

<b>SOLICITATION, OFFER AND AWARD</b>			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) →			RATING DO-		PAGE OF PAGES 1   44			
2. CONTRACT NUMBER		3. SOLICITATION NUMBER 52PAPT301008		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED 2/27/03		6. REQUISITION/PURCHASE NO.			
7. ISSUED BY Office of Procurement U.S. Patent and Trademark Office 2011 Crystal Drive, Suite 810 Arlington, VA 22202				8. ADDRESS OFFER TO (If other than Item 7)							
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"											
<b>SOLICITATION</b>											
9. Sealed offers in <u>original and 3 copies</u> for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in <u>See Sections L.15 and L.16</u> until <u>2:30 pm</u> , local time <u>March 28, 2003</u> .											
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.											
10. FOR INFORMATION CALL: →		A. NAME Sue Messina			B. TELEPHONE (NO COLLECT CALLS) AREA CODE NUMBER EXT. 703 305-8448			C. E-MAIL ADDRESS Susan.Mssina@uspto.gov			
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<b>OFFER (Must be fully completed by offeror)</b>											
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 <u>180</u> calendar days ( <i>60 calendar days unless a different period is inserted by the offeror</i> ) 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 %		
14. ACKNOWLEDGMENT 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			<input type="checkbox"/> 15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.		17. SIGNATURE		18. OFFER DATE				
<b>AWARD (To be completed by Government)</b>											
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) →			ITEM			
24. ADMINISTERED BY (If other than Item 7) CODE					25. PAYMENT WILL BE MADE BY CODE Office of Finance United States Patent and Trademark Office Box 17, Washington, DC 20231						
26. NAME OF CONTRACTING OFFICER (Type or print)					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.											

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## SECTION B – SUPPLIES OR SERVICES AND PRICES

### B.1 SCHEDULE OF ITEMS

**NOTE: This is a “no-cost to the Government” contract.** Computer Test Administrators (CTAs) are not reimbursed by the Federal Government but may charge registration candidates reasonable fees for test administration and related services.

As described more fully in section C.1.3, the anticipated future examination system will include an application fee to be paid by a registration applicant to the USPTO and an examination fee to be paid by the applicant to the CTA. The examination fee charged to an applicant will be determined from three components: a USPTO portion intended to cover USPTO costs in providing subject matter expertise and developing and maintaining a question bank; a CTA administration portion intended to cover the costs and a reasonable profit for a CTA in connection with the administration of the examination; and a CTA examination development portion intended to cover the costs and a reasonable profit for a CTA in connection with services to the USPTO in developing sound, legally defensible computer based examinations and test forms.

The following schedule sets forth the firm-fixed prices for total fees to the applicant (*i.e.*, application fee and examinations fees):

<b>BASE PERIOD (effective date of award through 12<sup>th</sup> month thereafter)</b>	
<b>Fee Description</b>	<b>Firm-Fixed Prices</b>
<b>USPTO Application Fee</b>	<b>\$50.00</b>
<b>Examination Fee</b>	
<b>A) USPTO Portion</b>	<b>\$200.00</b>
<b>B) CTA Administration Portion</b>	
<b>C) CTA Examination Development Portion</b>	
<b>Total Fees to Applicant (Application Fee + Composite Examination Fee)</b>	

<b>OPTION PERIOD I (13<sup>th</sup> month through 24<sup>th</sup> month)</b>	
<b>Fee Description</b>	<b>Firm-Fixed Prices</b>
<b>USPTO Application Fee</b>	<b>\$50.00</b>
<b>Examination Fee</b>	
<b>A) USPTO Portion</b>	<b>\$200.00</b>
<b>B) CTA Administration Portion</b>	
<b>C) CTA Examination Development Portion</b>	
<b>Total Fees to Applicant (Application Fee + Composite Examination Fee)</b>	

<b>OPTION PERIOD II (25<sup>th</sup> month through 36<sup>th</sup> month)</b>	
<b>Fee Description</b>	<b>Firm-Fixed Prices</b>
<b>USPTO Application Fee</b>	<b>\$50.00</b>
<b>Examination Fee</b>	
<b>A) USPTO Portion</b>	<b>\$200.00</b>
<b>B) CTA Administration Portion</b>	
<b>C) CTA Examination Development Portion</b>	
<b>Total Fees to Applicant (Application Fee + Composite Examination Fee)</b>	

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<b>OPTION PERIOD III (37<sup>th</sup> month through 48<sup>th</sup> month)</b>	
<b>Fee Description</b>	<b>Firm-Fixed Prices</b>
<b>USPTO Application Fee</b>	<b>\$50.00</b>
<b>Examination Fee</b>	
<b>A) USPTO Portion</b>	<b>\$200.00</b>
<b>B) CTA Administration Portion</b>	
<b>C) CTA Examination Development Portion</b>	
<b>Total Fees to Applicant (Application Fee + Composite Examination Fee)</b>	

<b>OPTION PERIOD IV (49<sup>th</sup> month through 60<sup>th</sup> month)</b>	
<b>Fee Description</b>	<b>Firm-Fixed Prices</b>
<b>Estimated USPTO Application Fee</b>	<b>\$50.00</b>
<b>Examination Fee</b>	
<b>A) Estimated USPTO Portion</b>	<b>\$200.00</b>
<b>B) CTA Administration Portion</b>	
<b>C) CTA Examination Development Portion</b>	
<b>Expected Total Fees to Applicant (Application Fee + Composite Examination Fee)</b>	

## **B.2 BURDENED FIRM-FIXED PRICES**

The firm fixed price for each item shall include **all** direct labor costs, other direct costs, indirect costs, overhead, general and administrative (G&A) expenses, and profit.

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## SECTION C -- DESCRIPTIONS AND SPECIFICATIONS

### C.1 GENERAL

#### C.1.1 OBJECTIVE

The United States Patent and Trademark Office (“USPTO”) seeks an interested computer test administrator(s) capable of administering computer-based patent registration examinations. The computer-based examination system will replace registration examinations currently administered with printed test booklets and mark sense forms, and will accommodate current and future multiple choice examinations designed by the USPTO and/or current and future patent registration examinations.

#### C.1.2 BRIEF BACKGROUND

The USPTO’s Office of Enrollment and Discipline (“OED”) is responsible for registering patent attorneys and agents to practice in patent cases before the USPTO. A candidate seeking registration to practice in patent cases before the USPTO must, *inter alia*, demonstrate possession of the legal, scientific, and technical qualifications necessary to enable him or her to render patent applicants valuable service. To measure legal qualifications of registration candidates, OED develops an examination that is currently administered by the Office of Personnel Management twice a year in thirty-seven cities around the United States. It is currently a written, multiple-choice exam. In recent years, about 2500 to 3000 candidates apply each time the examination is offered. The current application fee is \$40.00 and the current examination fee is \$310.00. The examination tests applicants for registration to ascertain if they have the necessary knowledge of patent law, practice and procedure to provide valuable assistance to patent applicants. Additional information concerning the registration examination as it is currently implemented is available on the USPTO Internet web site (<http://www.uspto.gov/web/offices/dcom/olia/oed/index.html>) and in the General Requirements Bulletin for Admission to the Examination for Registration to Practice in Patent Cases Before the United States Patent and Trademark Office.

#### C.1.3 ANTICIPATED FUTURE EXAMINATION SYSTEM

The USPTO desires to improve the convenience and accessibility of the current examination process by administering the registration examination by computer in one or more cities in each of the United States several days each week.

The USPTO anticipates that, once a computer-based examination is established, registration candidates will be required to submit an application to sit for the registration examination. The application will require payment of an application fee to the USPTO and submission of appropriate evidence that the candidate possesses the necessary scientific and technical qualifications. The USPTO will review the candidate’s scientific and technical qualifications and either approve or disapprove the candidate to sit for the examination. Approved candidates will receive a notice of admission to the registration examination.

Once a registration candidate is approved to sit for the registration examination, he or she may arrange with a computer-testing administrator (CTA) to sit for the examination at a convenient time and location. The computer-testing administrator will collect an examination fee from the candidate before the examination is administered. The computer-testing administrator will retain a first portion of the examination fee for costs and reasonable profit for administering the examination. A second portion of the examination fee will be retained by the CTA for costs and reasonable profit to the CTA for consultation services to the USPTO in developing sound, legally defensible computer-based examinations and test forms. A third portion of the examination fee will be submitted by the computer-testing administrator to the USPTO to recover costs associated with development and maintenance of examination question banks. At the completion of the examination, the computer-testing administrator will provide a written test report to the registration candidate and will submit required reporting information to the USPTO within the timeframes specified for the report. An evaluation of a candidate’s moral character and repute will be conducted by OED after the candidate passes the registration examination. This evaluation is not a contractor/CTA responsibility.

