

Section B – Supplies or Services and Prices/Costs

B.1 Schedule of Services

The purpose of this Request for Proposal (RFP) is to solicit proposals from qualified parties to administer the Qualified Parking Benefit program, a qualified transportation fringe benefit (QTF) plan authorized by Internal Revenue Code Section 132 (IRC §132(f)(5)(C).

The Qualified Parking Benefit program is offered to all United States Patent and Trademark Office (USPTO) employees.

Definition of Qualified Parking

According to IRC §132 (f)(5)(C), the term “qualified parking” is defined as "Parking provided to employees on or near the business work premises, or parking on or near a location from which employees commute to work by commuter highway vehicle, mass transit station, or vanpool.”

(a) The expected period of performance is from date of award for 12 months, with four (4) one-year options.

- Base Period - Date of Award for one year
- Option Period 1 Date of Exercise for one year
- Option Period 2 Date of Exercise for one year
- Option Period 3 Date of Exercise for one year
- Option Period 4 Date of Exercise for one year

(b) CLINs

			Price
CLIN 001	Initial Set-up & Implementation		
	Monthly Administration Fee		
	Period of performance	Number or Participants	Price Ea
CLIN 002	Base Year		
002a		1-1,000	
002b		1,001-2,000	
002c		2,001-3,000	
002d		3,001-4,000	
002e		4,001-5,000	
002f		5001-6,000	
002g		6,001-7,000	
002h		7,001-8,000	
002i	IT Security Implementation (Certification & Accreditation Services)		

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CLIN 003	Option Year 1	
003a		1-1,000
003b		1,001-2,000
003c		2,001-3,000
003d		3,001-4,000
003e		4,001-5,000
003f		5,001-6,000
003g		6,001-7,000
003h		7,001-8,000
003i	IT Security Implementation (Certification & Accreditation Services)	
CLIN 004	Option Year 2	
004a		1-1,000
004b		1,001-2,000
004c		2,001-3,000
004d		3,001-4,000
004e		4,001-5,000
004f		5,001-6,000
004g		6,001-7,000
004h		7,001-8,000
004i	IT Security Implementation (Certification & Accreditation Services)	
CLIN 005	Option Year 3	
005a		1-1,000
005b		1,001-2,000
005c		2,001-3,000
005d		3,001-4,000
005e		4,001-5,000
005f		5,001-6,000
005g		6,001-7,000
005h		7,001-8,000
005i	IT Security Implementation (Certification & Accreditation Services)	
CLIN 006	Option Year 4	
006a		1-1,000
006b		1,001-2,000
006c		2,001-3,000
006d		3,001-4,000
006e		4,001-5,000
006f		5,001-6,000
006g		6,001-7,000
006h		7,001-8,000
006i	IT Security Implementation (Certification & Accreditation Services)	

B. 2 Introduction

The mission of the United States Patent and Trademark Office (USPTO) is to administer the laws and regulations related to patents and trademarks in order to promote industrial and technical progress in the United States and strengthen the national economy. The USPTO carries out its mission by examining patent and trademark applications, issuing patents and registering trademarks, disseminating patent and trademark information to the public and by encouraging a domestic and international climate in which intellectual property can flourish. The USPTO is an agency within the Department of Commerce comprised of approximately 9,000 employees. USPTO wishes to establish a qualified parking benefit program in the manner described below.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 Statement of Work/Specifications

The Contractor shall furnish all necessary labor, materials, supplies, equipment, services and processes (except as specified herein) to effectively manage and administer the Pre-Tax Qualified Parking Program.

C.2 Background

(a) The United States Patent and Trademark Office (USPTO) wishes to establish a non-reimbursable Pre-Tax Qualified Parking Program, a flexible spending account (FSA) authorized by Internal Revenue Code section 125, under the Commuter Benefits program, a qualified transportation fringe benefit (QTB) plan authorized by Internal Revenue Code Section 132. This code allows employees to pay for qualified parking expenses on a pre-tax basis, eliminating federal, state, and social security taxes. The USPTO is located in Alexandria, VA and has approximately 3,500 employees utilizing the parking facilities which may be eligible for enrollment in the non-reimbursable Pre-Tax Qualified Parking Program. The USPTO has approximately another 4,000 employees in the Transit Subsidy Program who commute to work in Alexandria or Arlington who may be eligible for reimbursement for parking expenses incurred, for example, at Metro parking lots.

(b) The USPTO requires services for the establishment and administration of the Pre-Tax Qualified Parking Program under the Commuter Benefits program. These services will include the preparation of any applicable tax forms relating to this program.

C.3 Requirements

(a) The Contractor must have the ability to administer the Pre-Tax Qualified Parking Program, respond to and maintain compliance with applicable laws, regulations, rules and policies and provide efficient and effective liaison with the USPTO.

(b) Services would include the initial plan design and set-up, data system capabilities that will provide for adequate data processing capabilities to provide all necessary record-keeping and accounting functions to ensure complete, accurate and timely plan and participant account information, measures to protect the security and privacy of program data, records, forms, participant information, and data processing operations, and system back-up and disaster recovery procedures in place. The USPTO requires a dedicated hosted website, capability for online submission of applications, processing of questions or complaints by telephone, e-mail, fax, or letter, a customer service help desk, annual customer satisfaction survey, development of informational bulletins, brochures, or newsletters directed to employers and/or employees, annual reporting and audit(s) by an independent public accountant of the contractor's financial accounting of participant records. The USPTO is seeking a contractor that has implemented this program or similar programs at other U.S. Federal Government agencies and has established financial access to the National Finance Center.

(c) The Contractor shall provide the items specified below:

C.3.1 Data Systems Capabilities

(a) The USPTO requires the Contractor to have adequate data processing capabilities to provide all necessary record-keeping and accounting functions to ensure complete, accurate, and timely plan and participant account administration.

(b) All materials, records, documents, accounting records, software programs, computer tapes, or discs which are specifically purchased or developed for purposes relative to accounts of the Pre-Tax Qualified Parking Program and maintained by the Contractor shall at all times remain the property of the USPTO, and the USPTO shall, at all times, have access to the records.

(c) The Contractor shall keep duplicate electronic media of all records being maintained by the Contractor in connection with its administration of the Pre-Tax Qualified Parking Program. Duplicate

records shall, at all times, be kept off-site and in a place of safekeeping as approved by the USPTO.

(d) Compensation or remuneration for the Contractor or the Contractor's staff will not be received from any USPTO employee or participant in the program. The Contractor's sole compensation for performing the services under the contract shall be the initial implementation costs and monthly amount agreed to in the contract (as set forth in the Schedule, §B).

C.3.2 Enrollment

(a) The Contractor shall provide support services for the initial and on-going enrollment process. The Contractor will provide on-going guidance and technical support to the Government's Technical Point of Contact (TPOC) by performing the following functions:

(1) Determine eligibility of potential benefit recipients. Assist USPTO employees with completing the applications; provide employees with guidance as it relates to any and all forms of documentation required to accompany the applications.

(2) Establish a dedicated hosted website for enrollment, information, questions and answers, and any other activities to support this program.

C. 3.3 Customer Service

(a) The Contractor shall provide customer service to USPTO employees and plan participants. The Contractor shall provide a website for information, application forms, help features, eligibility requirements, and enrollment methods, etc. The Contractor shall provide on-line access to participants' account information to allow participants to check and review their individual monthly account information for monthly pre-tax amounts, year-to-date totals, update to home address, contact, or other information.

(b) The Contractor shall provide customer service representatives to be available to assist the USPTO's employees from 8:00 a.m. to 5:00 p.m. (EST) Monday through Friday, except for Federal Holidays. Contractor service representatives must speak and write English proficiently in the assistance of USPTO employees.

(c) The Contractor shall provide the USPTO with technical assistance during implementation and throughout the period of performance.

(d) The Contractor shall use a tracking system to thoroughly document all activity related to customer service and account updates.

(e) The Contractor shall provide participants with the following options in the Pre-Tax Qualified Parking Program:

(1) Local and/or Toll Free Telephone Number. Participants will have the option of contacting Customer Service using telephone and TTY-TDD.

(2) Voicemail: Users should be able to leave a voicemail if they are put on hold during staffed hours and during non-staffed hours.

(3) Electronic Mail: Users will have the option of electronic mail to contact customer service.

(4) Facsimile service: Provide users with a facsimile option for any documentation that may be faxed to the Contractor.

C.3.4 Contractor-Provided Training

The Contractor shall be responsible for providing contractor employee training aimed at maintaining and updating the necessary customer service skills for the management of the program at no cost or service disruption to the USPTO.

C.3.5 Program Information and Communication

(a) The Contractor may be asked to develop informational bulletins, brochures, or newsletters directed to USPTO employees (program participants). The USPTO is responsible for approval of all materials prior to the distribution to USPTO employees. The Contractor is responsible for the cost of printing, labels and postage for the mailing of all Pre-Tax Qualified Parking Program communications to participants as may be required during the course of the year.

(b) The Contractor will be allowed to conduct information briefings to the USPTO employees for enrollment purposes. Dates and times must be coordinated through the Contracting Officer or Contracting Officer's Technical Representative (COTR).

C.3.6 Services Provided to the USPTO

The Contractor will work with the USPTO on all administrative matters. The Contractor must provide technical expertise to advise the USPTO on issues relating to the program. The USPTO must have real-time access to the Contractor's record-keeping system via the internet for management reports which will list all of the USPTO's participants, their monthly and year-to-date pre-tax qualified parking program totals, total plan data and to generate standard reports. The Contractor shall provide the benefits totals to the USPTO.

C.3.7 Performance Standards

The Contractor will be required to meet performance standards that may include, but not limited to those stated in the Service Level Agreements listed below.

C.3.7.1 Service Level Agreements (SLAs)

(a) The Contractor shall propose service level agreements SLAs for the support services, and these SLAs, if agreed upon, may become part of the contract. At a minimum, SLAs will include, but are not limited to, the following areas:

(1) Call Wait to Answer:

The Contractor shall maintain a daily average call to answer speed of two (2) minutes or less.

(2) Call Abandonment Rate:

The Contractor shall maintain a daily average rate of 1% or less after 20 seconds for call abandonment.

(3) E-mail Response:

The Contractor shall properly respond to all incoming e-mail messages within 2 hours during working hours.

(4) Voice Message Response Time:

The Contractor shall return voice mail messages left when a customer is unable to speak to a customer service representative, within 2 hours, during normal working hours. Otherwise, within the first 2 hours of the next working day.

(5) Customer Satisfaction:

The Contractor shall maintain a minimum 95% customer satisfaction rating at all times.

(b) SLAs and other contract performance metrics will be reviewed at least on an annual basis for the life of the contract.

C.3.8 Implementation Plan

The Contractor shall provide a detailed timeline with plan design requirements to implement the Pre-Tax Qualified Parking Program. Include a description of the activities and considerations necessary for implementation. Include in the plan any dependencies that will include government support. In addition, the Contractor shall provide a dedicated hosted website.

