering office within 5 days that together calls for quantities exceeding the limitations in subparagraph (b) (1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the

Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

- (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

**52.216-22 Indefinite Quantity (OCT 1995)**

The final day of the 4<sup>th</sup> option period, if exercised.

**52.217-8 Option to Extend Services (NOV 1999)**

30 days

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

(a) 30 days; 60 days

(c) 60 months plus 6 months under FAR 52.217-8

**52.219-8 Utilization of Small Business Concerns (MAY 2004)**

**52.219-9 Small Business Subcontracting Plan (APR 2008)**

**52.219-16 Liquidated Damages -- Subcontracting Plan (Jan 1999)**

- (a) "Failure to make a good faith effort to comply with the subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
- (b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.
- (c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.
- (d) With respect to commercial plans; the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by that commercial plan.
- (e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.
- (f) Liquidated damages shall be in addition to any other remedies that the Government may have.

**52.219-28 Post-Award Small Business Program Representation (MAR 2009)**

**52.222-1 Notice to the Government of Labor Disputes (FEB 1997)**

**52.222-3 Convict Labor (JUN 2003)**

**52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation (JUL 2005)**

**52.222-21 Prohibition of Segregated Facilities (FEB 1999)**

**52.222-26 Equal Opportunity (MAR 2007)**

**52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006)**

**52.222-36 Affirmative Action for Workers with Disabilities (JUN 1998)**

**52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006)**

**52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004)**

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

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

**Notice to Employees**

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs.

Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board  
Division of Information  
1099 14th Street, N.W.  
Washington, DC 20570  
1-866-667-6572  
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.

- (d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.
- (e) The requirement to post the employee notice in paragraph (b) does not apply to--
- (1) Contractors and subcontractors that employ fewer than 15 persons;
  - (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
  - (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
  - (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that--
    - (i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and
    - (ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or
  - (5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.
- (f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall--
- (1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;
  - (2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or
  - (3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.
- (g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B--Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

**52.222-41 Service Contract Act of 1965, as Amended (NOV 2007)**

**52.222-42 Statement of Equivalent Rates for Federal Hires (MAY 1989)**

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

*This Statement is for Information Only: It is not a Wage Determination*

Employee Class	Monetary Wage	Fringe Benefits
Accounting Clerk II (GS-3)	\$12.48	\$3.49
General Clerk (GS-4)	\$14.01	\$3.92
Personnel Assistant II (GS-4)	\$14.01	\$3.92
Personnel Assistant III (GS-5)	\$15.68	\$4.39
Secretary II (GS-5)	\$15.68	\$4.39
Janitor (WG-2)	\$12.44	\$3.48
General Maintenance Wrkr (WG-8)	\$20.70	\$5.80
General Maintenance Wrkr Sup (WG-8/2)	\$21.57	\$6.04
Court Security Officer (GS-6)	\$17.47	\$4.89
Detention Officer (GS-6)	\$17.47	\$4.89
Recreation Specialist (GS-7)	\$19.42	\$5.44
Recreation Specialist Supv (GS-9)	\$23.75	\$6.65
Licensed Practical Nurse II (GS-4)	\$14.01	\$3.92
Laborer, Ground Maintenance (WG-3)	\$13.42	\$3.76
Food Service Worker (WG-2)	\$12.44	\$3.48
Cook I (WG-6)	\$17.90	\$5.01
Cook II (WG-8)	\$20.70	\$5.80
Records Clerk (GS-4)	\$14.01	\$3.92
Stock Clerk (WG-4)	\$14.90	\$4.17
Warehouse Specialist (WG-5)	\$16.41	\$4.59

**52.222-43 Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (NOV 2006)**

**52.222-50 Combating Trafficking in Persons (FEB 2009)**

**52.223-2 Affirmative Procurement of Biobased Products under Service and Construction Contracts (DEC 2007)**

**52.223-6 Drug-Free Workplace (MAY 2001)**

**52.223-10 Waste Reduction Program (AUG 2000)**

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

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, *et seq.*) and implementing regulations (40 CFR Part 247).

**52.223-12 Refrigeration Equipment and Air Conditioners (MAY 1995)**

**52.223-14 Toxic Chemical Release Reporting (AUG 2003)**

**52.223-15 Energy Efficiency in Energy-Consuming Products (DEC 2007)**

**52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts (MAY 2008)**

**52.224-1 Privacy Act Notification (APR 1984)**

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C.552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

**52.224-2 Privacy Act (APR 1984)**

**52.225-1 Buy American Act - Supplies (FEB 2009)**

**52.225-13 Restrictions on Certain Foreign Purchases (JUN 2008)**

**52.226-6 Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009)**

**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 (DEC 2007)**

**52.229-3 Federal, State, and Local Taxes (APR 2003)**

**52.232-1 Payments (APR 1984)**

**52.232-8 Discounts for Prompt Payment (FEB 2002)**

**52.232-9 Limitation on Withholding of Payments (APR 1984)**

**52.232-11 Extras (APR 1984)**

**52.232-17 Interest (OCT 2008)**

**52.232-18 Availability of Funds (APR 1984)**

**52.232-19 Availability of Funds for the Next Fiscal Year (APR 1984)**

September 30, 2009; September 30, 2009

**52.232-23 Assignment of Claims (JAN 1986)**

**52.232-25 Prompt Payment (OCT 2008)**

**52.232-33 Payment by Electronic Funds Transfer - Central Contractor Registration (OCT 2003)**

**52.233-1 Disputes (JUL 2002)**

**52.233-3 Protest after Award. (AUG 1996)**

**52.233-4 Applicable Law for Breach of Contract Claim (OCT 2004)**

**52.237-3 Continuity of Services (JAN 1991)**

**52.237-11 Accepting and Dispensing of \$1 Coin (SEP 2008)**

**52.242-13 Bankruptcy (JUL 1995)****52.243-1 Changes - Fixed-Price (AUG 1987) - Alternate I (APR 1984)****52.244-6 Subcontracts for Commercial Items (MAR 2009)**

- (a) *Definitions.* As used in this clause—  
 “Commercial item” has the meaning contained in Federal Acquisition Regulation [2.101](#), Definitions.  
 “Subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.
- (b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract.
- (c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:
- (i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter I ([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) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).
  - (iv) [52.222-35](#), Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) ([38 U.S.C. 4212\(a\)](#));
  - (v) [52.222-36](#), Affirmative Action for Workers with Disabilities (June 1998) ([29 U.S.C. 793](#)).
  - (vi) [52.222-39](#), Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause [52.222-39](#).
  - (vii) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).
  - (viii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. App. 1241](#) 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 flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

**52.245-1 Government Property (JUN 2007)****52.246-25 Limitation of Liability - Services (FEB 1997)****52.248-1 Value Engineering (FEB 2000)**

- (a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP’s) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP’s, in accordance with the incentive sharing rates in paragraph (f) below.