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In its initial implementation, the computer-based examination is expected to comprise 100 multiple choice questions presented in two parts – a three-hour morning session of 50 questions and a three-hour afternoon session of 50 questions. The contractor must be capable of providing special accommodations (*e.g.*, extra time, readers, *etc.*) which may be necessary to accommodate disabilities and/or medical conditions of candidates. Test forms will be generated from a question bank produced by USPTO subject matter experts in conjunction with testing experts from the successful bidder(s) in response to this Request for Proposal (RFP).

## C.2 DEFINITIONS

### C.2.1 GENERAL DEFINITIONS

- a. Alternate Testing Center Supervisor (ATCS). A person selected and authorized by the CTM to serve as TCS for a period not to exceed 90 days.
- b. Testing Center Inspector (TCI). A USPTO employee who may conduct testing center inspections.
- c. Computer Testing Administrator (CTA). A contractor authorized by the USPTO to administer USPTO tests.
- d. Computer Testing Manager (CTM). A person selected by the CTA, and approved by the USPTO, to serve as manager of its computer-testing program.
- e. Test Proctor. A properly trained and qualified individual appointed by a TCS and approved by the CTM to administer USPTO tests.
- f. Testing Center. A facility that provides applicants a USPTO-approved computer-based testing environment for the administration of USPTO tests.
- g. Testing Center Supervisor (TCS). A person selected by the CTM to oversee the administration of USPTO tests. The TCS is responsible for the operation of an approved testing center.

### C.2.2 CTA STATISTICAL DEFINITIONS.

- a. Validity. The determination of how well a test measures what it is supposed to measure.
- b. Reliability. The determination of test score consistency.
- c. Measurement Error. A function of test reliability. An index of how closely a test score is likely to depart from the actual or true score.
- d. Standard Deviation. An index of the variability of the test scores about the mean.
- e. Frequency Distribution. The frequency of occurrence for each test score.
- f. Skewness. The state of symmetry shown by a frequency distribution.
- g. Kurtosis. The state or quality of peakedness or flatness of the graphical representation of a statistical distribution.
- h. “P” Value. Proportion of applicants obtaining the correct answer on a single test question. In a multiple-choice question, it may also refer to the proportion of applicants selecting other test question alternatives.

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i. Point Biserial Coefficient of Correlation. A statistic to measure the extent to which a single question discriminates between low and high scoring applicants. The degree of relationship, positive or negative, between the scores on a single question and the corresponding total scores of all applicants sampled.

j. Validation Question. A test question that is used for evaluation purposes and is not counted in the applicant's total score.

### C.3 SCOPE OF WORK

The Computer Testing Administrators (CTA) shall provide all the necessary resources to fulfill this contract, including a computer testing system, electronic communications system, test centers, and personnel to administer tests on behalf of the USPTO. The CTA will also assist subject matter specialists at the USPTO in developing sound, legally defensible computer-based examinations and test forms.

### C.4 REQUIREMENTS

#### C.4.1 REQUIREMENTS OF COMPUTER-TESTING SYSTEM

a. The CTA shall ensure the security and confidentiality/privacy of the registration examination and applicant data in the use of its product. All exams should be encrypted between the CTA central processing computer and the testing machines. No part of the test may reside on the testing machine.

b. The computer testing system must be able to import questions and answers from a text document, allow the modification of existing examinations, and ensure the ability to add future examinations.

c. The computer testing system must allow the display of questions and the selection of answers by persons taking the test (candidates), as well as permit candidates to enlarge the font of questions and answers.

d. The computer testing system must be able to time parts of examinations, and stop administration of the examination after expiration of a maximum time period.

e. The computer testing system must allow candidates to return to questions or skip questions within one part of the examination (*e.g.*, morning session).

f. The computer testing system must not allow candidates to access other questions of one part of the examination (*e.g.*, morning session) while working in another part (*e.g.*, afternoon session).

g. The computer testing system must allow the simultaneous administration of examinations to a minimum of 50 candidates across the United States.

h. The computer testing system must allow candidates passing the examination to complete the examination without answering all questions, while permitting all candidates failing the examination to answer all questions on the examination (within permissible time limits).

i. The computer testing system must allow candidates to go back to a place in the examination with the remaining time left following electrical or communication failure, or hardware problems.

j. The computer testing system must provide results to the candidates immediately upon completion of the entire examination.

k. The computer testing system must record the actual total time of test.

l. The computer testing system must be able to lock out unapproved candidates.

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m. The computer testing system must store a record of the data entered by the candidates on the computer testing system server. This record must identify the candidates, the questions given, the response of each candidate, the date and time of the test, and the amount of time the test took. This record must be in ASCII compliant format.

n. The computer testing system must meet or exceed minimum accessibility standards for people with disabilities as specified in Section 508a of the Rehabilitation Act (29 U.S.C. 794d), as amended by the FY 2001 Appropriation for Military Construction (Public Law 106-246 – July 13, 2000). Section 508 standards can be found at <http://www.access-board.gov/508.htm>. The USPTO has determined that the technical standards set forth in sections 1194.21 and 1194.25 of Section 508(a) apply to this procurement.

o. The CTA shall have testing centers. The testing environment must provide secure, noise and temperature controlled conditions with adequate lighting, opportunity for individual candidate privacy at each test site, convenient rest room facilities, comfortable testing furniture, adequate writing space, adjustable screens and chairs, and other appropriate accommodations, including access meeting the requirements of the Americans with Disabilities Act.

p. For a computer-based examination, the test shall be delivered on the CTA's own computers at a site and under conditions acceptable to the USPTO.

q. The CTA shall download each candidate's response file on a daily basis to a server to be designated.

r. The CTA shall be responsible for final scoring and reporting to the candidate(s) and the USPTO on a daily basis.

s. The CTA shall be able to administer alternate question formats (*e.g.*, graphically enhanced questions, drag and drop questions, multiple matching questions, labeling, and constructed response questions).

t. The CTA shall have security systems for sites, machines, data transfer, storage, backup data audits, and approved destruction of examination administration information. Security elements must include:

- (1) Ability to prevent candidates from taking the examination at multiple sites per application.
- (2) A fail-safe mechanism verifying identity of each candidate.
- (3) Process whereby a candidate initiates an examination.
- (4) Ability to overcome a power loss and retain a candidate's data.
- (5) Ability to photograph, or fingerprint all candidates, as well as CTA's retention and archiving policies of said data.
- (6) Examples of recent security breaches, responses to the same, and corrective action taken.

u. The CTA shall be responsible for retaining, securing, and ensuring the integrity of all computer information. The CTA shall create all appropriate backups of the information and develop procedures to prevent data loss. The CTA shall perform daily backups of testing information.

v. The CTA shall have the ability to select only certain questions in an examination to create individualized tests from a bank of questions.

w. The CTA shall have the ability to randomize the order of the questions within a part of the examination. In a multiple-choice question, the provider shall have the ability to randomize the order of the correct answer choice and the distracter choices.

x. The CTA must allow the USPTO to have custody of record copies of the examination and examinations completed by test takers, ability to store the records for the USPTO and ensure that no information is lost.

y. The CTA and any subcontractors shall be free of conflicts of interest with the examination, *e.g.*, nobody on the CTA's staff may teach a course to pass the exam.

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- z. The CTA shall have an effective quality assurance plan to assure error-free delivery of test results.
- aa. The CTA must timely and accurately communicate with the USPTO.

#### C.4.2 CTA SUPPORT REQUIREMENTS

The CTA shall:

- a. Retain exclusive use of an approved computer-based program.
- b. Provide and maintain a minimum of 50 operational, geographically dispersed testing centers, with at least one testing center in each of the United States. The testing centers shall have business hours that are convenient for the public.
- c. Provide an acceptable method for registration of test applicants during normal business hours.
- d. Have a program management office with problem resolution and technical support from 7 a.m. to 7 p.m., Eastern Standard Time, Monday to Friday.
- e. Operate a toll-free data line allowing the USPTO to access individual applicant records, total tests administered, statistical reports, test bank items, and form test data from the CTA's central computer. Applicant data must be available on the first business day after an applicant has been administered a test.