C.3.9 Audited Records

(a) All books, records, ledgers and journals relating to the USPTO's Pre-Tax Qualified Parking Program will be subject to inspection and audit by the USPTO or their designees, or designated agents, attorneys and accountants, at any time during normal working hours. Records requested shall be provided on electronic media in a format acceptable to the USPTO.

(b) The USPTO may schedule and arrange with independent contract auditors to conduct compliance audits of the Contractor's program administration, accounting system as applicable to the Pre-Tax Qualified Parking Program, and related accounts. Any auditor costs, as contracted for, provided by and/or approved by the USPTO, of compliance audits shall be charged to the Contractor, who shall pay those charges and invoice them to the USPTO under this contract. Such actual compliance audit expenses will be reimbursed to the Contractor as an Other Direct Charge (ODC) expense in addition to the contracted amount for other program services of the USPTO and will be effective only upon the issuance of a contract modification.

C.3.10 Contingency Plans for Disaster Recovery

(a) The Contractor shall provide safe and secure facilities for the USPTO Pre-Tax Qualified Parking Program.

(b) The Contractor shall have in place disaster preparedness, Continuity of Operations Plan (COOP) and a disaster recovery plan. The Contractor will be required to submit a detailed contingency plan for disaster recovery of the Contractor's electronic data processing equipment that ensures the system will be back in operation within 48 hours of a disaster. In addition, the plan must specify the method used for providing services in the event of an emergency such as natural disaster, work stoppage or strike. The contingency plan will be required within 30 days of contract award and will be subject to the USPTO's approval.

C.3.11 Off-Site Contractor Facilities

Requirements under this contract will be performed at the Contractor's facility. The Contractor's facility and customer service center must be located within the confines of the continental United States.

C.3.12 Privacy and confidential information

(a) The Contractor acknowledges that some of the data it may become privy to in the performance of the contract is of a confidential nature and the Contractor shall make all reasonable efforts to ensure that no such confidential information is disseminated by it or its employees.

(b) All information obtained by the Contractor from any individual shall be kept in absolute confidence and shall not be utilized by the Contractor, or any of its officers, directors, agents or employees in connection with any other matter without prior written consent of the USPTO.

(c) The Contractor shall observe complete confidentiality with respect to all aspects of any confidential information, proprietary data and/or trade secrets to which the contractor or any contractor's personnel may gain access while engaged by the USPTO.

C.4 Problem Notification

(a) The contractor shall notify the USPTO's Contracting Officer and COTR immediately of all problems that impact or potentially impact the contract, deliverable(s), or project schedule. Such notifications shall be made verbally during normal work hours or at the beginning of the next Government workday. For each problem encountered, verbal notification shall be followed by a written report to the Contracting Officer and a copy to the COTR within 24 hours after the identification of the problem. This written report shall be submitted in accordance with the format and criteria listed in J.2.A. Attachment 1, Problem Notification Letter and below.

(b) The report shall include as a minimum:

1. The nature of the problem
2. How or why the problem occurred
3. The steps being taken to correct the problem
4. The consequences of the problem
5. Actions to prevent similar occurrences.

C.5 Progress Reports

(a) The contractor shall submit written monthly progress and status reports 14 calendar days after the end of each calendar month. The contractor shall prepare and submit one (1) electronic report to the Government which shall be provided to the COTR and to the Contracting Officer. A progress report shall contain, at a minimum, the following items:

1. Contract No.
2. Contractor Name
3. Period of Performance covered
4. Enrollment - Previous month's list of participants and number
5. Number of new enrollees for the month: List names of new enrollees
6. Number of enrollees who are no longer eligible and have been removed from the program, (List names)
7. Number of total enrollees in the program
8. Invoice Report - List of participants and number of participants being billed for the month
9. Problems encountered during the month
10. Unsolved problems.

C.6 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. For additional information, the official Government Web page is: www.Section508.gov

SECTION D - PACKAGING AND MARKING

D.1 Packaging

- (a). All items shall be preserved, packaged, packed, and marked in accordance with best commercial practices to meet the packing requirements of the carrier and insure safe and timely delivery at the destination, in accordance with applicable security requirements.
- (b). Cover letters and deliverables are to be assembled together in one complete package; with the exception of technical deliverables required under the contract, addressed to the Contracting Officer. The Contractor is to furnish the Contracting Officer only the cover letters for technical deliverables. This does not apply to any contractual administration documents that the Contractor is required to send to the Contracting Officer.
- (c). PROCUREMENT SENSITIVE MATERIALS -- All procurement sensitive documents delivered to the USPTO shall identified with a cover that states that the document contains "Procurement Sensitive Materials". Delivery of procurement sensitive deliverables shall follow the same procedures used for other contract correspondence/deliverables.
- (d). Other special packaging provisions may be specified, as necessary, under this contract.

D.2 Marking

- (a). The contractor shall ensure that all invoices, correspondence, and deliverables are identified with a document control number. The document control number shall identify the contractor and the calendar year, and provide a unique number as identification for the document. For example: XXAA-95-005.
- (b). PROPRIETARY OR SENSITIVE MATERIAL -- The contractor shall isolate all material which it asserts is "proprietary" or "sensitive," and shall provide that material within an appendix or appendices. This isolation includes both material for which the contractor asserts its own rights and material that the contractor asserts is proprietary to other vendor or vendors. The contractor shall appropriately mark that appendix or those appendices; the contractor shall not mark any other pages of the document deliverables. The contractor shall refer the reader, in the main text, to the appendix or appendices.
- (c). PROCUREMENT SENSITIVE MATERIAL -- The contractor shall be responsible for identifying all procurement sensitive documentation. All procurement sensitive documentation shall be properly marked with a statement that the document contains procurement sensitive information.
- (d). All deliverables prepared and submitted by the contractor to the Government shall include the following information on the cover page of each document:
1. Document control number
 2. Contract number
 3. Deliverable Number
 4. Deliverable ID
 5. Date of document
 6. Cover statement, as required by D.2, that shall:
 - a. State that there is no proprietary content on unmarked pages
 - b. Identify the appendix or appendices that contain proprietary content

c. State the USPTO has complete freedom to distribute the document, without the marked parts, to anyone whomsoever, including other companies, foreign governments, foreign nationals, and academia

d. State that the contractor assumes full responsibility for the correct isolation of proprietary content of the marked appendix or appendices.

7. Within the marked appendix or appendices, the contractor also shall provide instructions for handling the information (e.g., "When this information is no longer of use to the Government, return to the contractor or ensure this section is shredded," "After x years, this information is no longer considered sensitive, and may be freely distributed or disposed").

D.3 Special Distribution Requirements

(a). The contractor is required to provide distribution of all deliverables to the following:

1. Contracting Officer
2. Contracting Officer's Technical Representative

(b). The distribution may be done electronically; however there may be documents which exceed the capacity which is allowed electronically through the USPTO Network. In those cases, the Contractor shall deliver those by CD ROM.

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.252-2 Clause 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):

<http://www.arnet.gov/far/index.html>

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES		
NUMBER	TITLE	DATE
52.246-4	Inspection of Services – FIRM FIXED PRICE	AUG 1996

E.2 General

- (a). The contractor shall provide all deliverables by the date specified in the contract.
- (b). All written deliverables shall adhere to provisions covering format, structure, style, and overall presentation as set forth in reference manuals such as the "U.S. News & World Report Stylebook for Writers and Editors," "The Prentice-Hall Handbook for Writers," or other contractor-specified reference material. The contractor shall ensure that each deliverable is complete and thorough; structured in a clear, logical fashion; concisely written; and complies with applicable writing style rules.
- (c). The contractor shall certify in writing to the Contracting Officer's Technical Representative (COTR) that the deliverable is complete and ready for inspection and acceptance in accordance with contractual specifications (as identified within this solicitation, and the contractor's proposal) on or before the delivery date specified under this contract.

E.3 Inspection and Acceptance

- (a). The Contracting Officer or the duly authorized representative will perform inspection and acceptance of supplies and services to be provided under this contract.
- (b). Inspection and acceptance will be performed at:
 - U.S. Patent and Trademark Office
 - 600 Dulany Street, MDW Rm (COTR address will be provided in Contract)
 - Alexandria, VA 22314-5782
- (c). Deliverables will be accepted or rejected by a COTR. The COTR will be appointed by the Contracting Officer and identified in the contract.
- (d). All reports, documents, and narrative-type deliverables shall be submitted in accordance with contract terms and conditions in electronic file format. The Government will have fifteen (15) working days to determine the acceptability of all completed draft deliverables (the USPTO views draft deliverables essentially as final documents that do not have USPTO comments incorporated within). Any deficiencies shall then be corrected by the contractor and incorporated into the final deliverable within ten (10) working days. The Government will have ten (10) working days to determine the acceptability of completed final deliverables. Deficiencies in final deliverables shall be corrected by the contractor within ten (10) working days.
- (e). All deliverables will be inspected for appropriate markings (as specified in Section D.2, Markings, of this solicitation), format adherence (as specified in accordance with the provisions of Section F.6, Deliverable Medium, of this solicitation), and the contractor's proposal (including any applicable standards), content,

completeness, accuracy, and comparability to previous contractor deliverables. Inspection will include validation of information or software through the use of automated tools and/or testing of the deliverables, as appropriate.

(f). If the draft deliverable is not adequate, the Government will reject the draft with a general explanation of the deficiencies. If the Government finds that a draft written deliverable does not contain the appropriate cover statement, as specified in Section D.2(b), Proprietary or Sensitive Material, the document will be immediately rejected without further review and returned to the contractor for correction and resubmission, within the timeframes set forth Section E.3(d); such corrections will not be reimbursed by the Government. Further, if the Government finds that a draft written deliverable contains spelling errors, grammatical errors, improper format, or otherwise does not conform to contractual requirements, the Government reserves the right to immediately reject the document without further review and return the document to the contractor for correction and resubmission, within the timeframes set forth in Section E.3(d). If the contractor requires additional Government guidance to produce an acceptable draft, the contractor shall arrange a meeting with the COTR.

(g). Deliverables will be accepted when all discrepancies, errors, or other deficiencies have been resolved to the Government's satisfaction.

(h). Acceptance or rejection of all submitted deliverables (both draft and final) will be formally communicated in writing from the COTR within the timeframe specified. All notifications of rejection will be accompanied by specific justification or substantiation of the reason(s) for rejection.

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.252-2 Clauses Incorporated by Reference (JUN 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.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	TITLE	DATE
52.242-15	STOP-WORK ORDER Alternate I (APR 1984)	AUG 1989

F.2 Transportation of Material

The contractor shall be responsible for transporting all materials used in the performance of this contract between the Government site (USPTO) and the contractor's place of performance. Pickup and delivery of materials shall be in accordance with the deliverable schedule and in accordance with D.3 Special Distribution Requirements in the contract. Delivery made to the USPTO by courier or duly appointed company representative shall be done during business hours.

F.3 Period of Performance

(a). The period of performance of this contract, excluding options, shall be from the effective date of the contract through one year. If an option is exercised, the period of performance shall be extended through the end of that option period.