**(b) Definitions.**

“Acquisition savings,” as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include –

- (1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor’s allowable development and implementation costs;
- (2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and
- (3) Future contract savings, which are the product of the future unit cost reduction, multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.



“Collateral costs,” as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

“Collateral savings,” as used in this clause, means those measurable net reductions resulting from a VECP in the agency’s overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

“Contracting office” includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency’s office that is performing a joint acquisition action.

“Contractor’s development and implementation costs,” as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

“Future unit cost reduction,” as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either –

- (1) Throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated; or
- (2) To the calculation of a lump-sum payment which cannot be revised later.

“Government costs,” as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract’s cost or price resulting from negative instant contract savings.

“Instant contract,” as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

“Instant unit cost reduction” means the amount of the decrease in unit cost of performance (without deducting any Contractor’s development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

“Negative instant contract savings” means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor’s allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

“Net acquisition savings” means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

“Sharing base,” as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

“Sharing period,” as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

“Unit,” as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

“Value engineering change proposal (VECP)” means a proposal that –

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; *provided*, that it does not involve a change –
  - (i) In deliverable end item quantities only;
  - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
  - (iii) To the contract type only.

(c) *VECP preparation.* As a minimum, the Contractor shall include in each VECP the information described in

subparagraphs (c) (1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
- (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
- (3) Identification of the unit to which the VECP applies.
- (4) A separate, detailed cost estimate for
  - (i) the affected portions of the existing contract requirement and
  - (ii) the VECP.

The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.

- (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
  - (6) A prediction of any effects the proposed change would have on collateral costs to the agency.
  - (7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.
  - (8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.
- (d) *Submission.* The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.
- (e) *Government action.*

- (1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP.
  - (2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.
  - (3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.
- (f) *Sharing rates.* If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon –
- (1) This contract's type (fixed-price, incentive, or cost-reimbursement);
  - (2) The sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule); and
  - (3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

**CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS**  
(Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	* 50	* 50	* 25	25
Incentive (fixed-price or cost) (other than award fee)	(**)	* 50	(**)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts)	*** 25	*** 25	15	15

\* The Contracting Officer may increase the Contractor’s sharing rate to as high as 75 percent for each VECF.

\*\* Same sharing arrangement as the contract’s profit or fee adjustment formula.

\*\*\* The Contracting Officer may increase the Contractor’s sharing rate to as high as 50 percent for each VECF.

(g) *Calculating net acquisition savings.*

(1) Acquisition savings are realized when

- (i) the cost or price is reduced on the instant contract,
- (ii) reductions are negotiated in concurrent contracts,
- (iii) future contracts are awarded, or
- (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i) (4) below).

Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor’s share is calculated by multiplying net acquisition savings by the appropriate Contractor’s percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor’s share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) *Contract adjustment.* The modification accepting the VECF (or a subsequent modification issued as soon as possible after any negotiations are completed) shall –

- (1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;
- (2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling

- price, target cost, or estimated cost by that amount;
- (3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;
  - (4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and
  - (5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:
    - (i) Fixed-price contracts -- add to contract price.
    - (ii) Cost-reimbursement contracts -- add to contract fee.
- (i) *Concurrent and future contract savings.*
- (1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.
  - (2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by –
    - (i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and
    - (ii) Multiplying the result by the Contractor's sharing rate.
  - (3) The Contracting Officer shall calculate the Contractor's share of future contract savings by –
    - (i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;
    - (ii) Subtracting any Government costs or negative instant contract savings not yet offset; and
    - (iii) Multiplying the result by the Contractor's sharing rate.
  - (4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h) (3) above) and shall not be subject to subsequent adjustment.
  - (5) *Alternate no-cost settlement method.* When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agrees to use the no-cost settlement method, the following applies:
    - (i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.
    - (ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.
- (j) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.
- (k) *Relationship to other incentives.* Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.
- (l) *Subcontracts.* The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and

implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

- (m) *Data*. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

These data, furnished under the Value Engineering clause of contract TBD, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

**52.249-2 Termination for Convenience of the Government (Fixed-Price) (MAY 2004)**

**52.249-8 Default (Fixed-Price Supply and Service) (APR 1984)**

**52.251-1 Government Supply Sources (APR 1984)**

**52.253-1 Computer Generated Forms (JAN 1991)**

**3052.204-70 Security Requirements for Unclassified Information Technology Resources (JUN 2006)**

- (a) The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location. This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission.
- (b) The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract.
- (1) Within 30 days after contract award, the contractor shall submit for approval its IT Security Plan, which shall be consistent with and further detail the approach contained in the Offeror's proposal. The plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document.
  - (2) The Contractor's IT Security Plan shall comply with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.); the Government Information Security Reform Act of 2000; and the Federal Information Security Management Act of 2002; and with Federal policies and procedures that include, but are not limited to, OMB Circular A-130.
  - (3) The security plan shall specifically include instructions regarding handling and protecting sensitive information at the Contractor's site (including any information stored, processed, or transmitted using the Contractor's computer systems), and the secure management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems.
- (c) Examples of tasks that require security provisions include—
- (1) Acquisition, transmission or analysis of data owned by DHS with significant replacement cost should the contractor's copy be corrupted; and
  - (2) Access to DHS networks or computers at a level beyond that granted the general public (e.g., such as bypassing a firewall).
- (d) At the expiration of the contract, the contractor shall return all sensitive DHS information and IT resources provided to the contractor during the contract, and certify that all non-public DHS information has been purged from any contractor-owned system. Components shall conduct reviews to ensure that the security requirements

in the contract are implemented and enforced.

