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BOARD OF GOVERNORS  
OF THE  
**FEDERAL RESERVE SYSTEM**  
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

March 12, 2021

Re: *Freedom of Information Act Request No. F-2021-00087*

This is in response to your email message dated January 1, 2021, and received by the Board's Information Disclosure Section on January 4. Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, you request:

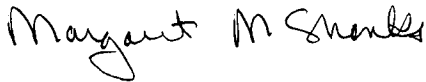
A digital/electronic copy of the now-rescinded "Procurement Manual For Technical Personnel" which was issued in 2017. [You] understand that the manual is no longer in effect.

Staff searched Board records and located the Board's Procurement Manual for Technical Personnel. Please note that the most recent version of this manual that could be located is dated March 2016, and, as your request acknowledges, this manual is no longer in effect. I have determined that certain portions of this document consist of technical information relating to the Board's information security operations that, if disclosed, could reasonably be expected to risk circumvention of the law (e.g., links to an internal Board webpage and detailed information about the technical platforms utilized by the Board). This information is exempt and will be withheld from you under authority of exemption 7(E) of the FOIA, 5 U.S.C. § 552(b)(7)(E). I have also determined that the information should be withheld because it is reasonably foreseeable that disclosure would harm an interest protected by an exemption described in subsection (b) of the FOIA, 5 U.S.C. § 552(b). The responsive document has been reviewed under the requirements of subsection (b) and all reasonably segregable nonexempt information will be provided to you. The document being provided to you will indicate the amount of information that has been withheld and the applicable exemption.

Accordingly, your request is granted in part and denied in part for the reason stated above. The Board's Information Disclosure Section will provide you with a copy of the document being made available to you under separate cover. If you believe you have a legal right to any of the information that is being withheld, you may appeal this determination by writing to Office of the Secretary, Board of Governors of the Federal Reserve System, Attn: FOIA Appeals, 20th Street & Constitution Avenue NW, Washington, DC 20551; by facsimile to

202-872-7565; or electronically to FOIA-Appeals@frb.gov. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request.<sup>1</sup>

Very truly yours,

A handwritten signature in black ink, reading "Margaret M. Shanks". The signature is fluid and cursive, with the first name "Margaret" and the last name "Shanks" clearly legible. The middle initial "M." is written in a smaller, more compact script.

Margaret McCloskey Shanks  
Deputy Secretary of the Board

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<sup>1</sup>As an alternative to an administrative appeal, you may contact the Board's FOIA Public Liaison, Ms. Candace Ambrose, at 202-452-3684 for further assistance. Additionally, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770 or toll free at 1-877-684-6448; or facsimile at 202-741-5769.



# **Procurement Manual for Technical Personnel**

**September 2016**

**Division of Financial Management**  
Board of Governors of the Federal Reserve System

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# 1 Introduction

## 1.1 SCOPE

This *Procurement Manual for Technical Personnel* presents concepts, terms, processes, and procedures for obtaining goods and services by micropurchase, simplified purchase, and negotiated procurement methods. It does not discuss purchase card purchases.

The processes and procedures presented in the manual are a direct result of the Board's Acquisition Policy. The manual lays out the practices and techniques for fulfilling the policy.

## 1.2 PROCUREMENT POLICY AND RESPONSIBILITIES

The Board adheres to the Acquisition Policy, an internal policy regarding the Board's acquisition of goods, services, and construction. The purpose of the policy is to

- ⁂ Ensure efficiency and effectiveness in the Acquisition Policy
- ⁂ Acquire goods, services, and construction of the highest quality within the required time frame
- ⁂ Use competitive acquisition methods to the maximum practicable extent and provide all offerors with a fair opportunity to compete
- ⁂ Meet the objectives of the Board's Small and Disadvantaged Business Acquisition procedures
- ⁂ Make awards only to responsible offerors who can meet the Board's requirements
- ⁂ Foster fair and equitable relationships between the Board and its vendors and contractors

The Acquisition Policy is administered and interpreted by the Division of Financial Management.