(b). The option periods that may be exercised are as follows:

<u>Period</u>	<u>Start Date</u>	<u>End Date</u>
Option I		one year
Option II		one year
Option III		one year
Option IV		one year

F.4 Place of Performance

The work under this Statement of Work (SOW), Section C, is to be performed primarily at the contractor's facility. However, meetings will be held at the USPTO in Alexandria, Virginia.

F.5 Deliverables

(a) All deliverables, except US Postal Service, or commercial delivery (i.e. FedEx, UPS, etc.) shall be made by 2:00 P.M. Eastern Standard Time (EST) local time (Washington, DC) at destination, Monday through Friday, unless otherwise stated.

(b) All deliverables submitted in electronic format shall be free of any known computer virus or defects. If a virus or defect is found, the deliverables will not be accepted. The replacement file shall be provided within two (2) business days after notification of the presence of a virus.

(c). Narrative in deliverables shall be compatible with USPTO's Windows XP 2.

(d). Tables, files, graphics and other information not incorporated into word processed documents (e.g. that are generated by CASE or IDEF tools) shall be delivered in a format compatible with USPTO's Windows XP operating system office automation. As of the release date of the RFP, USPTO office automation

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applications include: Microsoft Word 2003, Microsoft Excel 2003, Microsoft Outlook 2003, Microsoft Project Standard 2003, Microsoft Access 2003, and Microsoft PowerPoint 2003.

(e) All deliverables shall be accompanied by a cover letter from the Contractor on Company letterhead and in accordance with D.2. Marking.

(f) In the event the Contractor anticipates difficulty in complying with any contract-level delivery schedule, the Contractor shall immediately provide written notice to the Contracting Officer. Each notification shall give pertinent details, shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule, or any rights or remedies provided by law or under this contract.

F.6 Contract Deliverables Format and Criteria

The following shall be delivered to the USPTO as required in accordance with the format and criteria shown in Section J.2 List of CDRL Attachments to this solicitation:

1. Problem Notification Letter (Contract Deliverable No. PN01)

F.7 Reporting/Deliverable Standards

All documentation shall comply with the marking specifications stated in Section D.2 of this solicitation.

F.8 Subcontract Plan Reports

Large businesses shall submit periodic reports which show compliance with their subcontracting plan. The Contractor shall submit Standard Form (SF) 294 and (SF) 295 in accordance with the instructions on the forms. The Contractor shall ensure their subcontractors agree to submit the forms, which forms are described in Section F.9 and F.10 below. The SF-294 and SF-295 forms are available online at the General Services Administration web address: <http://www.gsa.gov/forms>.

F.9 Electronic Subcontracting Reporting System

(a) The requirement for the submittal of paper versions of Standard Form (SF) 294, Subcontracting Reports for Individual Contracts, and SF 295, Summary Subcontract Reports, as provided in FAR 52.219-9 (j) is hereby deleted and is replaced with the electronic submittal of data under the Electronic Subcontract Reporting System (eSRS) at <http://www.esrs.gov/>. The SF294 is due within 30 days ending March 31, and September 30.

(b) The Contractor's subcontracting plan shall include assurances that the Contractor will (1) submit the Individual Subcontracting Reports and Summary Subcontracting Reports under the eSRS and (2) ensure that its subcontractors agree to submit Individual Subcontracting Reports and Summary Subcontracting Reports at all tiers, in eSRS.

(c) The Contractor or subcontractor shall provide such information that will allow applicable lower tier subcontractors to fully comply with the statutory requirements of FAR 19.702.

F.10 Summary Subcontract Report (SF-295)

The Contractor shall submit SF-295, Summary Subcontract Report electronically via the Electronic Subcontract Reporting System (eSRS)*. The report is due October 30th for the calendar period October 1 through September 30.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 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.2 Contracting Officer's Technical Representative (COTR)

(a). (To be designated at time of award), is hereby designated as the Contracting Officer's Technical Representative. 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. The COTR is located at the U.S. Patent and Trademark Office, 600 Dulany Street, (COTR Location will be provided in contract), Alexandria, VA 22314-5782.

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

1. The Contracting Officer's Technical Representative is responsible for the technical aspects of the project and is the 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 that 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. An alternative COTR may be named by the Contracting Officer, in the absence of the COTR.

G.3 Government-Furnished Data

(a). Government-furnished data or reference documents may be provided, with specified delivery dates, to the contractor for use in the performance of this contract. If the data or reference document, suitable for its intended use, is not delivered to the contractor by the specified date, the COTR will be immediately notified by the contractor, with the contractor indicating the impact and requesting direction from the COTR. The Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

1. The contractor submits a timely written request for an equitable adjustment; and
2. The facts warrant an equitable adjustment.

(b). Title to Government-furnished data and reference documents shall remain with the Government.

(c). The contractor shall use the Government-furnished data and reference documents only in connection with this contract.

(d). Government-furnished data and reference documents will be returned to the Government upon conclusion of the work or as otherwise specified.

G.4 Invoices

(a). Invoices shall be submitted to the U.S. Patent and Trademark Office according to the stated distribution below. Invoices shall be submitted on a monthly basis or as mutually agreed upon, for costs incurred, as follows:

Original to:

U.S. Patent and Trademark Office
Office of Finance
Mail Stop 17
P.O. Box 1450
Alexandria, VA 22313-1450

Email: OfficeofFinance@uspto.gov

Fax: 571-273-6400

Copy 1:

U.S. Patent and Trademark Office
Office of Procurement
Contracting Officer (TBD)
Mail Stop 6
P.O. Box 1450
Alexandria, VA 22313-1450

Or if hand-delivered to:

U.S. Patent and Trademark Office
Office of Procurement
600 Dulany Street, MDE 7th Floor
Alexandria, VA 22314

Copy 2 :

U.S. Patent and Trademark Office
Contracting Officer's Technical Representative (COTR) (TBD)
600 Dulany Street,
P.O. Box 1450
Alexandria, VA 22313-1450

Or if hand-delivered :

U.S. Patent and Trademark Office
Contracting Officer's Technical Representative (COTR)
600 Dulany Street,
Alexandria, VA 22314

(b). To constitute a properly submitted invoice, the Contractor shall submit the following documents, when applicable, with the submission of the Contractor's invoice:

1. Name of the business concern, address, and invoice date
2. Contract number
3. Period covered by the invoice

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4. Name, title, and phone number of the official responsible for preparing the invoice
5. Name, title, and phone number, signature of official responsible for certifying the invoice
6. Description, price, and quantity of property and services delivered or rendered:
 - (a). Costs being billed in the current period of the invoice.
 - (1) Include the CLIN number being billed, and breakout of charges such as: i.e. number of participants being billed during this period by the monthly amount.
 - (2) Plan and Implementation charges.
 - (b). Total Contract Costs Invoiced Previously to Date.
 - (c). Total Billed to Date: This line should be the total of "Current Being Billed" and the "Costs invoiced Previously to date".

(c). The Contracting Officer may reject any invoices that contain billing errors, improperly billed costs, failure to certify invoice, or failure to comply with invoice format.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 Printing

Unless otherwise specified in this contract, the contractor shall not engage in, or subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10 3/4 by 14 1/4 inches, will not be deemed to be printing.

H.2 Key Personnel

(a). The Contractor shall identify the key personnel for each of the positions identified below. The Program Manager must be from the prime contractor. Key personnel shall include:

1. Program Manager

(b). The Program Manager shall be assigned and available on this contract from the date of contract award.

(c). 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 notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (d) below. After the initial 90-day period, the contractor shall submit the information required by paragraph (d) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(d). The contractor shall provide 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. Proposed substitutes should have qualifications that are equal to or better than those of the persons being replaced. The Contracting Officer will notify the contractor, within 15 calendar days after receipt of all required information, of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

(e). Any changes to Key Personnel that take place after submittal of proposal(s), and prior to award of this contract, the contractor shall notify the Contracting Officer of those changes. Contractor shall submit resumes and signed letters of intent to perform for the proposed key personnel.

H.3 Notification of Changes (FAR 52.243-7) (APRIL 1984)

(a). In accordance with 52.243-7 (b.), the following is inserted into the clause:

The contractor shall notify the Contracting Officer in writing promptly, within five (5) calendar days from the date that the contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the contractor regards as a change to the contract terms and conditions.

(b). In accordance with 52.243-7(d) the following is inserted into the clause:

The Contracting Officer shall promptly, within 30 calendar days after receipt of notice, respond to the notice in writing.

H.4 Personnel Placement/Replacement

The contractor shall place the Program Manager (Key Personnel), in accordance with Section H.2, under the contract immediately upon award and within thirty (30) calendar days after the effective date of a contract

modification.

H.5 Contractor FOIA Requirement (PTO-17)

Upon award of any contract resulting from this solicitation, the contractor shall be required to submit in electronic (.pdf or .tif) format, a copy of the contract with any proposed redactions it believes are necessary and required by law. If the contractor is proposing any redactions to the contract, the basis for the redactions shall be submitted in writing and must accompany the electronic copy of the contract. This submission is due within 14 days of contract award. If the Contracting Officer agrees with the contractor's proposed redactions, the document will be forwarded to the USPTO FOIA Officer for posting to the agency's e-FOIA website. Submission of the contract document in the required format and any written justification for the proposed redactions shall be provided at no cost to the government.

H.6 Order of Precedence

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a). The Schedule (excluding the specifications)
- (b). Representations and other instructions
- (c). Contract clauses
- (d). Other documents, exhibits, and attachments
- (e). The specifications

H.7 Option To Extend the Term of the Contract –

(a). The Government has the option to extend the term of this contract for four (4) additional periods (Option Year 1-through-4, described below). If more than 31 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 30 days of the period of performance, the Government must provide to the Contractor written notification prior to the expiration of that last 30-day period. This preliminary notification does not commit the Government to exercising the option.

(b). Exercise of an option will result in the following contract modifications:

- 1. Paragraph F.3, "Performance," will be modified for each respective option period as follows:

<u>Period</u>	<u>Start Date</u>	<u>End Date</u>
Option Period 1		one year
Option Period 2		one year
Option Period 3		one year
Option Period 4		one year

H.8 Compliance with the Laws

The Contractor shall comply with applicable laws and rules and regulations having the force of law that deal or relate to performance hereunder or the employment by the Contractor of the employees.

H.9 Limitation on Contractor Advertisements (PTO-06) (Apr 2006)

The Contractor agrees not to refer to any contract awarded under this solicitation in commercial advertising so

as to state or imply that the product or service is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services. Advertisements, press releases and publicity of a contract by a supplier shall not be made without the prior written permission of the Contracting Officer.

H. 10 Federal Holidays

For information purposes, the following days are observed as Federal holidays:

- New Year's Day
- Martin Luther King, Jr. Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day
- Inauguration Day
- Any other day designated by Federal Statute, Executive Order, or Presidential proclamation.

H.11 USPTO Security Clause – PTO-04C

(a) Access to Government Facilities

During the life of the contract, the rights of ingress and egress to and from the Government facility for Contractor personnel shall be made available as required per each individual task order. During all operations on Government premises, Contractor personnel shall comply with the rules and regulations governing the conduct of personnel and the operation of the facility. The Government reserves the right to require Contractor personnel to sign in upon ingress and sign out upon egress to and from the Government facility.