- (e) Within 6 months after contract award, the contractor shall submit written proof of IT Security accreditation to DHS for approval by the DHS Contracting Officer. Accreditation will proceed according to the criteria of the DHS Sensitive System Policy Publication, 4300A (Version 2.1, July 26, 2004) or any replacement publication, which the Contracting Officer will provide upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document. The contractor shall comply with the approved accreditation documentation.

### **3052.204-71 Contractor Employee Access (JUN 2006)**

- (a) "Sensitive Information," as used in this Chapter, means any information, the loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:
  - (1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);
  - (2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);
  - (3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and
  - (4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.
- (b) "Information Technology Resources" include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.
- (c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.
- (d) The Contracting Officer may require the contractor to prohibit individuals from working on the contract if the government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, in subordination, incompetence, or security concerns.
- (e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those contractor employees authorized access to sensitive information, the contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.
- (f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

**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* means 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.

- (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 the acquisition described in subsection (b)(1) of Section 835 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) Other 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 3009.104-70 through 3009.104-73;
  - it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it has submitted a request for waiver pursuant to 3009.104-74, 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 3009.104-70 through 3009.104-73, but it plans to submit a request for waiver pursuant to 3009.104-74.
- (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.

**3052.215-70 Key Personnel or Facilities (DEC 2003)**

The Key Personnel or Facilities under this Contract:

- 1) Warden/Facility Director
- 2) Assistant Warden/Assistant Facility Director
- 3) Supervisory Detention Officers
- 4) Training Officers
- 5) Quality Assurance Manager
- 6) Corporate Security Officer

**3052.219-70 Small Business Subcontracting Plan Reporting (JUN 2006)**

**3052.222-70 Strikes or Picketing Affecting Timely Completion of the Contract Work (DEC 2003)**

**3052.222-71 Strikes or Picketing Affecting Access to a DHS Facility (DEC 2003)**

**3052.242-71 Dissemination of Contract Information (DEC 2003)**

**3052.242-72 Contracting Officer's Technical Representative (DEC 2003)**

**3052.245-70 Government Property Reports (JUN 2006)**



**SECTION J - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**

ATTACHMENT 1	Sample Performance Work Statement.....	45 pages
ATTACHMENT 2	Model Quality Assurance Surveillance Plan.....	28 pages
ATTACHMENT 3	Wage Determination 2005-2567, Revision 10.....	9 pages
ATTACHMENT 4	Seniority Listing.....	5 pages
ATTACHMENT 5	Deliverables.....	2 pages
ATTACHMENT 6	ICE Body Armor Policy.....	6 pages
ATTACHMENT 7	DRO Policy and Procedure Manual (Appendix 32-1 Vehicle Ordering Menu)...	6 pages
ATTACHMENT 8	Past Performance Questionnaire.....	7 pages
ATTACHMENT 9	Past Performance Information Form.....	1 page
ATTACHMENT 10	E-QIP Instructions and Forms.....	28 pages

**SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND  
OTHER STATEMENTS OF OFFERORS**

**52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEP 07)**

**52.204-5 Women-Owned Business (Other Than Small Business) (MAY 99)**

**52.204-8 Annual Representations and Certifications (FEB 2009)**

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is 561210.
- (2) The small business size standard is \$35.5 million.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b) (1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (c) of this provision applies.
- (2) If the clause at 52.204-7 is not included in this solicitation, and the Offeror is currently registered in CCR, and has completed the ORCA electronically, the Offeror may choose to use paragraph (c) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:
  - (i) Paragraph (c) applies.
  - (ii) Paragraph (c) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.
- (c) The Offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*Offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

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

**52.209-5 Certification Regarding Responsibility Matters (DEC 2008)**

- (a)(1) The Offeror certifies, to the best of its knowledge and belief, that—
  - (i) The Offeror and/or any of its Principals—
    - (A) Are \_\_\_ are not \_\_\_ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
    - (B) Have \_\_\_ have not \_\_\_, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
    - (C) Are \_\_\_ are not \_\_\_ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;
    - (D) Have \_\_\_, have not \_\_\_, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.
  - (1) Federal taxes are considered delinquent if both of the following criteria apply:

- (i) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
- (ii) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples.*

- (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
  - (ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.
  - (iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.
  - (iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).
- (ii) The Offeror has \_\_ has not \_\_, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (2) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions).
- This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.
- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
  - (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible.
  - (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  - (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**  
**(This section will be removed upon award)**

**52.204-6 Data Universal Numbering System (DUNS) Number (APR 2008)**

**52.215-1 Instructions to Offerors - Competitive Acquisition (JAN 2004)**

**52.216-1 Type of Contract (APR 1984)**

The Government contemplates award of an Indefinite Delivery Indefinite Quantity (IDIQ) contract with fixed unit pricing.

**52.222-46 Evaluation of Compensation for Professional Employees (FEB 1993)**

**52.222-24 Pre-award On-Site Equal Opportunity Compliance Review (FEB 99)**

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

**52.233-2 Service of Protest (SEP 2006)**

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

Bobbie Wright, Contracting Officer  
 ICE/Office of Acquisition Management  
 Detention Management-Laguna  
 24000 Avila Road, Room 3104  
 Laguna Niguel, CA 92677

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

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

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

**L.1 - Pre-Proposal Conference**

The Government will conduct a Pre-proposal Conference on April 29, 2009 at 9:00A.M., 24000 Avila Road, Room TBD, Laguna Niguel, CA 92677. Interested parties shall pre-register by sending e-mails to [rosemarie.mendoza@dhs.gov](mailto:rosemarie.mendoza@dhs.gov) inclusive of the company name, names of corporate attendees, social security and driver's license numbers, telephone, email addresses, and fax number no later than April 27, 2009 at 2:00P.M. Pacific Time. Each attendee is required to bring their driver's license for identification. No cell phones, cameras, video cameras or recording devices will be allowed in the federal building. Detailed instructions and information will be sent to all registered attendees. Attendance at the pre-proposal conference will be at "No Cost" to the Government.