## 1.3 FUNCTION OF THE PROCUREMENT SECTION

Within the Division of Financial Management, the Procurement Section has been delegated the authority and responsibility for procuring all the goods, services, and construction needed by the Board. The Procurement Section is responsible for initiating and finalizing all procurement actions on the Board's behalf, with the exception of purchases made using the

Board's purchase card. Such actions include preparing requests for bids and proposals, negotiating contracts, and committing the Board legally and financially.

The laws and regulations that govern consumer transactions and those applicable to government contracts differ greatly. Consumer law recognizes that, generally, the seller's knowledge of what it sells is superior to that of the buyer. In commercial and government transactions, buyer and seller are viewed as being on a more equal footing. Inferior knowledge on the buyer's part is rarely accepted as a reason for dissolving a contract. Both parties are considered merchants and as such are expected to know markets for goods and services, pricing structures, and applicable laws and regulations. The Procurement Section has the in-depth knowledge of contract law and government regulations required to protect the Board's interests when entering the marketplace.

## 1.4 ROLE OF THE ACQUISITION TEAM

A successful procurement requires teamwork. It involves not only the contractual expertise of the Procurement Section but also the technical expertise of the end user, that is, the requestor or the Contracting Officer's Technical Representative (COTR).

The requestor begins the process by submitting a purchase requisition and communicating the requirements in a clearly written statement of work (SOW). The Procurement Section maintains sample SOW templates on the Division of Financial Management's web page. (For a discussion about the purchase requisition and the statement of work, see sections 2.2 and 3.12.3, respectively.) Procurement incorporates this statement into a legal document known as the solicitation, which formally communicates the Board's requirements to the marketplace.

Procurement works with the requestor or the COTR throughout all phases of the procurement process—that is, the presolicitation, solicitation, preaward, contract award, and contract administration phases. Throughout all phases, Procurement will abide by the Board's Acquisition Policy and will consult with the end user or other technical staff, as well as with the legal staff, when necessary. In addition to coordinating internal communications, Procurement also communicates with prospective vendors and contractors.

When end users and the Procurement Staff work as a team, the Board can clearly communicate its requirements to the marketplace and obtain best value, that is, a superior product or service at the most advantageous price.

*Teamwork is required for the successful implementation of the best procurements.*

## 1.5 DEFINITIONS

The terms below are central to the procurement process.

**Acquisition** — The Board’s process of obtaining by contract, using approved funds, goods or services, including construction, for use by the Board. The goods and services may be obtained through purchase or lease, and they may already exist or may need to be created, developed, demonstrated, and evaluated. The process begins at the point the Board’s needs are established and includes all functions pertaining to the acquisition. These functions include the description of requirements, solicitation and selection of sources, award of contracts and purchase orders, monitoring of contract performance, contract administration, and those technical and management functions directly related to fulfilling the contract.

**Advance Acquisition Planning** — The development of the overall strategy for managing the acquisition. It involves the coordination of the efforts of all personnel responsible for an acquisition through a comprehensive plan for fulfilling the Board’s needs in a timely manner and at a reasonable price. Each division is responsible for its acquisition planning.

**Authorized Person** — An individual who has legal authority, through statute or delegation, to commit the Board legally or financially.

**Basic Ordering Agreement (BOA)** — A contract that does not have a fixed delivery date or fixed quantity of required goods or services. Its purpose is to establish a pricing structure, a performance period, and procedures for ordering and payment.

**Best and Final Offer (BAFO)** — A request for the contractor’s final offer issued by Procurement Staff after the contractor has been notified that discussions have been concluded. Requests for best and final offers are normally issued only to offerors who have been determined, via the proposal evaluation process, to be within the competitive range.

**Best Value** — A determination that an offer other than the lowest provides value greater than the additional cost.

**Bidder’s List** — An approved list of prequalified companies that will receive solicitations because they have been determined to be capable of providing the required products or services. This term is used interchangeably with “offeror list.”