(b) Duplication and Disclosure of Confidential Data

Duplication or disclosure of confidential data provided by the USPTO 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 which is the sole property of the USPTO, 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 obtained throughout contract performance whether title thereto vests in the USPTO or otherwise. The Contractor hereby agrees not to disclose said data, any interpretations thereof or data derivative there from, to unauthorized parties in contravention of these provisions without prior written approval of the CO or the party in which title thereto is wholly vested. This clause also applies to any subcontractors and/or consultants used by the Contractor.

(c) Government Furnished Data (if applicable)

The Government shall deliver to the Contractor, as may be requested, Government-Furnished Data (GFD) during the performance of this contract. GFD will be delivered to the Contractor as specified in each task order. Title to GFD shall remain in the Government, and the Contractor shall use the GFD only in connection with this contract. Upon completion or termination of this contract, the Contractor shall return to the Government all GFD.

(d) Rights in Data (if applicable)

The Government shall have unlimited rights in software first produced in the performance of this contract. For the purposes of this clause, "software first produced in the performance of this contract" shall include, but not be limited to the following: non-COTS computer programs developed or previously developed and implemented by

the Contractor in the performance of this contract, related computer data bases and documentation thereof, source code, object code, algorithms, library code, library routine, and technical data of all software first produced in the performance of this contract. For the purposes of this clause, "unlimited rights" shall mean the right of the USPTO, at no extra cost to the USPTO or recipients, to use, disclose, reproduce unlimited copies, prepare derivative works, distribute unlimited copies to the public and foreign government patent offices, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(e) Secrecy and Usage of Patent Information

Work under this contract does not affect the national security. However, patent applications are required by law (35 U.S.C. 122) to be kept in confidence. Information contained in any patent application file(s) is restricted to authorized Contractor personnel on a need-to-access basis.

The Contractor acquires no right or privilege to use or disclose any information contained in any patent application file (in any form whatsoever) except to perform the work under the contract. Further, the Contractor shall not copyright or make any use or disclosure whatsoever of any patent information contained in any application or related copy or data furnished the Contractor by the Government or obtained there from except performing the requirements of this contract.

Security requirements of patent application file data maintained in a computer-accessible medium are an extension of the security requirements for the hard copy or the patent application folders. All processing, storage or transmission of patent application file data by means of electronic communications systems is prohibited unless use of such systems is approved by the USPTO.

All personnel having access to patent application files or data or information concerning the same, must take the following affirmation, signed in writing:

"I do swear or affirm that I will preserve the applications for patents in secrecy, that I will not divulge any information concerning the same to unauthorized persons while employed in work under this contract or at any time thereafter; and that I take this obligation freely, and without mental reservation or purpose of evasion."

Each employee's signed oath, or affirmation, shall be retained in the Contractor's file, subject to inspection by authorized Government representatives.

Without advance notice, the Government shall have the right to inspect the Contractor's premises, records, and work in process pertaining to the secrecy of patent information.

H.12 CAR 1352.239-73 Security Requirements for Information Technology Resources (October 2003) (modified) (PTO-05C)

(a) This clause is applicable to all contracts that include information technology resources or services in which the Contractor must have physical or electronic access to USPTO's sensitive or classified information, which is contained in systems that directly support the mission of the Agency. For purposes of this clause, the term Sensitive is defined by the guidance set forth in:

- (1) The DOC IT Security Program Policy and Minimum Implementation Standards
<http://www.osec.doc.gov/cio/ITSIT/DOC-IT-Security-Program-Policy.htm>;
- (2) The Office of Management and Budget (OMB) Circular A-130, Appendix III, Security of Federal Automated Information Resources (http://csrc.nist.gov/policies/appendix_iii.pdf), which states that there is a presumption that all [general support systems] contain some sensitive information; and
- (3) The Computer Security Act of 1987 (P.L. 100-235) (<http://www.epic.org/crypto/csa/csa.html>), including the following definition of the term sensitive information any information the loss, misuse, or unauthorized access, to or modification of which could adversely affect the national interest or the, conduct of federal programs, or the privacy to which individuals are entitled

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under section 552 of title 5, United States Code (The Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

For purposes of this clause, the term Classified is defined by the guidance set forth in:

- (4) The DOC IT Security Program Policy and Minimum Implementation Standards, Section 3.3.1.4 (<http://csrc.nist.gov/publications/fips/fips199/FIPS-PUB-199-final.pdf>).
- (5) The DOC Security Manual, Chapter 18 (http://www.easc.noaa.gov/Security/webfile/erso.doc.gov/5_2003_Security_Manual/DOC_Manual_of_Security_Policies_and_Procedures.htm).
- (6) Executive Order 12958, as amended, Classified National Security Information. Classified or national security information is information that has been specifically authorized to be protected from unauthorized disclosure in the interest of national defense or foreign policy under an Executive Order or Act of Congress.

Information technology resources include, but are not limited to, hardware, application software, system software, and information (data). Information technology services include, but are not limited to, the management, operation (including input, processing, transmission, and output), maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. The Contractor shall be responsible for implementing sufficient Information Technology security, to reasonably prevent the compromise of USPTO IT resources for all of the contractor s systems that are interconnected with a USPTO network or USPTO systems that are operated by the Contractor.

(b) All Contractor personnel performing under this contract and Contractor equipment used to process or store USPTO data, or to connect to USPTO networks, must comply with the requirements contained in the USPTO IT Security Handbook.

(c) For all Contractor-owned systems for which performance of the contract requires interconnection with a USPTO network or that USPTO data be stored or processed on them, the Contractor shall:

- (1) Provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The Contractor's IT Security Plan shall comply with federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq,) and the Federal Information Security Management Act of 2002, Pub. L. No. 107-347 Stat. 2899, 2946-2961 (2002); Pub. L. No. 107-296 Stat. 2135, 2259-2273 (2002). 38 WEEKLY COMP. PRES. DOC. 51,2174 (Dec. 23, 2002) (providing statement by President George W. Bush regarding Federal Information Security Management Act of 2002). The plan shall meet IT security requirements in accordance with Federal and USPTO policies and procedures that include, but are not limited to:
 - a. OMB Circular A-130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources (http://csrc.nist.gov/policies/appendix_iii.pdf);
 - b. National Institute of Standards and Technology Special Publication 800-18, Guide for Developing Security Plans for Information Technology Systems (<http://csrc.nist.gov/publications/nistpubs/800-18/Planguide.PDF>); and
 - c. DOC Procedures and Guidelines in the Information Technology Management Handbook (<http://nsi.org/Library/Govt/docinfo.txt>).
 - d. National Industrial Security Program Operating Manual (NISPOM) for classified systems (<http://www.dss.mil/isec/nispom.htm>); and

- (2) Upon award, the contractor shall register with the USPTO Certification and Accreditation Group (CACG), with copy to the Contracting Officer, to initiate the certification and accreditation process described in paragraph 3 below.
- (3) Within 14 days after receipt of direction from the CACG, the contractor shall submit for USPTO approval a System Certification and Accreditation package, including the IT Security Plan and a system certification test plan, as outlined in USPTO Certification and Accreditation Technical Standard and Guideline. The Certification and Accreditation Package must be consistent with and provide further detail for the security approach contained in the Contractor's proposal or sealed bid that resulting in the award of this contract and in compliance with the requirements stated in this clause. The Certification and Accreditation Package, as approved by the Contracting Officer, in consultation with the USPTO Security Officer, shall be incorporated as part of the contract. USPTO will use the incorporated IT Security Plan as the basis for certification and accreditation of the contractor system that will process USPTO data or connect to USPTO networks. Failure to submit and receive approval of the Certification and Accreditation Package, as outlined above may result in termination of the contract.

(d) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

H.13 CAR 1352.239-74 Security Processing Requirements for Contractor/Subcontractor Personnel for Accessing USPTO Automated Information Systems (October 2003)

(a) Contractor personnel requiring any access to AIS's operated by the Contractor for USPTO or interconnected to a USPTO network to perform contract services shall be screened at an appropriate level in accordance with Commerce Acquisition Manual 1337.70, Security Processing Requirements for Service Contracts. USPTO shall provide screening using standard personnel screening forms, which the Contractor shall submit to the USPTO Contracting Officer's Technical Representative (COTR) based on the following guidance:

- (1) Contract personnel performing work designated Contract High Risk and personnel performing work designated Contract Moderate Risk in the information technology (IT) occupations and those with global access to an automated information AIS require a favorable pre-employment check before the start of work on the contract, regardless of the expected duration of the contract. After a favorable pre-employment check has been obtained, the Background Investigation (BI) for Contract High Risk and the Minimum Background Investigation (MBI) for Contact IT Moderate Risk positions must be initiated within three working days of the start of work.
- (2) Contract personnel performing work designed Contract Moderate Risk who are not performing IT-related contract work are not required a favorable pre-employment check prior to their employment; however, the Minimum Background Investigation (MBI) must be initiated within three working days of the subjects start of on the contract, regardless of the expected duration of the contract.
- (3) Contract personnel performing work designated as Contract Low Risk will require as National Agency Check and Inquiries (NACI) upon the subjects start of work on the contract if the expected duration of the contract exceeds 365 calendar days. The NACI must be initiated within three working days of the subject's start of work on the contract.
- (4) Contract personnel performing work designated Contract Low Risk will require a Special Agreement Check (SAC) upon the subject's start of work on the contract if the expected duration of the contract (including options) exceeds 180 calendar days, but is less that 365 calendar days. The SAC must be initiated within three working days of the subject's start of work on the contract.
- 5) Contract personnel performing work on contracts requiring access to classified information must

undergo investigative processing according to the Department of Defense National Industrial Security Program Manual (NISPOM), (<http://www.dss.mil/ise/nispom.htm>) and be granted eligibility for access to classified information prior to beginning work on the contract.

The security forms may be obtained from USPTO Office of Security. At the option of the government, interim access to USPTO AISs may be granted pending favorable completion of a pre-employment check. Final access may be granted only on a completion of an appropriate investigation based upon the risk level assigned to the contract.

(b) Within 5 days of contract award, the Contractor shall certify in writing to the COTR that its employees, in performance of the contract, have completed annual IT security awareness training in USPTO IT Security policies, procedures, computer ethics, and best practices, in accordance with the USPTO Training Policy. The COTR will inform the Contractor of any other available USPTO training resources.

(c) Within 5 days of contract award, the Contractor shall provide the CORS with signed Nondisclosure Agreements as specified in Commerce Acquisition Regulations (CAR), 1352.209-72, Restrictions Against Disclosures.

(d) The Contractor shall afford USPTO, including the Office of Inspector General, access to the Contractors and subcontractors facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of USPTO data or to the function of computer AISs operated on behalf of USPTO, and to preserve evidence of computer crime.

(e) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(NOTE: Low Risk contracts whose duration is less than 180 days do not ordinarily require security processing. However, even though the contract is short in duration, based on any unusual circumstances that may exist, Special Agreement Checks (SACs) may be requested, at the discretion of the Contracting Officer's Technical Representative (COTR) and/or the USPTO Security Office.