**L.2 - Prospective Offerors' Questions**

All questions must be in writing and must be received by the Government no later than May 1, 2009 at 2:00 P.M., Pacific Time via email to [rosemarie.mendoza@dhs.gov](mailto:rosemarie.mendoza@dhs.gov). No questions or inquiries will be accepted by telephone and/or during pre-solicitation conference. In order to receive responses to questions, Offerors shall cite the

solicitation section, paragraph number, and page number. Answers to questions will be provided to all Offerors, giving due regard to the proper protection of proprietary information. All questions and responses to questions received and addressed will be posted in the Federal Business Opportunity (FedBizOpps) website <http://fedbizopps.gov> as amendment(s) to the solicitation by May 6, 2009. Interested parties are responsible for monitoring the FedBizOpps website to ensure that they have the most up-to-date information on this acquisition.

In addition, the Government recommends that Offerors ensure the questions are written to enable a clear understanding as to the Offeror's concerns. Statements expressing opinions, sentiments, or conjectures not considered valid inquiries or comments for this purpose will NOT receive a response from the Government. Further, Offerors are reminded that the Government will NOT address hypothetical or theoretical questions aimed toward receiving a potential "evaluation" decision from the Government. Proposals and all correspondences relating to the solicitation document shall be submitted to the address listed in Paragraph L.8.1.

### **L.3 - Pre-Proposal Preparation Instructions**

It is the intent of the Government, by providing the instructions set forth below, to solicit information that will demonstrate the ability of the Offerors to successfully complete the requirements in the RFP and to permit competitive evaluation of each Offeror's proposal.

These instructions are not, however, all-inclusive, and the Offeror shall therefore include in their proposal further discussions that the Offeror believes to be necessary or useful in demonstrating its ability to perform the work and understanding of the Government's requirement on the basis of their proposal.

### **L.4 - Facsimile Submissions of Proposals**

Facsimile proposals are **not permitted** and will not be considered if received.

### **L.5 - Amendments to Offeror's Proposals**

Changes to the proposal by the Offeror shall be accomplished by amended page(s). Any changes from the original page shall be indicated by vertical line, adjacent to the change, on the outside right margin of the page. The Offeror shall include the date of the amendment on the lower right hand edge of the page. Proposal amendments will be allowed only prior to the due date or upon invitation by the Government after the due date.

### **L.6 - Proposals Not Selected and Debriefings**

Offerors whose proposals are no longer being considered for award or whose proposals were not selected for award will be so notified. Unsuccessful Offerors may request, in writing, either a pre-award debriefing (FAR 15.505) or a post-award debriefing (FAR 15.506).

### **L.7 - Disposition of Proposals**

The Contracting Officer office will retain at least one copy of each proposal, successful or unsuccessful, and the remainder will be destroyed. No destruction certification will be furnished to the Offeror.

### **L.8 - Proposal Submission**

Proposal packages will be accepted until the time and date established for receipt of proposals. Proposal received after the established time and date will be processed in accordance with FAR 52.215-1. Each proposal shall be submitted in eight (8) copies composing of six (6) hard copies marked as "Original Copy" and "Copy-1", "Copy-2", etc. and two (2) electronic copies. Offerors shall submit their proposals in three volumes at "No Cost" to the Government:

**Volume I – Demonstrated Technical and Management Capability Proposal**

**Volume II - Past Performance Proposal**

**Volume III – Cost/Price Proposal**

#### **L.8.1 - Markings**

Offerors are encouraged to submit their proposal packages via an overnight express mail service but may use certified, registered, or express mail procedures. Failure to properly address the outer cover could cause an offer to be misdirected and received too late at the required destination. It is important that the outer envelope or wrapping of an offer be addressed as follows:

Rosemarie Mendoza, Contract Specialist  
 U.S. Immigration and Customs Enforcement,  
 Office of Acquisition Management-Laguna  
 24000 Avila Road, Room 3104  
 Laguna Niguel, CA 92677  
 Solicitation Number: **HSCEDM-09-R-00003**  
 Closing Date and Time: May 29, 2009 at 12:00 P.M. Pacific Time (PT)  
 Title of Volume (Appropriate Title-see Provision L.8)

### **L.8.2 - Electronic Copies**

In the event the Offeror submits any changes or clarification information, the Offeror shall submit said data in both hard copy and electronically. The electronic versions or proposals shall be submitted on Compact Disc (CD) or flash drive. Electronic versions of Volumes I, II, and III shall be provided separately. Offerors shall submit electronic versions of all volumes formatted in Microsoft Office Professional for Windows 2000 or above, or Adobe Acrobat (PDF format). Price proposal spreadsheets shall be presented in Microsoft Excel version 2000/Windows 2000 or above. If the Offeror does not use Microsoft products in the preparation of its proposals, the Offeror shall be responsible for converting the documents into the requested format. It is the Offeror's responsibility to ensure the electronic copies and hard copies of the proposals are the same. In the event of a conflict between the two copies, the hard copies will prevail.

### **L.9 - Proposal Format and Preparation Instructions**

Each volume shall be clearly marked as to the contents. Each proposal shall be placed in a loose-leaf three ring binder and shall include a title page. Lengthy or elaborate proposals are neither required nor encouraged. All information shall be typewritten and submitted in 8-1/2" x 11" format. The font size for proposal text shall be 12 point or larger. The font size for text in tables or captions shall be 10 point or larger. Text in figures or graphs shall be clearly readable. Fold-out charts or tables are allowable when necessary to ensure a readable font size. Offeror's shall note that none of the volumes have a page limitation.

## **VOLUME I - TECHNICAL AND MANAGEMENT CAPABILITY**

The Offeror's Technical and Management Capability proposal shall consist of narrative technical and management plans by which the Offeror demonstrates the knowledge, understanding, technical, and management capability to meet the requirements of the PWS as required in the RFP. Since the Offeror's narrative technical proposal will be an important factor in evaluating the Offeror's ability to furnish and perform the required services, it should be as complete and accurate as possible. The proposal shall address, in detail, the resources, technical knowledge of the Government's requirements, and plans for accomplishing the specified requirements. Proposals submitted by the Offeror that merely state or offer to provide what the Government requires in accordance with the solicitation will be considered unacceptable and will not be considered further.