**Boilerplate** — Standard instructions, terms, and conditions that are a part of every solicitation or contract.

**Briefing** — Oral presentation of data regarding the status of a particular project.

**Change Order**—A written order, signed by the Contracting Officer, directing the contractor to make a change that was not a part of the original contract agreement.

**Chief Acquisition Officer (CAO)** — The officer designated by the director of the Division of Financial Management and referenced in the Delegations of Administrative Authority to act as the Board’s Contracting Officer, with the authority to procure goods and services and with the overall responsibility for acquisition policies and procedures.

**Clarification** — A means of communication with an offeror for the purpose of eliminating minor irregularities, informalities, or apparent clerical errors in the proposal. Unlike “discussion,” clarification does not give the offeror an opportunity to revise or modify any aspect of its proposal, barring clerical errors.

**Competition** — Obtaining bids by two or more potential offerors that are independently competing for the award of a contract or purchase order (sometimes referred to as “effective competition”).

**Confirming Order Memo** — An explanation of the acquisition of any goods, services, or construction made by the acquiring division without sending a purchase requisition to the Procurement Section for processing. The memo, which must be signed by the division director, explains how and why the purchase was made without following Board policy and describes the actions taken by the division to prevent future procurements of this type.

**Consensus Meeting** — A meeting intended to gain agreement on the scoring of the technical evaluation.

**Contract** — Any type of legally binding agreement, regardless of form, for the acquisition of goods, services, or construction.

**Contractor** — Company providing complex services or hardware and/or construction products that usually require installation and maintenance work based on a Board-issued statement of work (SOW). This term is used interchangeably with “vendor” (see definition of “vendor”).

**Contracting Officer** — A person with the required delegated procurement authority to enter into, administer, and terminate contracts and to make related determinations and findings.

**Contracting Officer's Technical Representative (COTR)** — An authorized representative of the Contracting Officer acting within a scope of authority as delegated by the Contracting Officer. This person possesses specialized technical expertise needed to evaluate a specific procurement and acts as a liaison concerning technical issues between the Board and the contractor. He or she is charged with drafting the statement of work, accepting products or services, recommending the approval or termination of the contractor's or the supplier's continued performance, and recommending the approval or withholding of payment.

**Debriefing** — A method to inform offerors on how their proposal was evaluated.

**Deliverable** — A good or service that the contractor must provide to the Board as identified in the purchase order or contract.

**Disadvantaged Business Enterprise** — An enterprise that is at least 51 percent owned or controlled by a woman or a person(s) in one or more of the following minority groups: African American, Asian-Pacific American, Asian-Indian American, Hispanic American, and Native American.

**Disadvantaged Small Business** — A small business that is at least 51 percent owned or controlled by one or more minorities as defined in section 8(a) of the Small Business Act.

**Evaluation Factors** — Capabilities, resources, and plans required of the vendor or contractor and used in a technical evaluation to determine the capabilities of the offerors. Sometimes referred to as "evaluation criteria."

**Evaluation Summary** — A brief written account or statement giving the main points of a conclusion or decision prepared by the COTR after the technical evaluation has been completed.

**Goods** — All property except real property.

**Intellectual Property** — Includes (1) patents, patent applications, patent disclosures, and certificates of invention, (2) trademarks, service marks, logos, trade names, and corporate names, and registrations and applications for registration thereof, (3) copyrights and registrations, and applications for registration thereof, and (4) trade secrets and confidential business information.

**Level of Effort** — An estimated amount of work judged by the number of hours or personnel required over a specific period of time. Used either when actual effort to complete a task cannot be predetermined or when a

steady workforce is required to perform a described task(s). Payment is usually based on effort expended rather than on results achieved.

**Market Research** — The process of collecting and analyzing information about capabilities within the market to satisfy the Board’s needs.

**Mandatory Requirements** — Skills, resources, and qualifications that the offeror must possess to be considered technically acceptable.

**Micropurchase Procedures** — Procedures for acquiring goods and services in amounts of \$5,000 or less without soliciting competitive quotations if the Contracting Officer determines that the price is reasonable.