H.14 CAR 1352.209-72 Restrictions Against Disclosures (March 2000)

(a) The Contractor agrees, in the performance of this contract, to keep the information furnished by the Government and designated by the Contracting Officer or Contracting Officer's Technical Representative in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information in whole or in part, in any manner or form, not to authorize or permit others to do so, taking such reasonable measures as necessary to restrict access to such information while in the Contractor's possession, to those employees needing such information to perform the work provided herein, i.e., on a "need to know" basis. The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reasons to suspect a breach of this requirement.

(b) The Contractor agrees that it will not disclose any information described in subsection a. to any persons or individual unless prior written approval is obtained from the Contracting Officer. The Contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

H.15 CAR 1352.237-71 Security Processing Requirements for Contractor/Subcontractor Personnel Working on a Department of Commerce/USPTO Site or IT System (High or Moderate Risk Contracts)

Note: (Notice) Failure to acknowledge compliance with this will result in a contractor being found non-responsible, and eliminated from further consideration for award.

Contractor administrative/clerical personnel working on this contract have been determined to meet the security criteria for and are designated as "Moderate Risk" positions.

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(a) Investigative Requirements for High and Moderate Risk Contracts

All contractor (and subcontractor) personnel proposed to be employed under a High or Moderate Risk contract shall undergo security processing by the USPTO Office of Security before being eligible to work on the premises of any Department of Commerce/USPTO facility, or through a Department of Commerce/USPTO IT system. All USPTO security processing pertinent to this contract will be conducted at no cost to the contractor. The level of contract risk will determine the type and scope of such processing as noted below.

(1) Non-IT Service Contracts

- a. High Risk – Background Investigation (BI)
- b. Moderate Risk – Moderate Background Investigation (MBI)

(2) IT Service Contracts

- a. High Risk IT – Background Investigation (BI)
- b. Moderate Risk IT – Background Investigation (BI)

(3) In addition to the investigations noted above, non-U.S. citizens must have a pre-appointment check that includes a Customs and Immigration Service (CIS – formerly Immigration and Naturalization Service) agency check.

(b) Additional Requirements for Foreign Nationals (Non-U.S. Citizens)

To be employed under this contract within the United States, non-U.S. citizens must have:

- Official legal status in the United States
- Continuously resided in the United States for the last two years; and
- Advance approval from the servicing Security Officer of the contracting operating unit in consultation with the Office of Security (OSY) headquarters. (The OSY routinely consults with appropriate agencies regarding the use of non U.S. citizens on contracts and can provide up-to-date information concerning this matter.)

(c) Security Processing Requirement

(1) Processing requirements for High and Moderate Risk Contracts are as follows:

- a. The contractor must complete and submit the following forms to the Contracting Officer Representative (COR):
 - Standard Form 85P (SF 85P), Questionnaire for Public Trust Positions;
 - FD 258, Fingerprint Chart with OPM's designation in the ORI Block; and
 - Credit Release Authorization.
- b. The COR will review these forms for completeness, initiate the CD-254, Contract Security Classification Specification, and forward the documents to the cognizant Security Officer.
- c. Upon completion of the security processing, the Office of Security, through the servicing Security Officer and the COR, will notify the contractor in writing of the individual's eligibility to be given access to a Department of Commerce/USPTO facility or Department of Commerce/USPTO IT system.

(2) Security processing shall consist of limited personal background inquiries pertaining to verification of name, physical description, marital status, present and former residences, education, employment history, criminal record, personal references, medical fitness, fingerprint classification, and other pertinent information. For non-U.S. citizens, the COR must request an Immigration and Customs Enforcement (formerly INS) agency check. It is the option of the

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Office of Security to repeat the security processing on any contract employee at its discretion.

(d) Notification of Disqualifying Information

If the Office of Security receives disqualifying information on a contract employee, the COR will be notified. The COR, in coordination with the contracting officer, will immediately remove the contract employee from duty requiring access to Departmental facilities or IT systems. Contract employees may be barred from working on the premises of a facility for any of the following:

- Conviction of a felony of a crime of violence or of a misdemeanor involving moral turpitude.
- Falsification of information entered on security screening forms or of other documents submitted to the USPTO.
- Improper conduct once performing on the contract, including criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government regardless of whether the conduct directly related to the contract.
- Any behavior judged to pose a potential threat to Departmental information systems, personnel, property, or other assets.

NOTE: Failure to comply with the requirements may result in termination of the contract or removal of some contract employees from Department of Commerce/USPTO facilities or access to IT systems.

(e) Access to National security Information

Compliance with these requirements shall not be construed as providing a contract employee clearance to have access to national security information.

(f) Contractor shall include the substance of this clause, including this paragraph, in all subcontracts.

H.16 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 defined 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 shall make a full disclosure in writing to the CO. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the CO, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies: The CO 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 CO, 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.17 52.222-54 Employment Eligibility Verification (JAN 2009)

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

“Commercially available off-the-shelf (COTS) item”—

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(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at [2.101](#));

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 ([46 U.S.C. App. 1702](#)), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

“Employee assigned to the contract” means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at [22.1803](#). An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

“Subcontract” means any contract, as defined in [2.101](#), entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

“United States”, as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) *All new employees.*

(A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

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(3) If the Contractor is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986, within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

(1) Is for—

(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than \$3,000; and

(3) Includes work performed in the United States.

(End of clause)

H.18 General Liability insurance

(a) The contractor shall, at its own expense, provide and maintain during the entire period of performance of this contract, general liability insurance.

(b) The Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained and a copy of the insurance policy provided to the Government. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which the contract is to be performed prescribe or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

H.19 CAR 1352.218-70 Contract Performance During Pandemic Influenza Outbreak, SARS Outbreak, or Other Biomedical Emergency or Catastrophe (October 2006)

It has been determined that in the event of a Pandemic Influenza outbreak, SARS outbreak, or other biomedical emergency or catastrophe, this Contract is mission critical and essential to the ongoing operations of the United States Patent and Trademark Office (USPTO). Accordingly, all performance under this Contract shall continue without any delay, interruption or other disruption of any kind whatsoever. In the event of a Pandemic Influenza outbreak, SARS outbreak, or other biomedical emergency or catastrophe, the Contractor hereby agrees to

continue to maintain performance under this Contract at a % level (hereafter referred to as modified performance level) throughout the duration of the event, or until such time as USPTO, in its discretion, determines the modified performance level to be necessary, whichever is later. Performance at the modified performance level shall be negotiated with the USPTO Contracting Officer pursuant to the Changes Clause of this Contract. Performance at a modified performance level pursuant to this clause shall not commence until the Contractor receives Notice to Proceed from an authorized USPTO Contracting Officer. In addition, the contingency plan for operations at the modified performance level provided by the Contractor is hereby incorporated into the Contract. Failure of the Contractor to maintain the modified performance level of supply or service until the Pandemic Influenza outbreak, SARS outbreak, or other biomedical emergency or catastrophe has been declared ended, or for such time until USPTO determines that the modified performance level should be changed, whichever is later, shall constitute a breach of this Contract and shall entitle USPTO to immediately pursue any and all remedies to redress the Contractor's breach of this Contract. (End of Clause)

PART II - CONTRACT CLAUSES**SECTION I - CONTRACT CLAUSES****I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

<u>NUMBER</u>	<u>TITLE</u>	<u>DATE</u>
52.202-1	DEFINITIONS	JUL 2004
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	SEP 2006
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-11	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	SEP 2007
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	SEP 2007
52.204-4	PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.204-7	CENTRAL CONTRACTOR REGISTRATION	APR 2008
52.204-10	REPORTING SUBCONTRACT AWARDS	SEP 2007
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	SEP 2006
52.215-2	AUDIT AND RECORDS--NEGOTIATION	MAR 2009
52.215-8	ORDER OF PRECEDENCE -UNIFORM CONTRACT FORMAT	OCT 1997
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	MAY 2004
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN Alternate II (OCT 2001)	APR 2008
52.219-16	LIQUIDATED DAMAGES-- SUBCONTRACTING PLAN	JAN 1999
52.222-3	CONVICT LABOR	JUN 2003
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	MAR 2007
52.222-35	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA	SEP 2006
52.222-36	AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS	JUN 1998

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52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS	SEPT 2006
52.222-39	NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES	DEC 2004
52.222-50	COMBATING TRAFFICKING IN PERSONS	FEB 2009
52.223-6	DRUG-FREE WORKPLACE	MAY 2001
52.223-10	WASTE REDUCTION PROGRAM	AUG 2000
52.224-1	PRIVACY ACT NOTIFICATON	APR 1984
52.224-2	PRIVACY ACT	APR 1984
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008
52.227-1	AUTHORIZATION AND CONSENT	DEC 2007
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	DEC 2007
52.227-14	RIGHTS IN DATA GENERAL Alternates II (DEC 2007) and III (DEC 2007)	DEC 2007
52.228-7	INSURANCE - LIABILITY TO THIRD PERSONS	MAR 1996
52.232-17	INTEREST	OCT 2008
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-25	PROMPT PAYMENT	OCT 2008
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION	OCT 2003
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN CENTRAL CONTRACTOR REGISTRATION	MAY 1999
52.233-1	DISPUTES ALTERNATE I (DEC 1991)	SEP 2006
52.233-3	PROTEST AFTER AWARD Alternate I (JUN 1985)	AUG 1996
52.237-3	CONTINUITY OF SERVICES	JAN 1991
52.239-1	PRIVACY OR SECURITY SAFEGUARDS	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.243-1	CHANGES - FIXED PRICE	AUG 1987
52.244-2	SUBCONTRACTS	JUN 2007
52.245-1	GOVERNMENT PROPERTY	JUN 2007
52.249-14	EXCUSABLE DELAYS	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

I.3 52.217-8 Option to Extend Services (Nov 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days of the expiration date.

I.4 52.252-6 Authorized Deviations in Clauses (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Commerce Acquisition Regulation clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

I.5 52.243-7 Notification of Changes (FAR 52.243-7) (APRIL 1984)

(a) *Definitions.* "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this paragraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) *Notice.* The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within _____ (to be negotiated) calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state—

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any documents and the substance of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
- (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including—
 - a. What contract line items have been or may be affected by the alleged change;
 - b. What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
 - c. To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
 - d. What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
- (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) *Continued performance.* Following submission of the notice required by paragraph (b) of this clause,

the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in paragraph (b) of this clause, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.

(d) *Government response.* The Contracting Officer shall promptly, within (to be negotiated) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either—

- (1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;
- (2) Countermand any communication regarded as a change;
- (3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or
- (4) In the event the Contractor's notice information is inadequate to make a decision under paragraphs (d)(1), (2), or (3) of this clause, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) *Equitable adjustments.*

- (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made—
 - a. In the contract price or delivery schedule or both; and
 - b. In such other provisions of the contract as may be affected.
- (2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in paragraphs (b) and (c) of this clause. Note: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

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The contractor shall notify the Contracting Officer in writing promptly, within five (5) calendar days from the date that the contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the contractor regards as a change to the contract terms and conditions. The Contracting Officer shall promptly, within 30 calendar days after receipt of notice, respond to the notice in writing.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J - LIST OF ATTACHMENTS

J.1 List of Publications Referenced

(a) The following documents provide information needed to prepare proposals and for managing work to be performed under this contract. The documents are hereby made a part of this solicitation and any resultant contract.