#### C.4.3 CTA TECHNICAL REQUIREMENTS

The CTA shall provide and maintain on a continuing basis:

- a. Electronic mail connection(s) between CTA and USPTO point(s) of contact.
- b. The accuracy of question banks.
- c. A method for displaying on-screen graphics, performance charts, and other supplementary testing information to the candidate during administration of USPTO examinations.
- d. An acceptable plan for test security.
- e. An acceptable method for providing an introductory lesson to familiarize applicants with computer testing procedures.
- f. An acceptable method for randomly selecting test forms. The system must rotate forms to the extent that all forms are used during this randomization.
- g. An acceptable display of multiple-choice, and other question types, in their entirety, on one computer screen.
- h. A computer screen display of the time remaining for the completion of the test.
- i. A convenient method (*e.g.*, keyboard, touch screen, mouse) for answering test questions.
- j. A method for permitting an applicant to return to a test question previously answered, for the purpose of review or for possible answer change.
- k. An acceptable method for saving test information after each answered item.

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- l. Accurate applicant test records that strictly adhere to a format approved by the USPTO.
- m. Accurate validation data records that strictly adhere to a format approved by the USPTO.
- n. Applicant survey data records that strictly adhere to a format approved by the USPTO.
- o. An acceptable method for accomplishing secure electronic transfer of applicant test data to the USPTO on a daily basis.
- p. A daily backup of applicant test records stored in a secure, off-site location. Files and records must be maintained for at least 26 months.
- q. An acceptable method for accomplishing electronic transfer of a currently revised list of authorized testing center personnel to the USPTO as changes occur. This list must contain the following information on each testing center:
  - (1) Date of list certification.
  - (2) Name of testing center.
  - (3) Testing center designator.
  - (4) Name of testing center owner(s).
  - (5) Name of TCS.
  - (6) Name of ATCS, if applicable.
  - (7) Name(s) of test proctor(s).

#### C.4.4 ELECTRONIC COMMUNICATIONS SYSTEM REQUIREMENTS

The CTA must provide an electronic communications system based and maintained at the CTA's home office. The system must be capable of providing the USPTO access to the statistical evaluation data, including an acceptable method for:

- a. Providing a statistical evaluation of a whole test (excluding validation questions) to include at least:
  - (1) Sample size.
  - (2) Frequency distribution.
  - (3) Average test score.
  - (4) Average score for each subject matter code.
  - (5) Average test time.
  - (6) Standard deviation.
  - (7) Pass/fail ratio.
  - (8) Reliability index.
  - (9) Measurement error.

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(10) Skewness.

(11) Kurtosis.

b. Providing statistical evaluation of individual test and validation questions to include at least:

(1) Number of responses.

(2) Number of applicants selecting each response.

(3) "P" value of each response.

(4) Point biserial coefficient of each response

(5) Average question time.

#### C.4.5 TESTING CENTER FACILITY REQUIREMENTS

Each testing center shall provide and maintain on a continuous basis:

a. Conformance with local building, sanitation, and health codes.

b. Restroom facilities located in the same building where the USPTO testing is conducted.

c. Proper control of temperature and ventilation.

d. Adequate lighting. Situations that create glare on computer monitor screens should be avoided.

e. Adequate physical space. Separate cubicles with suitable partitions between test terminals are recommended. In absence of partitions, a 5-foot spacing is required between test terminals.

f. Adequate table workspace. Partitioned workspaces must be at least 3-feet wide, and the monitor and keyboard offset to allow adequate room to utilize test materials.

g. Freedom from noise, distractions, and visual aids. Situations that create noise in or around the testing area should be avoided. Test rooms must be free of any posters or other materials that may assist an applicant in answering test questions. Test rooms must be free from any other activity during testing sessions.

h. At least three operational computer terminals during normal business hours.

i. Ease of applicant surveillance during testing sessions.

j. A secured area for storing computer hardware containing applicant and test data.

k. Adequate arrangements for safety and emergencies.

l. Compliance with the Americans with Disabilities Act.

#### C.4.6 INDIVIDUALS AUTHORIZED TO ADMINISTER USPTO TESTS

Only properly trained, qualified, and authorized individuals may administer USPTO tests. Each TCS must provide the CTM with an approved list of its testing center personnel, including the certifying statements for test proctors. This list must be signed and dated by the TCS. Each testing center must retain a current file copy of this personnel list.

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#### C.4.7 BACKGROUND CHECKS

The CTA must perform a background check on each proposed TCS and ATCS. A third-party background screening company must conduct the background checks required by this paragraph.

#### C.4.8 PERSONAL QUALIFICATIONS OF THE CTM, TESTING CENTER OWNER, TCS, ATCS, AND TEST PROCTOR.

- a. Age. CTMs, testing center owners, TCSs, ATCSs, and test proctors must be at least 21 years of age.
- b. Citizenship. To ensure USPTO jurisdictional and surveillance oversight, CTMs, testing center owners, TCSs, ATCSs, and test proctors must be citizens or resident aliens of the United States. A foreign national may NOT be appointed as a TCS, ATCS, or test proctor at a location in the United States.

NOTE: No waivers of age or citizenship requirements will be considered.

- c. Personal Traits. Testing center personnel must have a good reputation and record in the community for integrity and dependability.

#### C.4.9 KNOWLEDGE REQUIREMENTS OF THE CTM AND TESTING CENTER PERSONNEL

CTMs and testing center personnel must be knowledgeable in the following:

- a. USPTO test authorization requirements.
- b. Computer uses as they relate to the USPTO testing program.

NOTE: A CTM must be knowledgeable in the structure, processing, and transmission of applicant data.

#### C.4.10 TCS AND ATCS RESPONSIBILITIES

The TCS or ATCS is responsible for the operation of the testing center, including training and conduct of test proctors. The TCS must be present during at least 50 percent of test administration business hours. In the absence of the TCS or ATCS, the test proctor may administer USPTO tests. The TCS or ATCS is responsible for ensuring that at least one TCS, ATCS and/or test proctor is present at all times during administration of USPTO examinations.

#### C.4.11 TCS AND ATCS APPOINTMENTS

Prior to appointing a TCS or ATCS, the CTM must ensure that all background checks and other applicable requirements of this contract are met.

#### C.4.12 TEST PROCTOR APPOINTMENTS

Prior to appointing a test proctor, the TCS must secure CTM approval. If the applicable requirements of this contract are met, the CTM will notify the TCS that the test proctor is approved.

- a. The TCS must certify that each test proctor meets the personal qualification and knowledge requirements described in Sections C.4.8 and C.4.9.
- b. The TCS must certify that each test proctor has been trained in administering USPTO examinations.
- c. The TCS is responsible for promptly reporting information to the CTM regarding a criminal conviction of a test proctor. The CTM is responsible for promptly reporting this information to the USPTO. Upon notification of a felony conviction, the offending individual must NOT administer or monitor a USPTO test.

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#### C.4.13 SEPARATION OF TESTING CENTER PERSONNEL.

- a. The CTA must notify the USPTO of changes in key personnel (see Section H.5) as they occur.
- b. The CTA must ensure that all applicable computer access passwords are immediately changed with the separation of any employee authorized to administer USPTO tests.

### C.5 SECURITY, SURVEILLANCE, AND INSPECTIONS

#### C.5.1 TEST AND DATA SECURITY

Control and security of USPTO testing data is a primary responsibility of the CTM. The CTM must assure the integrity of the USPTO testing process, and take no action that will cause or give the perception of a breach of USPTO testing data integrity. No USPTO testing data shall be destroyed or withheld from the USPTO unless otherwise provided by contract, or without written permission.

- a. The computer testing administrator (CTA) central processing computer must be secured and protected as U.S. Government *For Official Use Only* information. All USPTO testing data is the property of the USPTO and may not be used for any other purposes than authorized by the USPTO.
- b. The central processing computer, testing center computers, and associated equipment used for applicant testing must be owned, or be under a binding contract or agreement for exclusive use by the CTA.
- c. Access to registration candidate personal and demographic information and test data by unauthorized persons is prohibited.
- d. Test question bank answers must reside in the central processing computer and not at the testing center.
- e. The testing center's computer terminals must not have a two-way communications feature operating during the test which could provide unauthorized assistance to the applicant or contribute to test compromise.
- f. Applicants shall not be permitted to carry cellular telephones, text pagers, or other communications devices during administration of the examination.