**Minimum Requirements** — A set of qualifications that an offeror must meet to qualify for consideration of its proposal or offer.

**Modification** — Any written change in the terms and conditions of a contract.

**Negotiated Procurement** — Contracting done through the use of written requests for competitive proposals based on specific evaluation factors. It permits discussions with offerors and revisions of proposals, as necessary, before a contract is awarded. Also, any contract awarded where price and technical specifications are factors for evaluation.

**Objectives** — The end result or desired outcome for a particular procurement.

**Offer** — A response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract.

**Offeror List** — An approved list of prequalified companies that will receive solicitations because they have been determined to be capable of providing the required products or services. This term is used interchangeably with “bidder’s list.”

**Option** — At the Board’s election, the extension of the period of performance or the addition of a task to the scope of work. The possibility of an extension is cited in the contract and is referred to as an “option year.”

**Oral Presentation** — (1) A method permitting evaluators to receive information as to the capability of the offeror. It eliminates or reduces the need for detailed, written material when information can be conveyed in a more meaningful and efficient way through verbal means. (2) A method used to enhance the Board’s understanding of a written technical or management proposal.

**Past Performance** — An assessment of how a company has performed on previous contracts.

**Preproposal Conference** — A meeting held by the Board for offerors on a project. Offerors are briefed on various concerns, given a site tour, if appropriate, and allowed to ask questions. The objective is to provide offerors with all the information needed to make a responsive offer.

**Prequalified Offeror** — A potential offeror that has provided satisfactory evidence to the Board that it is skilled and capable of performing the services required.

**Price Evaluation Team** — An ad hoc group that evaluates and ranks cost proposals. The group is selected by the Procurement Staff, with the COTR's recommendation, and chaired by the Senior Pricing Analyst.

**Procurement** — The process of obtaining goods and services, including construction.

**Procurement Authority** — The authority to enter into contracts and purchase orders on behalf of the Board.

**Procurement Staff** — A Board employee who is authorized by the Contracting Officer to administer all aspects of the contract and is given limited related authority to enter into contracts and purchase orders. The Procurement Staff helps the user prepare the statement of work and select qualified offerors, prepares the solicitation document, and also manages the contract from award to closeout.

**Protest** — A written objection by an interested party to a contract or solicitation issued by the Board.

**Purchase Order** — An offer by the Board, transmitted on a legal form that specifies requirements as well as terms and conditions, to buy an “off the shelf ” item or goods and services with a simple description from a particular supplier.

**Purchase Requisition** — An internal electronic document that provides funding authorization and states what is needed, when it must be delivered, the place of delivery, and the estimated cost.

**Request for Information (RFI)** — Request made typically during the project planning phase when a buyer cannot clearly identify product requirements, specifications, and purchase options. RFIs clearly indicate that award of a contract will not automatically follow.



**Request for Proposal (RFP)** — A written solicitation, issued in connection with negotiated procurement procedures, for proposals to furnish described goods or services, including construction.

**Request for Quote (RFQ)** — Document used in soliciting price and delivery quotations that meet minimum quality specifications for a specific quantity of specific goods and/or services. RFQs are commonly used for (1) standard, off-the-shelf items, (2) items built to known specifications, (3) items required in small quantities, or (4) items whose purchase price falls below the sealed-bidding threshold. Suppliers respond to a RFQ with firm quotations, and generally the lowest-priced quotation is awarded the contract.

**Requirement** — That which is needed by an end user to accomplish its mission or task.

**Services** — The furnishing of labor, time, or effort by a contractor that does not involve construction or the delivery of goods.

**Single Source** — A procurement for which competition is not used. Such a procurement may be used only in an emergency situation in which time is critical or in other unique circumstances when it is in the Board's interest to use only one source. This method requires the submission of a detailed, written justification by the requestor and the approval of the Chief Acquisition Officer and the Legal Division as required.

**Site Inspection** — A walk-through or tour of the project area that gives offerors an opportunity to see and inspect the job site where the work must be performed.