1. DOC CITR_004_Certification_and_Accreditation_Process.pdf
2. DOC CITR_008_Remote_Access.pdf
3. DOC TSPP 2009 Final.pdf
4. Remote Access Policy.pdf
5. USPTO Breach Notification Policy.pdf
6. USPTO IT Security Handbook.pdf

(b) The following publications websites are specific NIST guides which will be used for the Certification and Accreditation process.

<http://csrc.nist.gov/publications/nistpubs/800-37/SP800-37-final.pdf>

<http://csrc.nist.gov/publications/nistpubs/800-53-Rev2/sp800-53-rev2-final.pdf>

<http://csrc.nist.gov/publications/nistpubs/800-53A/SP800-53A-final-sz.pdf>

J.2 List of CDRL Attachments

The following attachments provide the CDRL forms and information that are required for the submission of proposals. The attachments are hereby made a part of this solicitation and any resultant contract.

A. Contract Deliverables:

- (1) Attachment 1: Problem Notification Letter (Contract Deliverable No. PN01)

J.3 List of Other Attachments

- (1) Attachment 1 - Experience Reference Worksheet
- (2) Attachment 2 - Contract Termination Worksheet
- (3) Attachment 3 - Past Performance References Submitted to Open Ratings

PART IV - REPRESENTATIONS AND INSTRUCTIONS

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

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

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

52.203-11 CERTIFICATION AND DISCLOSURE REGARDING Sept 2007
PAYMENTS TO INFLUENCE CERTAIN FEDERAL
TRANSACTIONS DEVIATION
52.222-38 COMPLIANCE WITH VETERANS' EMPLOYMENT Dec 2001
REPORTING REQUIREMENTS

K.2 52.204-8 Annual Representations and Certifications (Feb 2009)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is **541611**.
- (2) The small business size standard is **\$7.0 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) (1) If the clause at [52.204-7](#), Central Contractor Registration, is included in this solicitation, paragraph (c) of this provision applies.

If the clause at [52.204-7](#) is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (c) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

- (i) Paragraph (c) applies.
- (ii) Paragraph (c) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)); except for the changes identified below [*offeror to insert changes, identifying change by clause*]

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number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR CLAUSE #	TITLE	DATE	CHANGE
_____	_____	_____	_____

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

Note: Offeror is required to fill in Taxpayer Identification Number.

K.3 52.204-3 Taxpayer Identification (OCT 1998)

(a) Definitions

- (1) "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.
- (2) "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);
- 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 _____

Note: Offeror is required to provide DUNS #

K.4 52.204-6 Data Universal Numbering System (DUNS) Number (Apr 2008)

Company's DUNS# _____

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS number or "DUNS+4" that identifies the offeror's name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

- (1) An offeror may obtain a DUNS number—
 - a. If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or
 - b. If located outside the United States, by contacting the local Dun and Bradstreet office.
- (2) The offeror should be prepared to provide the following information:
 - a. Company legal business name.
 - b. Tradestyle, doing business, or other name by which your entity is commonly recognized.
 - c. Company physical street address, city, state and ZIP Code.

- 2. Direct:
 - 3. Indirect:
 - 4. Standard Work Week (Hours):
- I. Attach a current organizational chart of the company.

K.6 Certification

I hereby certify that the responses to the above Representations, Certifications and other statements are accurate and complete.

Printed Name: _____

Signature: _____

Title: _____

Date: _____

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) PROVISIONS

NUMBER	TITLE	DATE
52.204-6	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER	OCT 2003
52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE	APR 1991
52.214-35	SUBMISSION OF U.S OFFERS IN CURRENCY	APR 1991
52.222-24	PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION	FEB 1999
52.232-38	SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER	MAY 1999

L.2 52.215.1 Instructions to Offerors—Competitive Acquisition (Jan 2004)

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

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer’s discretion, result in the offeror being allowed to revise its proposal.

“In writing,” “writing,” or “written” means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation’s closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time,” if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) *Amendments to solicitations.* If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation,

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proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

- (2) The first page of the proposal must show—
 - a. The solicitation number;
 - b. The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
 - c. A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
 - d. Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and
 - e. Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.
- (3) Submission, modification, revision, and withdrawal of proposals.
 - a. Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.
 - b. 1. Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—
 - [a] If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or
 - [b] There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - [c] It is the only proposal received.
 2. However, a late modification of an otherwise successful proposal that makes its terms

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more favorable to the Government, will be considered at any time it is received and may be accepted.

- c. Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
- d. If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
- e. Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at [52.215-5](#), Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

- (4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.
- (5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR [52.225-17](#), Evaluation of Foreign Currency Offers, is included in the solicitation.
- (6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.
- (7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.
- (8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) *Offer expiration date.* Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) *Restriction on disclosure and use of data.* Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall—

- (1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in

connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [*insert numbers or other identification of sheets*]; and

- (2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government's interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) 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.
- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.
- (7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.
- (9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

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- (10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.
- (11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:
 - a. The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
 - b. The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
 - c. The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
 - d. A summary of the rationale for award.
 - e. For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
 - f. Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

L.3 52.216-1 Type of Contract (APR 1984)

The Government plans to award an indefinite delivery/indefinite quantity type contract resulting from this solicitation.

L.4 1352.233-2 Service of Protests (DEVIATION FAR 52.233-2) (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:

U.S. Dept. of Commerce, USPTO
Office of Procurement
Attn: Sylvia G. Van Dyke
P.O. Box 1450, MDE 7B03
Alexandria, VA 22313-1450

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

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

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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:

Kate Kudrewicz
Director, Office of Procurement
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
(FAX Number 571-273-6575)

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
General Law Office
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
(FAX Number 571-273-0099)

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 Government Accountability Office (GAO) or any other external forums. If the protester has already filed with the GAO or other external forums, 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

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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. 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.

c. 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 15.506, 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 Post-Award Conference

A post-award conference with the successful offeror is required. It will be scheduled and held within 15 days after the date of contract award. The conference will be held at:

U.S. Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22313

L.6 Set-Aside Information

This solicitation includes the following set-aside criteria:

- (a). Percent of the set-aside: 0%
- (b). Any large businesses receiving a contract award must have a subcontracting plan which establishes a goal of at least **20 percent** of the contract value for small business participation.
- (c). Type of set-aside: None

L.7 Submission of Proposals

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

Offer includes:	Required Documentation	Quantities	Page Limitation
	a. Standard Form 33	one (1) original and (1) copy	
	b. Standard Form 30 (Amendments)	one (1) original and (1) copy, if applicable;	
	c. Price Proposal	One (1) original and (1) copy	No Limit
		Two (2) electronic copies on CD/DVD in Microsoft 2003	
	d. Small Business Subcontracting Plan (other than small business)	One (1) original and (1) copy	No Limit
	e. Financial Statements	(include on CD/DVD with electronic price proposal	No Limit
	f. Section K Representations, Certifications, and Other Statements of Offerors (Additional information is required to be submitted that is not included at Online Representations and Certifications Application (ORCA)	One (1) original and (1) copy	No Limit
Proposal includes:			
	Technical Proposal	One (1) original and (1) copy	
	Includes four sections:	Two (2) electronic copies on CD/DVD in Microsoft 2003	
	1. Experience		40 Pages
	a. Organizational Capabilities		
	b. Staff Qualifications		
	c. Data System Capabilities		
	d. Experience References		10 pages
	2. Initial Set-up and Implementation Plan		10 pages
	3. Past Performance Reference Worksheets (Open Ratings Submittal)		No Limit
	4. Contract Termination Worksheets		No Limit

Note: Experience is limited to 40 Pages, of which only the Experience references (5) are limited to 2 pages ea. It is at the Offeror's discretion how the remaining 30 pages may be divided among Organizational Capabilities, Staff Qualifications, and Data System Capabilities.

L.8 Instructions for the Preparation of Technical, and Price Proposals

For purposes of proposal preparation, the Government anticipates award of this contract by September 30, 2010. All proposals shall be submitted in the formats and quantities specified below:

L.8.1 General Instructions

The following instructions establish the acceptable minimum requirements for the format and content of proposals.

- (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.
- (b). Offerors shall submit all required information. Offerors are cautioned that failure to provide all the required information may result in elimination of the offeror from further consideration for award.
 - 1. Any resultant contract shall include the general provisions applicable to the selected offeror's organization and type of contract awarded. Any additional clauses required by public law, executive order, or acquisition regulations in effect at the time of execution of the proposed contract will be included.
 - 2. The proposal must be submitted in two parts (volumes) as listed below, with an original and the number of copies shown for each part. Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently from evaluation of the other. The original shall be marked as such.

Note 1: Two (2) CD/DVD electronic copies of the offeror's technical proposal are required in a format compatible with (or translatable by) Microsoft Office Word 2003. Two (2) CD/DVD electronic copies of the offeror's price proposal are required in a format compatible with (or translatable by) Microsoft Office Excel 2003.

Offerors shall submit their proposals with responses provided in the same order and structure as shown in Sections L.9.2.1.1 through L.9.2.1.3. Responses shall be clearly identified by specific factor, and shall be submitted for each in the same numbering scheme as shown in the above cited sections.

All other requirements shown in L.9.1.c, Volume Organization and L.9.1.d, Page Features shall apply.

(c). Volume Organization

- 1. Cover Pages: Each volume must have a cover page containing:
 - a. Volume number and title shown in upper right corner
 - b. Solicitation number
 - c. Offeror's name
 - d. Offeror's policy on the release of information contained within the volume
 - e. Date of submission.
- 2. Table of Contents: Each volume must include a Table of Contents that indicates the page numbers of each section, subsection, figure, table or foldout. Table of Contents must not have a page number.
- 3. Sectional Dividers: Dividers with tabs must be inserted between the sections and subsections, with each section or subsection starting on a new page. These dividers must not be numbered.

4. 3-Ring Binders: Each volume must be submitted in a separate 3-ring binder. **Binders with spiral binding are not acceptable.**

(d). Page Features

1. Size: Proposals must be submitted on standard 8 1/2" by 11" paper, single-spaced. If foldouts are included, they must be folded to page size, with each leaf counting as a single page.
2. Type: Type for Volume I should be twelve (12) characters or pitch per linear inch or six (6) lines per vertical inch -- or equivalent. The price/cost proposal (Volume II) must at least 12 font size.
3. Numbering: Pages must be numbered consecutively within each volume. Each page number must consist of two parts -- the volume number and the page number, for example, II-6. Section and subsection numbers must not be included.
4. Labels: Each figure, table, and foldout must be labeled.