#### C.5.2 REPORTING OF IRREGULARITIES AND INFRACTIONS.

- a. The CTA must provide an electronic communications system for testing center personnel to advise the CTM of equipment malfunctions; unusual occurrences such as power interruption; and inaccurate entry of applicant registration data, such as incorrect spelling of applicants' names or incorrect social security numbers, if voluntarily provided.
- b. The CTM is responsible for immediately notifying the USPTO of any action taken by testing center personnel that would jeopardize the proper functioning of the USPTO testing program.

### C.6 TEST PROCEDURES - GENERAL

#### C.6.1 IDENTIFICATION AND PROCESSING OF CANDIDATES

The proctor administering a USPTO examination must positively identify each candidate, ensure proper test authorization is presented, and ensure proper completion of the testing center daily log. The proctor must not administer a test to a candidate who does not present proper test authorization.

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a. Prior to test administration, the proctor must ensure that each candidate provides positive proof of identification, a permanent mailing address, and documentary evidence of age. The identification presented must include a current photograph, signature, and mailing address. This information may be presented in more than one form of identification.

b. The testing center must provide a daily log for candidate sign-in and sign-out. The sign-in/out logs must be maintained in an accurate and complete manner. The log sheet must be formatted to collect the candidate's printed full legal name, full legal signature, ID number or date of birth, type and date of test, time in and time out for each test administered, and the initials of the proctor for each test administered. Testing center daily logs must be retained for a period of 2 years.

#### C.6.2 USE OF AIDS, REFERENCE MATERIALS, AND TEST MATERIALS

Candidates for USPTO tests may use any aids, reference materials and test materials provided with the test; no other aid, reference material or test material may be used. Electronic versions of USPTO approved reference materials should be available for local display on the test terminals during administration of the examination.

#### C.6.3 TEST ADMINISTRATION FOR CTA PERSONNEL

Computer testing administrator (CTA) personnel who desire to take a USPTO examination must not be administered the test at a testing center where they are employed.

#### C.6.4 VISUAL OR VIDEO SURVEILLANCE OF APPLICANTS DURING TESTS

The proctor must be able to view the candidates at any time, be aware of all activities in the testing room, and be alert for any misconduct.

a. When a candidate break is necessary, the candidate's whereabouts during this break must be monitored by the proctor.

b. Video surveillance systems are authorized. Such systems must cover the entire testing area and permit the person who administers the test to view that area on a video monitor.

(1) If video monitoring is used, a sign must be visible to the candidates advising that the testing area is being video-monitored.

(2) Visual or video surveillance of candidates does not preclude the performance of other tasks by the proctor.

#### C.6.5 CANDIDATE MISCONDUCT DURING TESTING

a. Testing center personnel shall promptly report all violent, disruptive, or abusive acts, including incidents or allegations of cheating, to their CTM and the Office of Enrollment and Discipline.

b. If a candidate appears to be cheating, the proctor must immediately discontinue that candidate's test and escort the candidate from the area to avoid disturbing others who may be taking tests. The proctor must collect the candidate's authorization, all test materials, including exhibit book(s), and advise the candidate that further testing may continue only after the USPTO completes an investigation.

(1) The proctor must immediately notify the CTM and Office of Enrollment and Discipline, by telephone, of the alleged cheating incident. The testing center supervisor (TCS) must keep any evidence related to the cheating incident in a secured area until it is given to the USPTO.

(2) The CTM must immediately notify the USPTO by telephone, followed by written communication, of the known facts relating to the incident.

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(3) The USPTO will conduct an investigation.

(4) If the charge of cheating is judged in favor of the candidate, the USPTO will make arrangements to administer a new test.

#### C.6.6 HANDLING CANDIDATE COMMENTS ON TESTS

The CTA must provide an opportunity for candidates to enter comments into the computer regarding their testing experience/environment and USPTO examination questions.

a. The proctor must not express opinions regarding test questions or answers prior to, during, or after a test session.

b. If a candidate requests to have a test hand-scored, the request must be in the form of a signed letter to the Office of Enrollment and Discipline.

#### C.6.7 DUPLICATE USPTO TEST REPORTS

A testing center must provide a candidate only one USPTO Test Report.

a. Once a candidate leaves the testing center, upon completion of USPTO test, a duplicate test report must not be furnished by the CTA for any reason.

b. If USPTO Test Report cannot be printed at the time of completion of a candidate's test, the testing center must contact the CTA home office. Within 24 hours, the home office must reproduce the test report, seal it with the home office's official seal, and mail the report to the candidate.

c. A candidate who requires a duplicate test report due to loss, theft, or destruction of the original must send a signed request, including a check or money order for \$50.00, to: Mail Stop OED, United States Patent and Trademark Office, Post Office Box 2327, Arlington, Virginia 22202-2327.

#### C.6.8 ERRONEOUS USPTO TEST REPORTS

If an error is detected on a USPTO Test Report, the candidate may send the ORIGINAL test report, accompanied by a letter, explaining the error and requesting issuance of a corrected report to: Mail Stop OED, United States Patent and Trademark Office, Post Office Box 2327, Arlington, Virginia 22202-2327.

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## **SECTION D -- PACKAGING AND MARKING**

### **D.1 DELIVERIES AND MARKING**

Any deliverable/report required under this contract shall be delivered in accordance with standard commercial practices and shall be marked with the Contract Number. Deliverables, reports and manuals may also be requested to be submitted electronically.

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## SECTION E -- INSPECTION AND ACCEPTANCE

### E.1 52.252-02 CLAUSES INCORPORATED BY REFERENCE

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

Clause	Title	Date
52.246-04	Inspection of Services – Fixed Price	Aug 1996

### E.2 USPTO SURVEILLANCE

In addition to the rights afforded the Government under the “Inspection of Services” clause, the USPTO may:

- (1) Conduct daily electronic surveillance by reviewing statistical data and applicant survey reports.
- (2) Conduct random inspections of testing centers.

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## SECTION F -- DELIVERIES OR PERFORMANCE

### F.1 PERIOD OF PERFORMANCE

The periods of performance of this contract are as follows:

Base Period:	Date of Award through 12 <sup>th</sup> month thereafter
Option Period I (if exercised):	13 <sup>th</sup> month through 24 <sup>th</sup> month
Option Period II (if exercised):	25 <sup>th</sup> month through 36 <sup>th</sup> month
Option Period III (if exercised):	37 <sup>th</sup> month through 48 <sup>th</sup> month
Option Period IV (if exercised):	49 <sup>th</sup> month through 60 <sup>th</sup> month

*Specific dates to be provided at time of contract award.*

### F.2 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract unilaterally by written notice to the Contractor provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years.

### F.3 REPORTS/DELIVERABLES

The following reports/deliverable shall be provided to the Contracting Officer's Technical Representative (COTR) (see Section G.3):

#### (a) APPLICANT REGISTRATION

The computer-testing administrator (CTA) shall enter required candidate personal information (*e.g.*, legal name, date of birth, mailing address, citizenship, *etc.*) and test information (*e.g.*, date of test, title of test, score, test proctor, *etc.*) into the candidate's data file. Revised data files will be reported daily to the USPTO in an approved format. The CTA shall also provide timely quarterly reports to the USPTO in an approved format identifying all applicants that sat for the examination during the preceding quarter by candidate personal information and test information.

#### (b) TEST RESULT REPORT SPECIFICATIONS

The CTA shall develop USPTO Test Result Reports that conform to print size, print quality, paper quality, and test report content requirements determined by the USPTO. Such test reports will be provided to registration candidates upon completion of an examination session.

#### (c) ADMINISTRATION PROCEDURES MANUAL

The CTA shall prepare an indexed, comprehensive manual for administration procedures for the USPTO which will be due 45 calendar days after contract award.

The CTA shall work with the USPTO to develop procedures for accurate, secure transfer of all testing information, *e.g.*, questions, examination forms, pretest questions, question data, candidate response data, and candidate database information, from the USPTO to the provider's sites, and from testing sites to the provider and USPTO. The provider must be able to daily upload and download data.

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The CTA must have formal USPTO-approved procedures for handling cheating.

The CTA must have USPTO-approved procedures for administering an examination including admission protocol procedures, system capability, type and use of computer administration equipment, and exit protocol.

The CTA must have USPTO-approved procedures for orienting examination staffers, including appropriate USPTO-approved quality control mechanisms.