**Small Business** — A business qualified as a small business concern under section 3 of the Small Business Act.

**Sole Source** — A procurement in which competition is limited because an item is available from only one source due to technical requirements, patent or copyright protection, compatibility with existing equipment or systems, or the absence of multiple suppliers. The absence of effective competition requires that a detailed written justification be submitted to the Procurement Section.

**Solicitation, Offer, and Award (SOA)** — A legally binding document that is used to make a solicitation and contract award for goods or services, including construction, under negotiated competitive procedures.



**Statement of Work (SOW)** — A written specification that describes the work or services, including construction, to be performed. It may include the method to be used. This document is the key element of a contract and is also known as “specifications” or the “scope of work.”

**Technical Evaluation** — The evaluation of a technical or management proposal by Board personnel.

**Technical Evaluation Committee** — A group selected by the COTR and the Procurement Staff to conduct an evaluation of the technical portion of an offeror’s proposal. The group’s objective is to rank the technical proposals.

**Technically Responsible/Responsive Offeror** — A vendor or contractor deemed by the Board to possess the skill, ability, and financial and other resources, as well as the integrity necessary for the faithful performance of the work. In addition, the vendor or contractor must have submitted a proposal that, in all material respects, conforms with the solicitation.

**Work Order** — A written document used to direct a contractor to deliver supplies or services under a basic ordering agreement. It has a fixed delivery date, a fixed price, and a fixed quantity of what is to be delivered. It is also known as a “task order” or a “delivery order.”

**Vendor** — Company that supplies commercial or off-the-shelf items. May provide hourly staff for basic administrative tasks. This term is used interchangeably with “contractor” (see definition of “contractor”).

# 2 Procurement Methods and Procedures

## 2.1 GENERAL

*Board policy requires the use of competition whenever possible.*

At the Board, acquisitions are made through competitive negotiation procedures with two, and preferably three or more, possible sources. Depending on the dollar amount, these purchases generally are made according to either micropurchase or negotiated procurement procedures. In certain cases, unique purchase procedures may be used.

### 2.11 MICROPURCHASE

Micropurchase procedures apply to any purchase of goods in an amount of \$5,000 or less. To the maximum practicable extent, requestors must use the Board purchase card for these purchases. Acquisitions are not to be artificially divided merely to permit the use of simplified purchase procedures.

### 2.12 UNIQUE PURCHASE/SOLE SOURCE

According to the Board's Acquisition Policy, noncompetitive procurement may be used only in the absence of effective competition. This method requires a detailed justification for purchase and approval by the Chief Acquisition Officer (CAO) and, if applicable, the Legal Division.

The following conditions denote the absence of effective competition:

- The absence of multiple suppliers
- The availability of an item from only one source owing to either technical requirements, patent or copyright protection, or compatibility with existing equipment or systems
- An emergency requiring immediate action

## 2.2 PURCHASE REQUISITION

All acquisitions are initiated when the requestor completes a purchase requisition online. The requisition is used to document the existence of a requirement and to verify that the funding is available.

The purchase requisition is generated on the Oracle System, which is available to designated end users. When the estimated cost is more than \$200,000, the requisition is forwarded electronically to the Planning and Budget Section. Upon funding approval, the requisition is forwarded electronically to the Procurement Section.

Documentation such as drawings, sketches, samples, or narrative descriptions may be required to support the requisition. These attachments

must indicate the purchase requisition number and be provided as attachments to the purchase requisition, by e-mail, or by hard copy to the Procurement Section (Mail Stop 128)..

When submitting a purchase requisition, the following information should be provided:

- ⁿ A description
- ⁿ The “need by” date
- ⁿ The requestor’s name and extension
- ⁿ The quantities or units of measure
- ⁿ Recommended sources (include contact name and telephone number)

To help expedite the request, vague or ambiguous descriptions or delivery requests, such as “as soon as possible,” should be avoided.

## 2.3 PURCHASE ORDERS

A purchase order is customarily used for single purchases, off-the-shelf items, or goods or services with a simple description. This legal document contains such information as a description of the item, the quantity needed, the unit or lot price, the delivery date, and the total price.