L.9.1 Specific Instructions

L.9.1.1 VOLUME I - Technical Proposal Instructions

L.9.1.1.1 SECTION 1 - EXPERIENCE FACTOR PROPOSAL INSTRUCTIONS

1. EXPERIENCE

(a). Organizational Capabilities

1. The Contractor shall address its company's organizational capabilities to administer the Parking Benefits Program, and provide efficient and effective liaison with the USPTO:
 - a. The Contractor shall describe its company's principal business. Include information about your company's ownership, number of employees, number of offices and locations. Include any pending plans for your company's expansion, relocation, consolidation, merger, acquisition, or sale.
 - b. The Contractor shall provide information that substantiates the company's abilities to administer the USPTO's Pre-Tax Qualified Parking Program.
 - c. The Contractor must be able to substantiate their financial stability. The Contractor shall provide a copy of your company's audited financial statements from the last two years. Include, at a minimum, a Balance Sheet and Profit and Loss Statement, together with the name and address of the bank(s) with which you conduct business and the public accounting firm(s) that audits the financial statements. The Government reserves the right to request additional information to verify an offeror's financial status.

(b). Staff Qualifications

The Contractor shall provide an organizational chart or charts that indicate current or proposed positions assigned to the Pre-Tax Qualified Parking Program. The Contractor will address whether hiring additional staff will be necessary to accommodate the program, indicating how many and what areas. The Contractor shall identify key staff members who will be responsible for managing the day-to-day operation of the plan and identify the duties and scope of authority for each of the key staff who will be responsible for managing programs which include professional qualifications and work experience in the following areas: Customer service, service to participating employers, enrollments, information technology and data processing, and accounting. The Contractor shall identify the key contact person who will be responsible for day-to-day contacts with the USPTO and describe their professional qualifications, work

experience, and scope of authority.

(c). Data System Capabilities

1. The Offeror shall provide detailed information about the hardware and software that is used to administer the Parking Benefit Program. Include information about the record keeping control policies and procedures that are in place to properly account, audit, and reconcile plan accounts in the following areas:
 - i. Enrollment processing
 - ii. Payroll processing
2. The Contractor shall describe in detail the measures it uses to protect the security and privacy of program data, records, forms, participant information, and data processing operations. Include information about the physical security measures used to control access to your company's systems and internal controls that are in place to reduce loss that may occur through fraud, negligence, incompetence, or system errors.
3. The Contractor shall provide a description of its system back-up procedures.
4. The Contractor shall provide information about your disaster recovery procedures in the event of an emergency, such as natural disaster, temporary staffing, (e.g. strike), etc. Explain your procedures for off-site recovery of information and systems including the frequency of updates, retention schedule and schedule for disaster recovery testing. Include contingency plans for continuation of critical business functions during an emergency. If any of the data processing system proposed or any of its part is not owned and/or developed by your company, provide what contractual arrangements have been made and with whom.

(d). Experience References

1. The Government is seeking five (5) reference contracts for the offeror who is proposing as the prime contractor that will:
 - a. Demonstrate the Offeror's ability to perform the Pre-Tax Qualified Parking Program activities specified in C.3 of this solicitation; and,
 - b. Demonstrate the Offeror's experience performing Pre-Tax Qualified Parking Program work that is relevant to USPTO's Pre-Tax Qualified Parking Program requirements.
 - i. Describe your company's experience with administering Pre-Tax Qualified Parking Programs. Provide a summary that includes the number of years that your company has provided such services, number and type (government or private) of clients, the total number of eligible employees, and the total number of actual participants that your company serves.
 - c. For each of the reference contracts, the offeror will complete an Experience Reference worksheet. The Experience Reference worksheet and Instructions are found in Section J.3., Attachment 1. For each Experience Reference contract, the offeror shall be limited to the two pages worksheet.
 - i. All reference contracts will be as a result of contractual arrangements that may include those entered into with the Federal Government, agencies of State and local governments, and commercial customers.
 - ii. From the due date of proposals, the contracts or subcontracts must be currently in process or completed within the past three years.
 - iii. Shall have one (1) year or greater experience with the customer.

iv. The primary function of the contract shall be providing Pre-Tax Qualified Parking Program services similar to the ones described in section C.3 of this solicitation.

d. The offeror shall discuss its prime contractor experience with all contract or subcontract termination actions during the past three (3) years from the date proposals are due with either the government or commercial businesses including those which may be in process. Contracts or subcontracts should pertain to the proposing corporation (prime contractor). Offerors shall identify and explain any contract termination for default or convenience of the Government and the reasons why such action was taken. The offeror shall complete a Past Performance Contract Termination Worksheet for each termination action identified in response to L.9.2.1.1.d. Worksheets shall not exceed one page and attachments are not permitted. Both the Past Performance Contract Termination worksheet and instructions are included in Section J.3.C, Attachment 2.

2. INITIAL SET-UP AND IMPLEMENTATION PLAN

The Contractor shall provide a detailed timeline with plan design requirements to implement the Pre-Tax Qualified Parking Program. Include a description of the activities and considerations necessary for implementation. Include in the plan any dependencies that will include government support. The Contractor shall address the requirement to provide a dedicated hosted website, online submission of applications, processing of Pre-Tax deductions for the parking benefit, reconciliation of participants benefit amount. The Contractor shall address its process with the National Finance Center to successfully execute this program.

3. PAST PERFORMANCE REFERENCES TO OPEN RATINGS, INC.

(a) To streamline the Government past performance evaluation process, the offeror shall complete a past performance evaluation to Open Ratings, Inc. (a Dunn & Bradstreet company) prior to submission of their offer. Prior past performance ratings from Open Ratings will not be accepted. A minimum of four references must be provided on the request order to be processed by Open Ratings, Inc. (www.openratings.com). However Open Ratings recommends providing up to 15-20 references to ensure Open Ratings receives at least four completed responses. It is strongly recommended that the offeror proactively contact your references to request that they promptly respond to the Open Ratings, Inc. inquiries for past performance. The requests for past performance by Open Ratings, Inc. will be sent by email and will be filled out on an on-line survey. If the offeror does not have any past performance, the offeror may risk receiving a "neutral" rating under the past performance factor. Offerors who do possess any past performance must state this in its proposal. Failure to submit references to Open Ratings, by the Offeror may result in the proposal being found technically unacceptable and eliminated from further consideration.

Open Ratings, Inc. charges \$185.00 for this service, and offerors are responsible for direct payment to Open Ratings, Inc. Each offeror must submit, with its proposal, a confirmation that the past performance evaluation has been submitted to Open Ratings, Inc. The Open Ratings report must be provided directly to the addressee below from Open Ratings. Open Ratings will provide the offeror who submitted the request for past performance a copy of the evaluation, along with a copy to the USPTO. Please provide Open Ratings with the following information as a contact: **Sylvia Van Dyke, Contracting Officer, U.S. Patent and Trademark Office, 600 Dulany St., MDE7B03, Alexandria, VA 222313, email: Sylvia.VanDyke@uspto.gov, ph: 571-272-6568, and fax 571-273-6568.** The USPTO will evaluate the offeror's past performance in successfully fulfilling requirements that are relevant or similar to the requirements in Section C. To accomplish this, the USPTO will review the results of Open Ratings Past Performance Evaluation to determine acceptability under this factor. The Contractor shall provide a list of the past performance references provided to Open Ratings, Inc. The listing shall contain name of individual, and company or agency name, address, contact information (phone number, and email address), contract number, and description of services. See Attachment 3 Section J.3. The Past Performance References Submitted to Open Ratings will be placed in Section 3, of Technical Proposal.

Notice: Any offerors who submitted references to Open Ratings under the previously cancelled solicitation (DOC52PAPT1000005), and the USPTO received a report from Open Ratings, do not have to re-submit to Open Ratings. Please state this in your proposal under this factor. Other Open Ratings reports which offerors may have received for other acquisitions will not be considered.

4. CONTRACT TERMINATION WORKSHEETS

(a). The offeror shall discuss its prime contractor experience with all contract or subcontract termination actions during the past three (3) years from the date proposals are due with either the government or commercial businesses including those which may be in process. Offerors shall identify and explain any contract termination for default or convenience of the Government and the reasons why such action was taken. The offeror shall complete a Contract Termination Worksheet for each termination action identified in response to L.9.2.1.1.e. Worksheets shall not exceed one page and attachments are not permitted. Both the Contract Termination worksheet and instructions are included in Section J.3. Attachment 2. The Contract Termination worksheets will be placed in Section 4, of Volume I, Technical Proposal.

(b). The Offeror shall provide specific detailed information regarding legal action(s), including pending actions, taken against your company in the past three (3) years for:

- i. Any and all situations where your company has defaulted on a contract to administer a benefit plan.
- ii. Any and all litigation regarding contracts to administer a benefit plan.
- iii. Any and all situations where a contract has been cancelled or where a contract was not renewed due to the alleged fault on the part of your company.

L.9.2.2 VOLUME II - Price Proposal Instructions

L.9.2.2.1 Price Proposal Instructions for All Offerors

a. Price Proposal

Contract Documents and Associated Information Required

- i. Standard Form 33 and;
- ii. Standard Form 30 (Amendments, if applicable)
- iii. Price Proposal
- iv. Small Business Subcontracting Plan (applicable to large businesses)
- v. Financial Statements
- vi. Section K - Representations, Certifications, and Other Statements of Offerors (Additional Information is required to be submitted which is not included at Online Representations and Certifications Application (ORCA).

b. Offerors are required to submit financial statements. The Offeror shall:

- i. Provide audited financial statements, profit/loss statement and statement of retained earnings covering each of the offeror's last three annual accounting periods.
- ii. Specify the financial capacity, working capital and other resources available to perform the contract without assistance from any outside source.
- iii. Provide the name, location and intercompany pricing policy for other divisions, subsidiaries, parent company, or affiliated companies that will perform work or furnish materials under this contract.

c. Unrealistically low prices may indicate an inability to understand requirements and a high-risk approach to contract performance. Accordingly, the Government may consider the findings of such an analysis in evaluating an Offeror's ability to perform and the risk of its approach.

d. Two (2) CD/DVD electronic copies of the offeror's proposal are required in a format compatible with (or translatable by) Microsoft Excel 2003,.

L.9.2.2.2 Information for Pricing Purposes

a. The following information is being provided to assist offerors in the pricing.

1. Twelve (12) trips to Monthly Status Review meeting at the USPTO with Contracting Officer, and COTR, to include the contractor's Program Manager, Financial Manager, and Contracts Manager.
2. Other meetings as determined necessary for the implementation and administration of the contract.

L.9.2.3 Small Business Subcontracting Plan (applies only to large businesses proposing as the prime contractor).

(a) Any large business offeror (proposing as the prime contractor) must submit a Small Business Subcontracting Plan with their proposal, in accordance with and using the format identified in FAR 52.219-9, Small Business Subcontracting Plan.