The CTA must have a USPTO-approved plan for managing a crisis. The plan shall specify procedures and reasonable time periods for handling crises, such as power outages, earthquakes, examination compromise, and similar occurrences and must include procedures for notifying candidates of cancellation and/or rescheduling.

**(d) REPORT ON PERFORMANCE SUCCESSES AND FAILURES**

The CTA shall give timely quarterly reports to the USPTO detailing performance successes and failures of the test sites, administration service, and expressing the provider's professional judgment regarding each aspect of the testing process.

**(e) REPORT ON FEES AND FEE TRANSMISSION**

The CTA shall provide a weekly report on collected fees along with electronic transmission of the USPTO Portion of the examination fees.

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## SECTION G -- CONTRACT ADMINISTRATION DATA

### G.1 CONTRACT ADMINISTRATION

Notwithstanding the Contractor's responsibility for total management during the performance of this contract, the administration of the contract will require maximum coordination between the Government and the Contractor. The following individuals will be the Government points of contact during the performance of the contract.

(1) Contracting Officer's Technical Representative

A Contracting Officer's Technical Representative (COTR) will be designated on authority of the Contracting Officer to monitor all technical aspects and assist in administering the contract. The types of actions within the purview of the COTR's authority are to assure that the Contractor performs the technical requirements of the contract; to maintain both written and oral communications with the Contractor concerning the aspects of the contract within his/her purview; to issue written interpretations of technical requirements of Government drawings, designs and specifications; to monitor the Contractor's performance under the contract and notify the Contractor and Contracting Officer of any deficiencies observed; and to coordinate Government-Furnished Property or Data availability and provide for site entry of Contractor personnel if required. A letter of designation will be issued to the COTR with a copy supplied to the Contractor, stating the responsibilities and limitations of the COTR. This letter will clarify to all parties to this contract the responsibilities of the COTR. At no time may the scope of work, price, delivery dates, or other mutually agreed upon terms or provisions of the contract be changed without being executed in writing by the Contracting Officer authorizing such changes.

(2) Contracting Officer

All contract administration will be effected by the Contracting Officer, address as shown on the face page of this solicitation. Communications pertaining to contract administration matters will be addressed to the Contracting Officer. No changes in or deviation from the scope of work shall be effected without a Supplemental Agreement executed by the Contracting Officer authorizing such changes.

### G.2 CONTRACTING OFFICER'S AUTHORITY

The Contracting Officer is the only person authorized to make any changes, or approve any changes in the requirements of this contract, and notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event, the contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been without authority and no adjustment will be made in the contract price to cover any increase in costs occurred as a result thereof.

### G.3 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

(a) The Contracting Officer hereby designates the individual named below as the Contracting Officer's Technical Representative:

NAME: TBD  
ADDRESS: TBD  
PHONE NO.: TBD

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

(c) The responsibilities and limitations of the COTR are as follows:

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(1) The COTR is responsible for the technical aspects of the project and technical liaison with the Contractor. The COTR is also responsible for the final inspection and acceptance of all reports, and such other responsibilities as may be specified in the contract.

(2) The COTR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the Contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COTR. No such changes shall be made without the expressed prior authorization of the Contracting Officer. The COTR may designate assistant COTR(s) to act for her by naming such assistant in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.

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## SECTION H -- SPECIAL CONTRACT REQUIREMENTS

### H.1 ADVERTISING OF AWARD

The Contractor agrees not to refer to awards in commercial advertising in such manner as to state or imply that the services provided are endorsed or preferred by the Federal Government, it is considered by the Government to be superior to other services. Advertisements, press releases, and publicity of a contract by a supplier shall not be made without the prior express written permission of the Contracting Officer.

### H.2 SECTION 508 OF THE REHABILITATION ACT OF 1973 COMPLIANCE

In accordance with Section 508, Subsection 508 (a)(3), the USPTO requires that all Electronic Information Technology ("EIT"), as that term is defined at FAR 2.101, delivered under this contract comply with the applicable EIT technology accessibility standards issued by the Architectural and Transportation Barriers Compliance Board set forth at 36 CFR Part 1194.

### H.3 DUPLICATION AND DISCLOSURE OF CONFIDENTIAL DATA

Duplication or disclosure of confidential data provided by the PTO or to which the Contractor will have access as a result of this contract is prohibited. It is understood that throughout performance of the contract, the Contractor may have access to confidential data that is the sole property of the PTO, as well as access to proprietary data which is the sole property of other than the contracting parties. The Contractor hereby agrees to maintain the confidentiality of all such data to which access may be gained throughout contract performance whether title thereto vests in the PTO or otherwise. The Contractor hereby agrees not to disclose said data, any interpretations thereof, or data derivative therefrom, to unauthorized parties in contravention of these provisions without prior written approval of the Contracting Officer or the party in which title thereto is wholly vested. This clause also applies to any subcontractors and consultants used by the Contractor.

### H.4 KEY PERSONNEL

(a) The Contractor shall assign to this contract the following key personnel:

Labor Category	Personnel
Computer Testing Manager	TBD

*(Other labor categories may be specified before or after award)*

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall obtain the consent of the Contracting Officer prior to making Key Personnel substitutions. Replacements for Key Personnel must possess qualifications equal to or exceeding the qualifications of the personnel being replaced.

(c) Requests for changes shall be submitted to the Contracting Officer at least 15 working days prior to making any permanent substitutions. The request should contain a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The Contracting Officer will notify the Contractor within 10 working days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes.

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#### **H.5 NOTICE TO THE GOVERNMENT OF DELAYS**

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with the contract delivery schedule or date, or whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the Contracting Officer and the COTR, in writing, giving pertinent details, provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the Government of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

#### **H.6 ORGANIZATIONAL CONFLICT OF INTEREST**

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as define in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies - The Contracting Officer may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert provisions which shall conform substantially to the language of this clause, including this paragraph (d), in any subcontract or consultant agreement hereunder.

#### **H.7 SUPERVISION OF CONTRACTOR'S EMPLOYEES**

(a) Personnel assigned to render services under this contract shall at all times be employees of the Contractor or its subcontractor(s) and under the direction and control of the Contractor. Notwithstanding any other provisions of this contract, the Contractor shall at all times be responsible for the supervision of its employees in the performance of the services required hereunder.

(b) Contractor personnel shall not at any time during the contract period be employees of the U.S. Government.

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## SECTION I -- CONTRACT CLAUSES

### I.1 52.252-02 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

Clause	Title	Date
52.202-01	Definitions	December 2001
52.203-03	Gratuities	April 1984
52.203-05	Covenant Against Contingent Fees	April 1984
52.203-07	Anti-Kickback Procedures	July 1995
52.203-08	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	January 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	January 1997
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	June 1997
52.204-04	Printed or Copied Double-Sided on Recycled Paper.	August 2000
52.209-06	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	July 1995
52.215-02	Audit and Records—Negotiation	June 1999
52.215-08	Order of Precedence--Uniform Contract Format	October 1997
52.219-08	Utilization of Small Business Concerns	October 2000
52.222-03	Convict Labor	August 1996
52.222-21	Prohibition of Segregated Facilities	February 1999
52.222-26	Equal Opportunity	February 1999
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.222-36	Affirmative Action For Workers with Disabilities	June 1998
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.223-05	Pollution Prevention and Right-to-Know Information	April 1998
52.223-06	Drug Free Workplace	May 2001
52.223-10	Waste Reduction Program.	August 2000
52.223-14	Toxic Chemical Release Reporting	October 2000
52.225-13	Restrictions on Certain Foreign Purchases	July 2000
52.227-14	Rights in Data--General	June 1987
52.227-14 Alt I	Rights in Data--General - Alternate I	June 1987
52.229-03	Federal, State And Local Taxes	January 1991
52.233-01 Alt I	Disputes - Alternate I	December 1991
52.233-03	Protest After Award	August 1996
52.237-02	Protection Of Government Buildings, Equipment, And Vegetation	April 1984
52.239-01	Privacy or Security Safeguards	August 1996
52.242-13	Bankruptcy	July 1995
52.243-01	Changes—Fixed Price	August 1987
52.245-01	Property Records	April 1984

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Clause	Title	Date
52.245-19	Government Property Furnished "As Is"	April 1984
52.249-02	Termination For Convenience Of The Government (Fixed-Price)	September 1996
52.249-08	Default (Fixed-Price Supply and Service)	April 1984
52.251-01	Government Supply Sources	April 1984
52.253-01	Computer Generated Forms	January 1991

**I.2 52.244-06 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2001)**

(a) Definitions. As used in this clause-

"Commercial item" has the meaning contained in the clause at 52.202-1, 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 nondevelopmental 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) 52.219-8, Utilization of Small Business Concerns (OCT 2000) (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 \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (FEB 1999) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a)).