The technical proposal consists of Offeror's experience in the following factors and will not contain any cost/pricing information:

- Factor 1.1 - Approach to Quality Control and Assurance
- Factor 1.2 – Approach to Staffing
- Factor 1.3 - Transition Plan
- Factor 1.4 - Key Personnel
- Factor 1.5 - Management Plan
- Factor 1.6 - Transportation Plan

### **Factor 1.1 - Approach to Quality Control and Assurance**

The Offeror shall describe its approach to planning and executing quality control and assurance processes throughout the life of the contract that will fully meet the standards set forth in the RFP.

**Factor 1.2 – Approach to Staffing**

The Offeror shall describe its approach to staffing the proposed facility, including its management, supervisory, and security plans. Further, it should include a contingency plan should the staffing levels fall below 95 percent. The Offeror shall explain how it will acquire and maintain a reserve guard force for temporary or emergency staffing that is sufficient to meet the requirements of the RFP.

**Factor 1.3 - Transition Plan**

The Offeror shall include a transition plan that illustrates how the Offeror will provide a timely seamless transition between the contractor and the predecessor contractor to ensure minimal disruption vital to contractor services and Government activities. The transition plan shall address at a minimum: recruitment, training of new and incumbent employees, licenses and permits, insurance and priority of staffing the facility, and meeting the Entry on Duty (EOD) required deadlines for all positions.

**Factor 1.4 - Key Personnel**

A minimum of one resume for each key personnel labor category identified in the PWS shall be provided and submitted with the Offeror's proposal. However, all labor categories set forth in the PWS must meet the required education, knowledge, experience, and security clearances as stated in the PWS.

The Contractor's organization chart shall also be submitted. The organizational chart shall show all positions that will be assigned to each area, accompanied by position description and responsibilities. Lines of supervision per shift shall be clearly defined.

**Factor 1.5 - Management Plan**

The Offeror shall provide a management plan that addresses, at a minimum, the following areas: understanding of the DRO Mission Statement and DRO responsibilities; understanding of the relevance of the DRO Mission Statement and DRO responsibilities to successful contract performance; understanding of how management differs from supervision in the context of the DRO Mission Statement and DRO responsibilities; an explanation of how the Offeror specifically plans to help DRO achieve the DRO Mission Statement and DRO responsibilities; performance measures and incentives or disincentives that demonstrate an understanding of the DRO Mission Statement and DRO responsibilities; commitment of the Offeror to the success of achieving the DRO Mission Statement and DRO responsibilities as demonstrated by the extent to which the Offeror will realistically put its profits at risk through the meaningful incentives and disincentives proposed.

**Factor 1.6 – Transportation Plan**

The Offeror shall provide a transportation plan that addresses, at a minimum, the following areas: written comprehensive transportation plan (including staff, vehicles, and rationale for the number of miles proposed); an explanation of how the Offeror specifically plans to achieve the objectives; training of new and incumbent employees; licenses/permits; insurance and vehicles.

**VOLUME II – PAST PERFORMANCE**

The Government is seeking to determine whether the Offeror has experience that will enhance its technical and management capability to perform and whether the Offeror consistently delivers quality services in a timely and cost effective manner. The Government reserves the right to use relevant past performance information it obtains through other sources e.g. interviews with previous clients or customers of the contractor, other agency databases (e.g., interviews with previous clients and customers of the Contractor and/or DRO, other agency databases, such as the Contractor Performance Assessment Reporting System (CPARS), Better Business Bureau (BBB), Excluded Party List System (EPLS), etc.) Only provide recent related experiences within the last 5 years.

The Offeror shall submit:

1. A list of contracts and subcontracts which relate to this type of work which has been completed during the past five years, and
2. Current and relevant contracts that have a performance period of at least one year and are the same or similar in size and complexity to this solicitation (to include any contracts and subcontracts currently in process).

Contracts listed may include those entered into by the Federal Government, agencies of State and local Governments and commercial customers. Offerors that are newly formed entities without prior contracts should list contracts and subcontracts as required above for all proposed key personnel.

The Offeror shall submit the Past Performance Information Form, Section J-Attachment 9 with the following information for each customer to which the Offeror sends the Past Performance Questionnaire, Section J-Attachment 8. This information will be submitted as part of Volume II (Past Performance):

1. Name of the contracting activity
2. Contract Number
3. Contract Type
4. Total contract value
5. Contract work
6. Contracting Officer and telephone
7. Program Manager and telephone
8. Administrative Contracting Officer, if applicable, and telephone number
9. List of major subcontracts

The Offeror shall write a narrative discussion of the Offeror's past performance on contracts that were similar in nature to include:

1. A listing of the major disturbances, escapes and strikes that occurred in the past five years while performing similar contracts.
2. Information on problems encountered with performance on previous contacts and the Offeror's corrective actions.
3. Any quality awards or certifications that indicate the Offeror possess a high-quality process for developing and producing the product or service required.

The Offeror is responsible for sending the Past Performance Questionnaire, Section J-Attachment 8 to the firm's customers in sufficient time for submission to the Contracting Office by the due date for receipt of proposals. The completed Past Performance Questionnaire shall not be submitted with the Contractor's proposal but shall be faxed directly to Rosemarie Mendoza at 949-360-3013 by the offeror's customers.

If the Offeror has no past performance, the Offeror shall submit a certification to Rosemarie Mendoza indicating the Offeror has no past performance. The certification shall be in a separately sealed envelope clearly marked with the solicitation number and accompanied with the RFP volumes.