(b) The USPTO has set a minimum goal of 20% participation by small business which includes: Service-Disabled Veteran-owned small businesses (including veteran-owned small businesses), HUBZone small business concerns, women-owned small business concerns, small disadvantaged businesses, and small businesses. The USPTO encourages the offeror to propose small business participation to the maximum extent possible in the following preferred order:

- Service disabled veteran-owned small businesses (including veteran-owned small businesses)
- HUBZone small business concerns
- Women-owned small business
- Small disadvantaged businesses
- Small businesses concerns

State current and/or proposed subcontracting/teaming arrangements with these concerns, as set forth under Public Law 95-507. For any such teaming arrangements, the offeror must identify:

- (1). Offeror's procedures for implementing provisions of Public Law 95-507
- (2). Name, position with the company, and telephone number of the Small and Disadvantaged Business Utilization (SDBU) Liaison officer
- (3). Recent past performance history (within last 5 years) of any subcontract/teaming arrangements with small business concerns where work was performed in areas identical or similar to those specified in Section C of this solicitation. Statement of past performance history should include:
 - i. Subcontract number
 - ii. Dollar amount of subcontract, type of work performed by small business concerns
 - iii. (Dates of award and completion/termination.

(d). Recent past history (the 5 latest contracts in excess of \$500,000) of the small business utilization goal on those contracts and the actual percentage attained on those contracts. If all of the offeror's past history only includes contracts with commercial companies, and not government, the offeror must address this in their response.

L. 10 Place of Performance

The place of performance will be the Contractor's site; however, there may be informational events which the Contractor may be required to perform on the USPTO site.

L.11 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 price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. In accordance with the Patent and Trademark Office Acquisition Guidelines (PTAG), if discussions are deemed necessary, the USPTO Contracting Officer may conduct discussions with only the highest ranked Offeror in the competitive range based on the evaluation factors set forth in the solicitation. If the USPTO Contracting Officer is unable to reach agreement with this Offeror, discussions will be initiated with the next highest-ranked firm. This process will continue until those firms remaining in the competitive range have been considered. If agreement cannot be reached, discussions may be re-opened with all firms in the competitive range or the solicitation may be canceled.

L.12 Alternate Proposals

Alternate proposals will not be considered.

L.13 Amendments to Proposals

Any changes to a proposal made by an offeror after an initial submittal shall be accomplished by colored (colors such as gray, off-white, ecru, etc. which approximate the color white are not acceptable) replacement pages. Changes from the original page shall be indicated on the outside margin by vertical lines adjacent to the change. The offeror shall include the date of the amendment at the bottom of the changed pages.

L.14 Questions and Responses Concerning this Solicitation

Offerors must submit all questions concerning this RFP electronically to: Sylvia.VanDyke@uspto.gov. Questions submitted must identify the author and company name. All questions pertaining to this solicitation must be submitted no later than **10:00 AM EST. August 2, 2010**. Questions received after this date and time will not be answered. All questions and responses will be posted electronically at:

http://www.uspto.gov/about/vendor_info/current_acquisitions/

by an amendment to the RFP. The identity of the author and associated company name submitting the question will not be posted. Late questions will not be considered; nor will the proposal due date be extended due to late questions. **The USPTO requires the e-mail address, phone numbers of each company and their representative who submits a proposal in response to this RFP.** Most correspondence concerning this RFP will be conducted by e-mail. The e-mail address may be placed in any cover letter that accomplishes the proposal.

OFFERORS ARE SPECIFICALLY INSTRUCTED TO CONTACT ONLY THE PERSON IN BLOCK 10 OF THE SF33 ABOUT ANY ASPECT OF THIS REQUIREMENT PRIOR TO CONTRACT AWARD.

L.15 Period For 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 bid.

L.16 52.252-5 Authorized Deviations in Provisions (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by addition of "(Deviation)" after the date of the provision.

(b) The use in this solicitation or contract of any Commerce Acquisition Regulation provision with an authorized deviation is indicated by the addition of "(Deviation)" after the name of the regulation.

L.17 Delivery of Proposal

All proposal documents shall be received no later than 11:00 a.m. Eastern Standard Time (EST), August 19, 2010.

(a) The outer wrapping of each package/box of the offer shall cite the solicitation number **(DOC52PAPT1000039)**. Failure to properly address the outer wrapping correctly may cause an offer to be misdirected.

(b) Depending upon the mode of delivery, Offers should be addressed as follows:

U.S. Postal Service (DO NOT USE THIS ADDRESS FOR COURIER SERVICE, I.E. FEDEX OR UPS)

U.S Patent and Trademark Office
Office of Procurement
Attn: Sylvia Van Dyke/Solicitation DOC52PAPT1000039
Mail Stop 6, Madison East Building
7th Floor, Rm 7B03
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-Carried, Courier, or Non-USPS Mail Service

U.S. Patent and Trademark Office
Office of Procurement
Attn: Sylvia Van Dyke/Solicitation DOC52PAPT1000005
Madison East Building
7th Floor, RM 7B03
Alexandria, VA 22314

(c) Upon arrival at the USPTO campus, please phone Sylvia Van Dyke on 571-272-6568. [NOTE: All proposals that are hand-carried or delivered by Courier or Non-USPS Mail will be picked up by the USPTO, Office of Procurement at the security desk. Offerors SHALL NOT personally deliver proposals to the MDE, 7th Floor, Room 7B03 address.]

(d) If the Offeror elects to use any other means of delivery than the U.S. Postal Service mail (i.e. FedEx, it assumes the full responsibility of insuring that the offer is received at the place, date, and time specified above. **PLEASE NOTE: FEDEX OR UPS DOES NOT DELIVER TO P.O. BOXES. IF USING FEDEX OR UPS, THE HAND-CARRIED, COURIER, OR NON-USPS MAIL SERVICE ADDRESS MUST BE USED.**

L.18 Pre-Award Site Visit

The Government reserves the right to request a site visit to the vendor's site. The USPTO will make every effort to schedule the site visit that is agreeable to the vendor. Failure of a vendor to permit the Government a site visit on the date scheduled may result in elimination from consideration for award.

SECTION M - EVALUATION FACTORS FOR AWARD

M.1 Evaluation of Proposals

(a). Proposals submitted in response to this solicitation will be evaluated in accordance with the criteria listed below. The objective of the evaluation is to determine which proposals offer the best prospect for attainment of the objectives of the solicitation, price and other factors considered. Those proposals found to be technically unacceptable and not reasonably subject to being made acceptable will be eliminated from further consideration.

(b). A major item and/or gross omission which precludes meeting program objectives which cannot be corrected prior to or during negotiations without major revision or complete resubmission of the proposal will cause a proposal to be found technically unacceptable.

(c). Those offerors whose proposal evaluations indicate that they do not have a reasonable chance of being awarded the contract will be excluded from the competitive range.

M.2 Minimum Response Requirements

To be considered acceptable and eligible for award, an offeror must address separately all the factors set forth in accordance with Section L of this solicitation.

M.3 Evaluation of Individual Proposals

M.3.1 Technical Evaluation Factors

a. Each proposal will be evaluated according to the evaluation criteria stated in Section M of the solicitation. The technical evaluation factors are as follows:

1. Experience
 - (a) Organizational Capabilities
 - (b) Staff Qualifications
 - (c) Data System Capabilities
 - (d) Experience References
2. Initial Set-up and Implementation Plan
3. Past Performance
4. Price

b. The evaluation factors to be used in the evaluation process, in descending order of relative importance, are as follows:

1. The Experience factor is more important than Initial Set-up and Implementation Plan
2. The Initial Set-up and Implementation Plan and Past Performance factor is more important than Price.

c. All evaluation factors other than price, when combined, are significantly more important than price. The Government will perform concurrent but separate evaluations of each part of the proposal, including the price proposal. All parts (Experience, Initial Set-up and Implementation Plan, Past Performance, and Price) of each proposal will be reviewed and analyzed.

M.3.2 Relative Capability of Competing Offers

The Government plans to award one contract as a result of this solicitation. The Government will evaluate the

relative capability of the competing offerors on the basis of the following factors:

M.3.2.1 Experience Factor

The evaluation of the Offeror's experience will be a subjective assessment of the offeror's ability to perform the requirements under Section C.

- a. Organizational Capabilities
- b. Staff Qualifications
- c. Data System Capabilities
- d. Experience References

The Offeror's experience will be evaluated based on the type, size, and complexity of its previous experience compared to the type, size, and complexity of the requirements specified in Section C of the solicitation. The Offeror will be evaluated on its organizational capabilities, staff qualifications, data system capabilities, that the Offeror has proposed to provide the requirements in Section C of the solicitation.

M.3.2.2 Initial Set-up and Implementation Plan

The evaluation of the Offeror's Initial Set-up and Implementation Plan will be a subjective assessment of the offeror's ability to successfully plan and deploy their initial set-up and implementation plan for the USPTO's Parking Reimbursement Program. The Offeror's plan will be evaluated for innovation in approach, and description of the plans, procedures, policies and procedures to be followed in the execution of the initial set-up and implementation.

M.3.2.3 Past Performance Factor

- (a). The past performance information to be used are the Open Ratings Past Performance Evaluations.
- (b). In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available; the offeror will neither be evaluated favorably nor unfavorably on past performance.

M.3.3 Evaluation of the Price Proposal

A price analysis will be conducted to determine that the prices are fair and reasonable.

M.3.4 Small Business Subcontracting Plan (applies only to large businesses proposing as the prime contractor).

- (a). The Small Business Subcontracting Plan will be reviewed for compliance with instructions in Section L.9.2.3, the USPTO's requirements of 20% small business subcontracting goal, FAR 52.219-8 and FAR 52.219-9. The Small Business Subcontracting Plan will be determined to be "acceptable" or "not acceptable". The Small Business Subcontracting Plan will not be evaluated pursuant to M.1. Evaluation of Proposals. However, offeror's eligibility for award may be affected if the Small Business Subcontracting Plan is not acceptable.
- (b). Large businesses must propose a minimum of **20%** of total contracting dollars to be eligible for a contract award under this solicitation.

M.4 Best Value Determination

(a). The USPTO will make a best value determination across all eligible proposals. In making this determination, the USPTO is more concerned with obtaining superior experience, technical approach (Initial set-up and implementation plan), and past performance than with making an award at the lowest overall price to the USPTO. However, the USPTO will not award a contract at a significantly higher overall price to achieve slightly superior experience, technical approach (Initial set-up and implementation plan) and past performance.

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Additionally, USPTO reserves the right to award a contract at a higher overall price for significantly superior non-price features (experience, initial set-up and implementation plan, and past performance). As proposals become more equal in their non-price features, the evaluated price increases in relative importance.

(b). Award of the contract will be made to the responsive, responsible Offeror whose proposal, including all options, contains the combination of non-price and price features offering the best overall value to the USPTO.

To be eligible for source selection and contract award, the Offeror shall meet the following conditions:

1. Determined to be responsible according to the standards of FAR Subpart 9.1;
2. Complies with all applicable laws and regulations and agrees to terms and conditions set forth in the solicitation;
3. Proposal is prepared according to instructions set forth in the solicitation and demonstrates the Offeror's capability to perform the scope of work required;
4. Meets all mandatory requirements set forth in the solicitation; and
5. Provides the best overall value to the USPTO as represented by a combination of non-price and price factors.

M.5 Responsibility

An offeror must be determined responsible according to the standards set forth in FAR 9.1 to be eligible for award.

M.6 Evaluation of Options (FAR 52.217-5) (JUNE 1990)

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