When the Procurement Section receives a request for an off-the-shelf consumable or an item or service with a simple description, Procurement Staff will issue a Request for Quotation (RFQ) by mail, telephone, or fax. Procurement will issue a purchase order to the lowest-price technically responsive offeror—once competitive price quotes are received, shipping dates confirmed, freight terms determined, and general terms and conditions agreed upon.

## 2.4 CONTRACTS

High-dollar, complex requirements for goods or services are obtained by competitive negotiation. The Board states its requirements in a formal, written solicitation referred to as a Solicitation, Offer, and Award (SOA) or a Request for Proposal (RFP). (For a discussion about the contents of this document, see section 3.22; for a copy of the form, go to “Procurement” on *Inside the Board*).

### Characteristics of Contracts

- ⁂ Used for procurements for which specifications must be developed
- ⁂ Can be used with a combination of evaluation factors
  - ⁂ Price, technical, or a combination of the two
  - ⁂ Past performance

A negotiated procurement may involve other formal communications with potential offerors prior to or subsequent to contract award—for example, a preproposal conference, an oral presentation, or debriefing. These communication vehicles provide the Board the means to specify its requirements, to evaluate the offeror’s capability, and, hence, to help ensure that the Board negotiates the best value for its contracts.

# 3 Negotiated Competitive Procurement

*Procurement should be involved in all phases of the acquisition process.*

## 3.1 DEVELOPING THE PROCUREMENT PLAN

### 3.1 Developing the Procurement Plan

Discuss requirement with Procurement Staff

Perform needs analysis

- ⁂ Determine function to be performed
- ⁂ Determine specific design/method
- ⁂ Identify deliverables, delivery date, and testing criteria (if any)

Plan logistics

Write Statement of Work (SOW)

- ⁂ Develop outline
- ⁂ Compile definitive drawings or specifications
- ⁂ Draft SOW
- ⁂ Write objectives/background/discussion sections
- ⁂ Write detailed description of technical/administrative requirements
- ⁂ Review and revise/edit SOW

Develop proposal evaluation plan

- ⁂ Develop offeror list
- ⁂ Determine evaluation factors/relative weights
  - ⁂ Rank factors in priority order/Decide whether mandatory or desirable
  - ⁂ Develop subfactors to explain intent of main factor
  - ⁂ Establish points and assign as weights
  - ⁂ Subdivide numbers to provide relative weights

Check whether plan meshes with SOW

### **3.11 COTR ORIENTATION/PRELIMINARY MEETING**

When a requirement is established, the requestor must generate a purchase requisition (see section 2.2). Once the requisition is received by the Procurement Section, it is assigned to a member of the section. That person, the “Procurement Staff,” will arrange a preliminary meeting to discuss the requirement. The requestor will also be briefed about the duties and responsibilities of the Contracting Officer’s Technical Representative (COTR) and asked to sign the Contracting Officer’s Technical Representative Acknowledgment Form (see appendix D).

The Procurement Staff will assist the COTR throughout procurement planning and all other phases of the acquisition. It is recommended that Procurement be included in planning sessions.

### **3.12 TECHNICAL WORK PACKAGE**

#### **3.12.1 Definition/General**

The technical work package is the means by which the requesting division transmits the written requirement to the Procurement Section. The package will consist of the statement of work and supporting documentation, if necessary.

Ideally, the technical work package will be submitted to Procurement one to two months before the anticipated signing of a contract.

*Procurement can assist the end user in the preparation of the technical work package.*

#### **3.12.2 Requirements/Needs Assessment**

After a decision is made to buy a needed product or service, the requestor must identify its requirements, and understand and describe the required functions, types, and levels of performance or design.

Assuming that the need is not clear-cut, identifying and analyzing requirements should follow a systematic procedure that goes from the general to the specific—that is, from functional requirements to performance to design, as follows:

**Step 1:** The requestor must determine the function that must be performed by the required product or service, and the relationship of that function to others.