**Note: Past Performance shall be submitted in the Volume II for evaluation by the Past Performance Evaluation Committee. Offerors are reminded that Volume I – Technical and Management Capability Proposal and Volume II-Past Performance shall NOT contain any cost/pricing data.**

### **VOLUME III- COST/PRICE PROPOSAL**

#### **A. Price Proposal Submission**

The price proposal shall contain sufficient information to permit a detailed evaluation. The Offeror shall submit proposed fully burdened rates for **all line items** listed in Schedule B of the solicitation unless otherwise specified in Section B. All costs to be incurred for providing these services shall be contained in the proposed prices. The burden of proof for credibility of the proposed prices rests with the Offeror. There will be no other separately priced items. The price proposal volume shall be organized as follows:

1. Standard Form 33 Cover Sheet with blocks 12 through 18 completed.
2. Section B of the solicitation with all price data completed. Provide a detailed price breakdown for:
  - (a) Detention Services (in accordance with PWS)
  - (b) Transportation Services (in accordance with PWS)
  - (c) Mileage Rate per size of vehicle (in accordance with PWS)
  - (d) Overtime (in accordance with PWS)



The price breakdown must include direct costs, indirect costs or overhead, general and administrative, and profit, which may be helpful in the understanding and evaluation of proposed prices.

**B. Explanation of Pricing**

This section of the Offeror’s proposal is designed to provide a narrative discussion or explanation of all Prices and “Other Than Pricing” issues requested. As long as the information contained in the “Explanation of Pricing” is related to the Price Proposal, the Offeror should feel free to provide as much narrative discussion as it feels is needed to ensure a proper understanding of the Price Proposal. The explanation of pricing is a critical part of the evaluation process and Offerors shall provide, at a minimum, a comprehensive explanation of the following:

1. Direct Labor Hour estimation and projection (man hours, staffing numbers per shift, roving guards, replacement staff, position descriptions, and hourly pay rate for direct productive labor hours only).
2. A brief discussion of company policies and procedures as they relate to overhead, profit, G&A, overtime, 2<sup>nd</sup> and 3<sup>rd</sup> shift compensation differentials, per diem, etc.
3. Fringe benefits
4. Subcontract information

The company’s burdened rate will form the basis for future negotiations as additional posts, Full Time Equivalents (FTEs) and transportation routes are added during the life of the contract. The proposed company burdened rate during the life of the contract should be clearly explained in the Explanation of Pricing.

**C. Direct Labor**

Direct Labor is an integral part of the prices proposed for the performance of this contract. As such, the Government requires that the Contractor present staffing matrices that reflect the Full-Time Equivalent (FTEs), hours, and the rates proposed for the personnel for the assigned positions reflected on the wage determination (Section J-Attachment 3) that will be assigned to the performance of the contract.

The Offeror is cautioned that the labor rates proposed will be compared to the Independent Government Price Estimated (IGCE) as part of the price realism assessment. Therefore, it is recommended, that the Offeror use category rates that represent realistic expectations of the rates that will be paid under the resultant contract.

Below is a sample of a wage breakdown table which lists the minimum information required for the burden labor rate;

Job Classification Title	Base Rate	Fringe	Total Wage	Payroll Taxes	Overhead or G&A Rate	Profit Rate	Fully Burden Wage Rate
Payroll Taxes	Percent						
FICA	%						
FUTA	%						
SUTA	%						
Workers Comp	%						

**D. Financial Capability**

Provide a narrative discussion of available financial resources for staff, personnel, equipment and supplies to support the proposed contract. Include the firm’s certified financial statements, certified by an independent public accountant (prefer audited statements, however, will accept reviewed or compiled statements) for the current year and one previous year.

The Offeror must provide:

1. Evidence of availability of working/operating capital that will be used for performance of the resultant contract. Sufficient funds must be available for the salaries, equipment, equipment maintenance,

services, supplies, etc., for a minimum of three months of contract performance (since payments for performance under the resulting contract will be monthly in arrears). Advance payments in this contract are not authorized.

2. Letter from your bank or other financial institution stating:
  - a. Number of years business has been conducted with the bank
  - b. Types of open accounts (savings, checking, loans, etc.)
  - c. Any and all commitments, loan guarantees, etc., in effect, the means by which the loans are secured, and if paid as stated in the agreement.
  - d. Point of contact and telephone number of the bank representative.
3. The Offeror shall submit the most recent copy of their Dun and Bradstreet Comprehensive Report. The Offeror's available financial resources will be reviewed based on the company financial statement and the Dun and Bradstreet Comprehensive Report (which includes an analysis of the firm's potential financial stress).

The Offeror must make arrangements with the financial institutions or other parties for the release of confirming information to the Government. The Government may also contact individuals listed in the proposal by the Offerors in order to obtain information concerning the Offerors' financial condition on referenced contracts.

All financial documentation that relates to the technical and management capability proposal shall be contained in Volume III.

## **SECTION M - Evaluation Factors for Award**

### **52.217-5 Evaluation of Options (JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

#### **M.1 – INTRODUCTION**

The Request for Proposal seeks to obtain detention, transportation, and food services inclusive of management, supervision, detainee welfare necessary to operate and support a contract detention facility in the metropolitan Seattle, WA area. The Government intends to acquire these services by awarding a single, competitive contract to the responsible Offeror who submits the combination of Demonstrated Technical and Management Capability, Past Performance, and Cost/Price Proposal that is determined to represent the best value to the Government.

The Government will use formal source selection procedures to conduct the acquisition. The source selection procedures involve the use of a structured process that involves a Source Selection Organization (SSO) responsible for the evaluation of the proposals and selection of a source for contract award. The Technical Evaluation Committee (TEC) is responsible for conducting a thorough review, analysis and evaluation of the technical and management capability of the Technical and Management Capability proposal. The Business Evaluation Committee (BEC) is responsible for conducting a thorough review, analysis and evaluation of the Cost/Price proposal. The Past Performance Evaluation Committee (PPEC) is responsible for gathering past performance data and conducting a thorough and complete analysis of the past performance data gathered. The TEC, BEC, and PPEC will submit all findings to the Source Selection Authority for the final source selection decision. The Source Selection Authority will review the findings and make the final source selection decision.