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

(v) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (JUN 2000) (46 U.S.C. Appx 1241) (flowdown not required for subcontracts awarded beginning May 1, 1996).

(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.

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

### **J.1 LIST OF ATTACHMENTS**

<u>Attachment</u>	<u>Description</u>
A	Past Performance Questionnaire
B	Section 508 Checklist

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

### K.1 52.252-01 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

Clause	Title	Date
52.203-11	Certification And Disclosure Regarding Payment To Influence Certain Federal Transactions	April 1991

### K.2 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and shall not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and (3) No attempt has been made or shall be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

\_\_\_\_\_  
\_\_\_\_\_

[Insert full name of person(s) in the offeror's organization responsible for determining the prices offered in the bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

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(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror shall furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**K.3 52.204-03 TAXPAYER IDENTIFICATION (OCT 1998)**

(a) Definitions.

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

TIN: \_\_\_\_\_.

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

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Foreign government;

International organization per 26 CFR 1.6049-4;

Other \_\_\_\_\_.

(f) Common parent.

Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

**K.4 52.209-05 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)**

(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, or receiving stolen property; and

(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.

(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) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons 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.

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(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 nonresponsible.

(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.

**K.5 52.219-01 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2001)**

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 551519.

(2) The small business size standard is \$21.0 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) Representations. (1) The offeror represents as part of its offer that it ( ) is, ( ) is not a small business concern.

(2) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, for general statistical purposes, that it ( ) is, ( ) is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it ( ) is, ( ) is not a women-owned small business concern.

(4) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents as part of its offer that it ( ) is, ( ) is not a veteran-owned small business concern.

(5) [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.] The offeror represents as part of its offer that it ( ) is, ( ) is not a service-disabled veteran-owned small business concern.

(c) Definitions. As used in this provision-

"Service-disabled veteran-owned small business concern"-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

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"Small business concern," means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern-

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern--

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) Notice. (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, Hubzone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

- (i) Be punished by imposition of fine, imprisonment, or both;
- (ii) Be subject to administrative remedies, including suspension and debarment; and
- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

#### **K.6 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)**

The offeror represents that--

- (a) It  has,  has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It  has  has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

#### **K.7 52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)**

The offeror represents that (a)  it has developed and has on file,  has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b)  has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

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**K.8 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)**

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: [Check each block that is applicable.]

(i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(iv) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in section 19.102 of the Federal Acquisition Regulation; or

(v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(a) The offeror, by signing this offer, certifies that --

\_\_\_ (1) To the best of its knowledge and belief, it is not subject to the filing and reporting requirements described in Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) sections 313(a) and (g) and Pollution Prevention Act (PPA) section 6607 because none of its owned or operated facilities to be used in the performance of this contract currently --

\_\_\_ (i) Manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c).

\_\_\_ (ii) Have more than 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A).

\_\_\_ (iii) Meet the reporting thresholds in toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA).

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\_\_\_ (iv) Fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in FAR section 19.102.

\_\_\_ (2) If awarded a contract resulting from this solicitation, its owned or operated facilities to be used in the performance of this contract, unless otherwise exempt, will file and continue to file for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in EPCRA sections 313(a) and (g) and PPA section 6607 (42 U.S.C. 13106).

(b) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive order 12969, August 8, 1995 (60 FR 40989-40992).

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## SECTION L -- INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

### L.1 52.252-01 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

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

Clause	Title	Date
52.204-06	Data Universal Numbering System (DUNS) Number	June 1999
52.215-01	Instructions to Offerors--Competitive Acquisition	May 2001
52.222-24	Preaward On-Site Equal Opportunity Compliance Review	February 1999

### L.2 52.216-01 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a no cost contract resulting from this solicitation

### L.3 52.233-02 SERVICE OF PROTEST (AUG 1996)

(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 General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Department of Commerce  
United States Patent and Trademark Office  
Office of Procurement  
Box 6  
Washington, DC 20231  
Attn: Susan Messina  
[FAX: (703) 308-5484]

A copy should be sent to:

Office of the General Counsel  
U.S. Patent & Trademark Office  
Box OGC  
Washington, D.C. 20231  
[FAX Number (703) 305-5907]

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

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#### **L.4 AGENCY LEVEL PROTEST PROCEDURES**

##### **AGENCY-LEVEL PROTEST PROCEDURES -- LEVEL ABOVE THE CONTRACTING OFFICER (DEC 1996)**

I. PURPOSE: To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103).

On October 25, 1995, President Clinton signed Executive Order No. 12979 which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the contracting officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive).

The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above the contracting officer.

##### **II. DEFINITIONS:**

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102.

A day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

##### **III. PROCEDURES:**

a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department. Protests shall be addressed to:

Name: Jo-Anne Barnard  
Title: Chief Financial Officer and Chief Administrative Officer  
Address: U.S. Patent and Trademark Office  
2121 Crystal Drive, PK2, Suite 917  
Washington, DC 20231  
Fax Number: (703) 305-0995

The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

Office of the General Counsel  
U.S. Patent & Trademark Office  
Box OGC  
Washington, D.C. 20231  
(FAX Number 703-305-5907)

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b. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the General Accounting Office (GAO) or any other external fora. If the protester has already filed with the GAO or other external fora, the procedures described here may not be used.

1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.

2. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.

3. To be complete, protests must contain the following information:

(i) the protester's name, address, telephone number, and fax number

(ii) the solicitation or contract number, name of contracting office and the contracting officer

(iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced

(iv) copies of relevant documents supporting protester's statement

(v) a request for ruling by the agency

(vi) Statement as to form of relief requested

(vii) all information establishing that the protester is an interested party for the purpose of filing a protest

(viii) all information establishing the timeliness of the protest

All protests must be signed by an authorized representative of the protester.

Within 14 days after the protest is filed, the contracting officer will prepare an administrative report that responds to the issues raised by the protester and addresses any other issues, which, even if not raised by the protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all interested parties within 1 day of the decision to grant the extension.

Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals.

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The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office and Office of Acquisition Management.

Effect of protest on award and performance:

When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:

(i) The supplies or services are urgently required, (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or (iii) a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the contracting officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

(i) contract performance would be in the best interest of the United States, or (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

#### IV. REMEDIES:

The protest decision authority may grant one or more of the following remedies:

- (1) terminate the contract,
- (2) re-compete the requirement,
- (3) issue a new solicitation,
- (4) refrain from exercising options under the contract,
- (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement,
- (7) such other remedies as the decision-maker may determine are necessary to correct a defect.

#### **L.5 ALTERNATE PROPOSALS**

An Offeror shall submit a maximum of one (1) fully compliant proposal in response to the solicitation. No alternate proposals will be accepted. If an Offeror submits more than one proposal, all proposals will be returned without evaluation since the USPTO would have no basis upon which to determine which of the proposals the Offeror desired to have evaluated.

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## **L.6 AWARD WITHOUT DISCUSSIONS**

In accordance with FAR 52.215-1, the Government intends to evaluate proposals and award a contract without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

## **L.7 DISPOSITION OF PROPOSALS**

At least one copy of each proposal will be retained by the office issuing this solicitation, and the remainder will be destroyed unless the Offeror specifically requests return of the proposal(s) within five (5) days from notification of the successful award. Returned proposals will be delivered at the Offeror's expense. For proposals that are destroyed, no destruction certificate will be issued.

## **L.8 ESTIMATED AWARD DATE**

It is anticipated that a contract will be awarded in July/August 2003.

## **L.9 EVALUATION OF PROPOSALS**

The USPTO will evaluate proposals and make an award in accordance with the evaluation criteria set forth in Section M.5 of this solicitation.

## **L.10 INCURRING COSTS**

The USPTO shall not be obligated to pay any cost incurred by the Offeror in the preparation and submission of a proposal in response to the solicitation. The Offeror is advised that the Contracting Officer is the only person who can legally obligate the USPTO for the expenditure of public funds in connection with this procurement.