**Step 2:** The requestor must determine the specific types and levels of performance that must be attained.

**Step 3:** As appropriate, the requestor must determine a specific design (that is, the physical form that the item must take) or the specific method or procedure by which the task must be performed.

*If the end user cannot clearly describe the products, the offerors cannot provide the best responses.*

**Writing the Background Statement — Checklist A-1**

**Writing the Scope of Work — Checklist A-2**

### **3.12.21 Deliverables**

Anything that a contractor must generate and deliver to the Board must be identified as a specific deliverable item in the statement of work. Examples include data, hardware, documentation, and visual aids.

### **3.12.22 Delivery Date and Destination**

The requisition must specify a date on which goods are to be delivered to the Board. A destination for deliverables must also be named.

### **3.12.23 Testing/Acceptance**

Specific testing and acceptance criteria must be developed, if appropriate.

## **3.12.3 Statement of Work**

### **3.12.31 General**

The statement of work is a written specification that describes the work or services, including construction, to be performed. It may include the method to be used. This document is the key element of a contract and is also known as “specifications” or the “scope of work.”

### **3.12.32 Contents**

The statement of work should include general information and a detailed description, as described below. For more information, contact the Procurement Staff assigned to your requirement.

#### **3.12.321 General Information**

The first section of the statement of work presents the “why” and illustrates the relation of the desired work to other work. In short, it provides a basic understanding of the requirement.

This section may be subdivided into an introduction and an explanation of the background and the scope of work. The scope briefly describes the required end product or purpose of the work. In addition, this section may list all documents cited in the statement of work.

#### **3.12.322 Detailed Description**

This section describes the technical and administrative performance elements of the requirement and is frequently described as the “specifications.” Technical elements relate directly to the product to be delivered or the service to be performed. Administrative elements may include such work as quality assurance/control, system configuration management, shipping, contract administration, purchasing and subcontract management, documentation, and report preparation and delivery.

This section may be subdivided into two parts: the work requirements and the supporting information. Whereas the work requirements describe

the technical requirements and the deliverables, the supporting information discusses security concerns, the place and period of performance, and other considerations, such as key personnel and Board-furnished resources.

## **Suggested SOW Format**

### **Part 1: General information**

- A. Introduction
- B. Background
- C. Scope
- D. Applicable documents

### **Part 2: Work requirements**

- A. Technical requirements
- B. Deliverables

The most important considerations are that requirements be stated specifically and that legitimate business needs be described clearly and completely.

- A. Security
- B. Place of performance
- C. Period of performance
- D. Special considerations

## **3.12.323 Specifications and Drawings**

If required by the project, the technical work package must include complete, definitive specifications or drawings.

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## **3.12.33 Guidelines for Writing the SOW**

Following the guidelines below will ensure that requirements are clearly communicated and understood.

### **Point 1 Always cite data that are readily available to the public.**

Prospective offerors often ask to see any documents cited in the statement of work. If absolutely necessary, essential data that are available can be summarized and attached to the statement of work.



*Preparing the statement of work is a collaborative effort.*

**Point 2** Do not discourage a prospective offeror from submitting a proposal by making a competitive procurement appear to favor a previous contractor or by making it appear “too difficult” to win.

A statement of work should not specify a brand name, a copyrighted product, or a performance function that is generally not available from the marketplace.

**Point 3** The Contracting Officer’s Technical Representative and the Procurement Staff must work together before the Request for Proposal is published and disseminated.

This kind of teamwork leads to improved proposals, more-effective competition, and well-drafted contracts.

**Point 4** Offerors are entitled to know whether a negotiated procurement is intended to achieve a minimum standard at the lowest price or price is secondary to quality.

This information is provided in the breakdown of the technical and price evaluation factors. The breakdown must be based on the complexity and difficulty of the job. For example, a 40 percent technical and 60 percent cost breakdown tells the offerors that cost is more important.

**Point 5** The statement of work must reflect funding levels available for the project.

Although the procurement process may be initiated, a contract may not be awarded unless the requisition is funded. If the project is not fully funded, the funding limitations must be stated in the contract.