#### **M 2 - EVALUATION FACTORS**

##### **FACTOR 1 – TECHNICAL AND MANAGEMENT CAPABILITY**

##### **FACTOR 2 – PAST PERFORMANCE**

##### **FACTOR 3 – COST/PRICE**

#### **M 2.1 - Relative Importance of Evaluation Factors**

The solicitation provides the following information to assist the Offerors to gain a better understanding of how the Government will evaluate and consider the Offerors' proposals:

**Technical and Management Capability is more important than Past Performance. When combined, Technical and Management Capability and Past Performance are more important than Price.**

The Government reserves the right to conduct a pre-award survey on the successful Offeror for a responsibility determination.

#### **FACTOR 1 – TECHNICAL AND MANAGEMENT CAPABILITY**

All of the sub-factors are relatively equal when compared with each other.

##### **Factor 1.1 - Approach to Quality Control and Assurance**

The Government will evaluate the Offeror's approach to planning and executing quality control and assurance processes throughout the life of the contract that will fully meet the standards set forth in the RFP.

##### **Factor 1.2 – Approach to Staffing**

The Government will evaluate the Offeror's approach to fully staffing the proposed facility, including: The Management, Supervisory, Security and Contingency Plans; Ability to acquire and maintain a reserve guard force for temporary or emergency staffing that is sufficient to meet the requirements of the RFP.

##### **Factor 1.3 - Transition Plan**

The Government will evaluate the Transition Plan to determine if the plan illustrates a sound, reasonable implementation approach with realistic timeframes to ensure a timely seamless transition between the contractor and the predecessor contractor to ensure minimal disruption vital to contractor services and Government activities.

Particular consideration will be given to the Offeror's ability to recruit, train, provide the required licenses, permits and insurance, identify the priority of staffing the facility, and meet the Entry on Duty (EOD) required deadlines for all positions. Evaluation will be conducted on the training plan to ensure the Offeror's training program and course content meet the contract requirements.

Factor 1.4 - Key Personnel

The Government will evaluate the Offeror's organizational chart and the responsibilities of the key personnel to ensure that the Offeror has a clear understanding of the contract staffing requirements. Key Personnel resumes will be evaluated based on education, knowledge, experience, and security clearance as stated in the PWS.

Factor 1.5 - Management Plan

The Government will evaluate the Management Plan to assure the Offeror's: understanding of the DRO Mission Statement and DRO responsibilities; understanding of the relevance of the DRO Mission Statement and DRO responsibilities to successful contract performance; understanding of how management differs from supervision in the context of the DRO Mission Statement and DRO responsibilities; an explanation of how the Offeror specifically plans to help DRO achieve the DRO Mission Statement and DRO responsibilities; performance measures and incentives or disincentives that demonstrate an understanding of the DRO Mission Statement and DRO responsibilities; commitment of the Offeror to the success of achieving the DRO Mission Statement and DRO responsibilities as demonstrated by the extent to which the Offeror will realistically put its profits at risk through the meaningful incentives and disincentives proposed.

Factor 1.6 - Transportation Plan

The Government will evaluate the Offeror's transportation plan to ensure that the Offeror has the capability to meet the requirements based on: written comprehensive Transportation Plan including staff, vehicles, and rationale for the number of miles proposed; how the offeror specifically plan to achieve the objectives; training of new and incumbent employees; licenses and permits; and insurance and vehicles.

**FACTOR 2: PAST PERFORMANCE**

The Past Performance Factor evaluation will assess the relevance and breadth of the Offeror's experience and the quality of the Offeror's past performance. The Government will determine whether the Offeror has experience that will enhance its technical and management capability to perform and whether the Offeror consistently delivers quality services in a timely and cost effective manner. In evaluating past performance, ICE will only take into consideration the relevant experience and past performance assessments from the Offeror's customers. However, ICE reserves the right to use relevant past performance information it obtains through other sources (e.g., interviews with previous clients and customers of the Contractor and/or DRO, other agency databases, such as the Contractor Performance System (CPS), Better Business Bureau (BBB), Excluded Party List System (EPLS), etc. Only recent experience within the last five years will be considered in this evaluation. The assessment will evaluate the following areas as a whole:

Past Performance will be evaluated in the following areas: recent and relevance of experience; corporate commitment; quality of services; timeliness of performance; and effective utilization of resources.

Note: If some of the Offeror's experience is relevant and the rest is not, only the relevant experience will be evaluated for purposes of past performance. If no experience is relevant or the experience that is relevant cannot be evaluated due to a reference's failure to respond, a rating of neutral will be assigned for past performance as defined below.

**FACTOR 3: COST/PRICE**

Cost/Price proposals will not be scored and will not be evaluated if the technical proposal is rated as Unsatisfactory. The Government intends to limit the cost/pricing evaluated to only those offers that reflect the technical competence necessary to accomplish the objectives of the proposed contract. Once these offers have been identified, the evaluation of the Cost/Price Proposals will be performed. The Government will conduct its cost or price analysis using one or more of the techniques specified in FAR 15.

1. Comparison of proposed process received in response to the solicitation.
2. Comparison of proposed prices with resources proposed.
3. Obtaining information/reports from outside agencies and resources as required.

4. Cost analysis.

Proposals will be evaluated for price realism, completeness, and reasonableness:

1. Realism: Prices are compatible with the proposed scope of effort and operations reflect reasonable economy and efficiency.
2. Completeness: All information/data required by the RFP has been submitted, tracks to the requirements, and support the offer.
3. Reasonableness: Prices are considered fair under current market conditions, reasonable to the Government.

**Financial Condition and Capability** – The Government will assess the financial condition of the Offeror and its financial ability to acquire and provide the necessary resources to fulfill the requirements of the contract. The Government is seeking to determine if the Offeror has available financial resources to support the contract. Upon receipt of the documentary evidence from the Offeror, the Government will investigate the authenticity and validity of the information provided by the Offeror. This information will be used to determine responsibility of the Offeror and to assess relative financial risk.

The Offeror's available financial resources will be reviewed based on the company financial statements and Dun and Bradstreet Comprehensive Report which includes an analysis of the firm's potential financial stress. The Offeror must show that it has sufficient funds available, including a minimum of three (3) months actual contract performance price since the resulting contract payments will be made in arrears.