## **L.11 INQUIRIES AND QUESTIONS ON REQUEST FOR PROPOSALS**

Inquiries, requests for clarification, and all correspondence concerning this solicitation document shall be submitted electronically to [susan.messina@uspto.gov](mailto:susan.messina@uspto.gov). No information concerning this solicitation or requests for clarification will be provided in response to telephone calls from offerors. Inquiries and questions must identify the author and company name. All questions and responses pertaining to the RFP will be published and made available at <http://www.uspto.gov/web/offices/ac/comp/proc/currproj.htm>; however, the identity of the author and associated company name will not be published. All questions regarding the Request for Proposal (RFP) are due by March 12, 2003. Receipt of late questions will not result in an extension to the proposal due date, nor can the USPTO guarantee that a response will be provided before the proposal due date. Government responses will not change the terms and conditions of the solicitation unless the Government changes them with an Amendment to the RFP. Offerors shall be responsible for accessing the web page for any changes to this RFP. All changes, amendments, questions, and answers shall be posted at this location.

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**L.12 PERIOD OF ACCEPTANCE OF OFFERS**

In compliance with the solicitation, the Offeror agrees, if this offer is accepted within 180 calendar days from the date specified in the solicitation for receipt of proposals, to furnish any or all items upon which prices are offered.

**L.13 POST-AWARD CONFERENCE**

A post-award conference with the successful offeror may be required. If required, it will be scheduled and held within 15 days after the date of contract award. The conference will be held at: [TBD at time of award]

**L.14 FULL AND OPEN COMPETITION**

This solicitation is being conducted as a full and open competition.

**L.15 SUBMISSION OF PROPOSALS**

(a) All proposals shall be submitted in the formats and quantities specified below:

Table of Contents

Volume I - Technical Proposal - one (1) original and three (3) copies, divided into 4 Sections, not to exceed a total of 50 pages in length:

- Section 1 - Provider/ Computer System Technical Capabilities
- Section 2 – Testing Center Network
- Section 3 – Quality Control and Assurance System
- Section 4 – Experience/Past Performance

Volume II - Price/Cost Proposal - one (1) original and three (3) copies, divided into 4 Sections:

- Section 1 - Signed Standard Form 33
- Section 2 - RFP Section B, Schedule of Items (provide one electronic copy in Word or Excel with the original volume)
- Section 3 - Completed RFP Section K, Certifications and Representations
- Section 4 – Price Breakdown

Offeror’s proposals shall be submitted on 8 ½ x 11” paper using single-spaced, single-column print. 11 x 17” (fold out) pages should be used at a minimum and shall count as 2 pages in the total page count. Proposals, including any graphs and charts, shall be submitted in a font no smaller than 10 pt.

(b) Proposals shall be submitted to the attention and address provided below no later than 2:30 p.m., local time, on March 28, 2003. Proposals received after the required time will be considered "late" and handled in accordance with FAR 52.215-1.

REGULAR U.S. MAIL

U.S. Patent and Trademark Office  
Office of Procurement  
Box 6  
Washington, DC 20231  
Attn: Ms. Sue Messina  
RFP# 52-PAPT-2-01008

HAND DELIVERY/COMMERCIAL CARRIER (i.e. Federal Express, UPS, Airborne Express)

U.S. Patent and Trademark Office  
Office of Procurement  
2011 Crystal Drive, PK-1, Suite 810  
Arlington, VA 22202  
Attn: Ms. Sue Messina  
RFP# 52-PAPT-2-01008

**The REGULAR U.S. MAIL address should be used only if mailing through the U.S. Postal Service.**

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(c) Failure to submit proposals in compliance with the RFP may result in a determination that the proposal is non-compliant, which may eliminate the proposal from further consideration.

## **L.16 PROPOSAL REQUIREMENTS**

(a) Offerors are cautioned that the quality of their proposal and adherence to solicitation response requirements and/or restrictions are considered reflective of the manner in which the offeror intends to conduct contract performance. This will be taken into consideration throughout the evaluation process. Proposals that do not include the data necessary for a thorough evaluation may be determined to be unacceptable. The Government is not obligated to request additional information from any offeror in order to make determination of technical acceptability.

(b) Proposals shall present an offeror's understanding of the scope of the procurement and an overall approach in providing the required services. General statements such as the offeror understands, the offeror can or will comply with the requirements, standard procedures will be used, well known techniques will be used, or that paraphrase the Statement of Work or Technical References in whole or in part will not satisfy the requirements concerning the content of a technical proposal and may serve as the basis for rejecting that offeror's proposal.

(c) Offerors should carefully read Section M of the RFP, specifically Sections M.5 and M.6, to make sure that their proposals are fully responsive and address each evaluation criteria.

(d) Volume I, Technical Proposal, shall be submitted as follows:

(1) Section 1 - Provider/Computer System Technical Capabilities

In this section, the offeror shall address their degree of understanding of the statement of work and critical success factors. Offerors shall demonstrate realistic implementation to comply with the computer testing system requirements, CTA support requirements, CTA technical requirements and electronic communications system requirements set forth in Sections C.4.1 through C.4.4 of the RFP. Offerors shall demonstrate realistic implementation to comply with the test and data security requirements set forth in Section C.5.1 of the RFP. Offerors shall also demonstrate realistic implementation to comply with the reports/deliverables requirements set forth in Section F.3 of the RFP. Offerors shall address their ability to provide examination consultation services to assist USPTO subject matter specialists in developing sound, legally defensible examinations and test forms. Offerors shall address their ability to promptly implement computer-based testing system following award of contract. The proposed Computer Testing Manager's (CTM's) educational background and depth of professional experience in computer-based testing or training shall be provided. Offerors shall also include a discussion of any planned subcontracting or teaming arrangements if awarded the contract.

Offerors shall also include a completed Section 508 checklist (RFP Section J, Attachment B) as part of their technical proposal; however, this checklist is excluded from the page limitation set forth in Section L.15(a). Offerors shall respond to the technical standards that are applicable to their proposed solution.

(2) Section 2 – Testing Center Network

This section shall include a listing of each testing center, including owner(s); proposed testing center supervisor (TCS) and their qualifications/resume; proposed alternate testing center supervisor (ATCS) and their qualifications, if applicable; location; and hours of operation. For at least one test center in each state, the offeror should describe the nature of the location (*e.g.*, downtown office setting, suburban office park, industrial center, etc.) and its accessibility to restaurants or other eating establishments, transportation facilities, and other potential conveniences for test takers. Offerors shall demonstrate realistic implementation to comply with the testing center facility requirements set forth in Section C.4.5 through C.4.13 and the testing procedure requirements set forth in Section C.6.1 through C.6.7 of the RFP.

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(3) Section 3 - Quality Control and Assurance System

Offerors shall submit a comprehensive Quality Control and Assurance (QCA) plan that establishes quality goals, tracks performance, covers all functional areas of the statement of work, includes methods for error prevention, and ensures performance and accuracy goals are achieved and how it will continually monitor them.

(4) Section 4 - Experience/Past Performance

Offerors shall provide summaries of performance and experience that meet the following criteria:

- Minimum of 3, maximum of 5, projects/contracts (preferably at least one Government)
- Similar in nature and magnitude to this acquisition
- Received or performed in the last 10 years and sufficiently mature to demonstrate offeror performance and experience

If the offeror is proposing subcontractors, past performance summaries are permitted for the subcontractors but a majority of the past performance summaries must be for the offeror.

Past Performance information shall be provided using the following format:

**FORMAT FOR PAST AND PRESENT PERFORMANCE AND EXPERIENCE SUMMARIES**

1. **Contract Name and Number:** Identify the contract by name and by the Government-assigned contract number if appropriate. If the Offeror was a subcontractor, identify the aspects of the contract for which Offeror was responsible.
2. **Client:** Provide the complete name of the company or Government agency or department for which the project was performed.
3. **Contract Data:** Provide the type of contract (Firm Fixed Price, Cost Plus, etc.), the dates between which the Offeror worked on the project, the total value of the project (cost to the client) and, if the Offeror was a subcontractor, the subcontract value, and the status of the project (completed, in process, etc.).
4. **Prime Contractor and Subcontractors:** Identify the company name and address of the prime contractor (if the Offeror was a subcontractor) and all subcontractors to the Offeror who worked on the project and had subcontracts valued over \$100,000. Identify those subcontractors the Offeror intends to use for this program.
5. **Contact Information:** In the following, to "identify" a person means to provide that individual's name, title, address, and telephone number. This information is required for each of the following individuals as relevant. If the same person functioned in multiple capacities on a project, repeat the information in each location. If the project did not include a category (e.g., subcontractor point of contact), so indicate. All contacts shall be current and reachable. Include the date on which the person was reached to verify that the contact is current and reachable. If a person cited cannot be reached at the telephone number provided, no further attempt will be made to reach that person, and the project experience will not be included in the evaluation of the proposal.
  - **Client Technical Contact** Identify the person at the client agency or company who was the point of contact for offeror's technical efforts
  - **Client Contractual Contact** Identify the contractual point of contact at the client agency or company for the offeror's efforts
6. **Relevance:** Justify the selection of this project as supporting offeror's qualifications for award of this contract. Show how the technical, quality control, and managerial aspects of the project are related to the work described in this RFP.