### **M.3 - EVALUATION PROCESS**

#### **M.3.1 – Unacceptable Proposals**

The Committees will perform a compliance check of the proposals received to determine conformance of the proposals to the instructions in the RFP. They will review all proposals to determine if they satisfy the minimum requirements of the RFP. Proposals found to be inadequate or in gross non-conformance with the RFP instructions (further evaluation is impossible) will be rejected and the Contracting Officer will notify the unsuccessful Offeror that their proposal will no longer be considered for further evaluation or award and will provide a debriefing if requested by the unacceptable Offeror. A proposal may be deemed unacceptable by the Contracting Officer because:

1. The proposal does not represent a reasonable initial effort to address itself to the essential requirements of the RFP, or clearly demonstrates that the Offeror does not understand all of the requirements
2. A substantial design or technical deficiency is inherent in the proposal, and sufficient correction or improvement to consider the proposal acceptable would require virtually an entirely new proposal
3. The proposal contains major technical or business deficiencies or omissions, or unreasonable costs which could not reasonably be expected to be corrected through discussions with the Offeror.

#### **M.3.2 - Basis for Award**

Source Evaluation will be conducted and selection will be made in accordance with the guidelines provided in the Federal Acquisition Regulation (FAR), Homeland Security Acquisition Manual (HSAM), Homeland Security Acquisition Regulation (HSAR) and the DHS Management Directives. The Source Selection personnel appointed by the Contracting Officer will evaluate each Offeror's Technical and Management Capability, Past Performance, and Cost/Price proposals. The evaluation will be based on best value principles, and award will be made to the Offeror whose proposal represents the overall best value to the Government, price and other factors considered. The Government intends to award the contract without discussions, in accordance with FAR 52.215-1. However, the Contracting Officer reserves the option to conduct discussions if it is deemed necessary. The Government intends to award a single Indefinite Delivery, Indefinite Quantity (IDIQ) contract with fixed unit pricing.

#### **M.3.3 - Method of Evaluation**

The determination of best value will be made by comparing the differences in the value of the Demonstrated Technical and Management Capability Factors and Past Performance and with differences in the Cost/Price proposed. Demonstrated Technical and Management Capability are more important than Past Performance. When combined, Demonstrated Technical and Management Capability and Past Performance are more important than Cost/Price. However, the Government will not make an award at a significantly higher overall cost to the Government to achieve only slightly superior technical capability. Overall cost to the Government may become the ultimate determining factor for award of the contract as proposals become more equal based on the other factors. The degree of equality between the Offerors' proposals will be measured by the quality, significance, and

applicability of the superior features proposed.

Proposals will be evaluated in accordance with the criteria set forth in the RFP to determine the Offeror’s demonstrated ability to provide the required services. Proposals must be specific and compliant with all terms and conditions of the solicitation in order to be acceptable. Any proposal failing to address all of the elements of the solicitation will be considered an indication of the Offeror’s lack of understanding, and response to, the Government’s requirements and may result negatively in overall proposal evaluation.

**M 3.4 - Scoring Instructions**

Section M provides a description of the factors that will be evaluated for each section of the proposal. Adjectival ratings will be used in evaluating the Demonstrated Technical and Management Capability Factor and Past Performance Factor. The Cost/Pricing proposal will not be scored.

**M 3.5 - Adjectival Ratings System**

The Demonstrated Technical and Management Capability Factor will be evaluated qualitatively and categorized as Outstanding, Good, Acceptable, Marginal, or Unacceptable. The following table defines these adjectives.

<i>Rating</i>	<i>Definition</i>
<b>Outstanding (O)</b>	The Contractor <i>meets and significantly exceeds</i> the requirements of the RFP. The Contractor has demonstrated that it is <i>highly proficient, knowledgeable, and experienced</i> in meeting the requirements specified.
<b>Good (G)</b>	The Contractor <i>meets or exceeds</i> the requirements of the RFP. The Contractor has demonstrated that it is <i>proficient, knowledgeable, and experienced</i> in meeting the requirements specified.
<b>Acceptable (A)</b>	The Contractor <i>meets and sometimes exceeds</i> the requirements of the RFP. The Contractor has demonstrated <i>sufficient knowledge or experience</i> in meeting the requirements specified.
<b>Marginal (M)</b>	The Contractor has <i>met</i> the minimum requirements of the RFP with some errors/deficiencies but not “many” as defined by the Unacceptable rating.
<b>Unacceptable (U)</b>	The proposal has <i>many deficiencies and/or gross omissions</i> . The Offeror <i>does not meet many</i> of the requirements of the RFP. The Contractor has <i>little or no working knowledge</i> of how to meet the requirements specified. (When applying this adjective to a proposal as a whole, the proposal must be so unacceptable in one or more areas that it would have to be significantly revised in order to attempt to make it other than unacceptable.)

The Past Performance Factor will be evaluated qualitatively and categorized as Neutral, Outstanding, Good, Marginal, or Unacceptable. The following table defines the adjectives:

<i>Rating</i>	<i>Definition</i>
<b>Neutral (N)</b>	No past performance or experience is available for evaluation. The Offeror has asserted that it has no directly related or similar relevant past performance experience. The proposal receives no merit or demerit for this factor.
<b>Outstanding (O)</b>	Based on the Offeror’s record of past performance, no issues, concerns, or risks are associated with receiving timely services and contract performance. Past performance surveys and the Offeror’s experiences indicate that the Offeror has proven its capability to exceed the requirements of the contract you are rating.
<b>Good (G)</b>	The Offeror’s record of past performance indicates there is little or no risk associated with receiving quality products, timely services, and full contract performance. Past performance surveys and the Offeror’s experience indicate the Offeror will meet or exceed the requirements of the contract you are rating.
<b>Acceptable (A)</b>	The Offeror’s record of past performance indicates that there is an acceptable amount of risk associated with receiving quality products, timely services, and contract performance. Past performance surveys and the Offeror’s experience indicate the Offeror has no problems meeting the requirements of the contract you are rating.
<b>Unacceptable (U)</b>	The Offeror’s record of past performance indicates it will be unable to meet the requirements of the contract you are rating.