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7. Narrative: Briefly describe the project, from technical, quality control, and managerial points of view. Describe processes used to perform technical, quality control, and managerial work. Describe any difficulties encountered and the methods used to overcome them. Identify any unique aspects of the project, or innovative approaches or methods used. Describe interfaces with the customer and with other contractors performing on the contract or with whom coordination was required.

To streamline the Government's past performance evaluation process, the offeror shall provide a Past Performance Questionnaire (RFP Section J, Attachment A) to each of the references included in their proposal for completion. The Government requires that the references submit the completed questionnaires directly to the Government's Contracting Officer by fax to (703) 308-5484, Attn: Sue Messina. It is the offeror's responsibility to contact each of their references and notify these references that the USPTO is requiring that the customers of companies responding to this solicitation be identified, their participation in the past performance evaluation process be requested, and shall ensure the references submit the completed Past Performance Questionnaire directly to the Government's Contracting Officer. Completed questionnaires are due by the closing date for receipt of proposals; therefore, it is imperative that offerors advise their references that the Questionnaire be submitted and faxed in a timely manner. In the event that references are contacted by USPTO, the offeror shall ensure that these reference contacts have been authorized to respond to USPTO's inquiries related to this solicitation.

In accordance with FAR 15.305(iv), offerors without a record of relevant past performance or for whom information on past performance is not available will receive a neutral rating.

(e) Volume II, Price/Cost Proposal, shall be submitted as follows:

- (1) Section 1 - Signed Standard Form 33
- (2) Section 2 - RFP Section B, Schedule of Items

Offerors shall submit a response to the price tables in Section B.1, Schedule of Items. In accordance with Section B.1, the prices should reflect fully burdened prices. The price tables shall also be provided with one electronic copy in Word or Excel.

- (3) Section 3 - Completed RFP Section K, Certifications and Representations
- (4) Section 4 – Price Breakdown

To permit the USPTO in evaluating responses to this RFP, offerors should provide a cost breakdown in connection with the CTA Examination Development Portion of the Examination Fee. The cost breakdown should show how the firm fixed price was calculated by presenting the proposed labor rates, number of hours, any direct and indirect expenses, and profit..

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## SECTION M -- EVALUATION FACTORS FOR AWARD

### M.1 52.252-01 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE

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

Clause	Title	Date
52.217-05	Evaluation Of Options	July 1990

### M.2 MULTIPLE AWARDS

The USPTO may elect to award more than one contract as a result of this solicitation based on the best interests of the Government.

### M.3 UNBALANCED OFFERS

The Government reserves the right to reject an offer if it is materially unbalanced as to prices, and it is determined that award of such an offer would not result in the lowest overall cost to the Government, or may otherwise be improper. An offer is unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

### M.4 AWARD WITHOUT DISCUSSIONS

The Government intends to award a contract (or contracts) on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If discussions are determined to be necessary by the Contracting Officer, the competitive range shall be determined on the basis of the offeror's response to the evaluation factors. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The USPTO may discontinue the evaluation of any proposal which is unacceptable because of the following:

- It 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 the RFP; or
- A substantial deficiency is inherent in the proposal and sufficient correction or improvement to consider the proposal acceptable would require virtually an entirely new proposal; or
- It contains major deficiencies or out-of-line costs which discussions with the Offeror could not reasonably be expected to cure.

Proposals which do not include the data necessary for a thorough evaluation may be determined to be unacceptable as a result of the initial evaluation. The Government is not obligated to request additional information from any offeror.

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## **M.5 EVALUATION CRITERIA**

- (a) The following factors will be used to evaluate offers:

FACTOR A - Provider/Computer System Technical Capabilities

FACTOR B - Testing Center Network

FACTOR C - Quality Control and Assurance System

FACTOR D - Experience/Past Performance

- (b) FACTOR A - Provider/Computer System Technical Capabilities

The USPTO will evaluate the offeror's ability to understand the USPTO requirements and to supply the appropriate level of resources to perform all aspects of the statement of work. The offeror's overall program approach will indicate their degree of understanding of the requirement and critical success factors. The USPTO will evaluate the viability and sufficiency of the offeror's implementation plans. A resume for the proposed Computer Test Manager(s) will be reviewed to evaluate his/her qualifications. The USPTO will evaluate the offeror's responses to the Section 508 checklist to determine conformance with applicable technical standards.

- (c) FACTOR B – Testing Center Network

The USPTO will evaluate the detailed list of all proposed test centers and locations. Convenience of location and amenities to test takers will be evaluated. The qualifications/resume for the proposed Testing Center Supervisor(s) will be reviewed to evaluate his/her qualifications.

- (d) FACTOR C - Quality Control and Assurance System

This factor addresses the offeror's ability to provide an effective and comprehensive Quality Control and Assurance (QCA) plan that establishes quality goals, tracks performance, covers all functional areas of the statement of work, includes methods for error prevention, and ensures performance and accuracy goals are achieved and how it will continually monitor them.

- (e) FACTOR D – Experience/Past Performance

The USPTO will evaluate the breadth and depth of the offeror's past and present experience. In particular, the USPTO will evaluate the offeror's past experience to determine the extent to which the offeror has performed work of similar size and magnitude. The USPTO will rely on past performance information provided by the offeror's references to assess customer satisfaction and the offeror's success on previous projects. The USPTO may also rely on past performance information based on their own personal experience or research.

- (f) FACTOR E - Price/Cost

The Price/Cost will be reviewed and analyzed in depth, but will not receive an evaluation rating. This factor evaluates the reasonableness and the completeness of the offeror's price/cost proposal. If it is determined that an offeror's prices are unexplainably high or significantly higher than examination fees currently charged applicants, the offeror may be judged unrealistic and may be grounds for rejection of the proposal. Prices which are unexplainably low and represent a probable loss position for the offeror may be judged unrealistic and may be grounds for eliminating a proposal from competition either on the basis that the offeror does not understand the requirement or has made an improvident proposal. Since adequate price competition is anticipated, price reasonableness will be evaluated by comparing the proposed prices received in response to the solicitation.

- (g) Relative Importance of Evaluation Factors

The USPTO has determined that the combination of Factors A, B, C, and D is significantly more important than Factor E. Of the technical factors, Factors A, B, and C are equal in importance and more important than Factor D.

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## **M.6 BASIS OF CONTRACT AWARD**

(a) The basis for award of a contract will be an integrated assessment by the USPTO based on the evaluation factors described above. Award will not be automatically determined by numerical calculation or formula.

(b) In evaluating proposals submitted in response to this solicitation, the USPTO will use a "best value" evaluation to determine which offer is most advantageous to the Government. That is, the USPTO will select the responsive, responsible offeror whose proposal offers the best value to the Government, price and other factors considered. In making this selection, the USPTO is more interested in obtaining superior quality, capabilities, and experience than in making an award at the lowest cost. By evaluating and comparing the strengths, weaknesses, deficiencies, and risks of each proposal, the USPTO shall determine what tradeoff promises the greatest value to the USPTO.

(c) To be eligible for source selection and contract award, the successful offeror shall meet the following conditions:

- determined to be responsible according to the standards of FAR Subpart 9.104.
- complies with all applicable laws and regulations and agrees to terms and conditions set forth in this solicitation.
- proposal is prepared according to instructions set forth in this solicitation and demonstrates the offeror's capability to perform the scope of work required.
- provides the best overall value to the USPTO as represented by a combination of technical, quality, past performance, and price factors.

(d) The USPTO will not award a contract at a significantly higher overall cost to achieve slightly superior services. However, the USPTO reserves the right to award a contract at higher overall cost for significantly superior services. In assessing superior services, the USPTO may conduct a trade-off analysis giving consideration to the proposal that offers support that would greater benefit the USPTO and the public.