**Point 6** The parameters, objectives, and deliverables of the solicitation must be as specific as practicable.

It is not the Board’s responsibility to tell an offeror how to conduct the job. The requirements determine the desired solution, not how to produce it.

**Point 7** The statement of work must explicitly specify requirements for the deliverables.

Examples of requirements for deliverables are the medium for presentation of research data (electronic file); the format or presentation of a management or project report (appendixes of detailed testing data); or the number of copies (two copies of a graphic presentation of project results).

**Point 8** The statement of work must be as explicit as possible. Nothing should be assumed, and the other party should not be expected to discern intended expectations.

Allowing the offeror to “second guess” the exact nature of the requirement may result in higher cost and a delayed delivery date. Instead, define specifications and requirements in detail.

### **3.12.34 Development/Writing Process**

The steps in the development of a statement of work will vary, depending on the complexity of the procurement requirements. The following steps are common to the development of most statements:

- ⁂ Planning
- ⁂ Research and collaboration
- ⁂ Audience analysis
- ⁂ Outlining
- ⁂ Drafting of text
- ⁂ Selection of visuals

#### **3.12.341 Planning**

The job of writing, correlating, editing, and assembling the components of a work statement can be a formidable one, depending on the size and complexity of the project. Expertise from several disciplines may be required to effectively communicate with prospective contractors, in writing, what the Board actually wants.

The first step in developing a good statement of work is to plan logistics, such as the timetable for receiving clearances for a technical work package, for issuing a solicitation, and for selecting a contractor. It is also important to determine which persons and technical information may be needed for preparing the statement of work.

#### **3.12.342 Research/Collaboration**

In preparing to write the statement of work, requestors should gather as much information about the requirement as possible. This means obtaining background documents, drawings, or standards and holding discussions with any appropriate persons. This background preparation will be useful when developing the statement of work.

Particularly for complex statements, it is important to collaborate with other persons at the Board in developing the statement of work. For example, it may be necessary to review with others the findings of a previous project. Or another person at the Board may be helpful in determining technical specifications. It may also be use-

ful to talk with Procurement Staff about Board experiences in developing similar kinds of procurements.

### **3.12.343 Audience Analysis**

The writer of the statement of work must keep in mind that he or she is communicating requirements to a diverse audience. The background and discussion, therefore, should be nontechnical. In this way, the general concept and approach of the project is understandable to everyone.

The more detailed parts of the statement of work may include specific technical requirements and may contain technical language, particularly those parts related to engineering or system requirements. It should be noted that persons in various disciplines may interpret technical terms somewhat differently. Highly specialized technical terms should be used only when absolutely essential, and used *consistently*.

### **3.12.344 Outlining**

The next step is to outline the statement of work. In addition to a background statement and a definition of the objective, the statement of work should include the following:

- ⁂ The general characteristics and concept of the proposed project
- ⁂ A detailed specification of the objective
- ⁂ The work breakdown structure that identifies and defines the tasks to be performed under the project and the relationships of the tasks to the project and the products or deliverables
- ⁂ Any constraints
- ⁂ Technical performance parameters
- ⁂ Any specific design requirements
- ⁂ Any standards that will be used to determine whether the contractor has met project objectives
- ⁂ Testing or acceptance, if applicable
- ⁂ The schedule
- ⁂ A list of deliverables

### **3.12.345 Drafting of Text**

The language of the statement of work is very important. The primary consideration is that the statement contain language free of vague and ambiguous terms and the simplest phrases that will convey the intended meaning. Sentences should be as short and concise as possible, and relatively uncomplicated.

In a legal sense, the language of the statement is read by the courts in context—that is, the statement’s words are interpreted as a whole rather than as a single word, phrase, or sentence out of the context of the remainder of the document. Where examples are used to explain a definition, the reader should be told whether the examples are only illustrations or they constitute a complete list of all examples covered by the definition.

In addition, when drafting the statement, the writer must note the following:

- ⁿ The word “shall” denotes the absolute imperative, and the phrase “the contractor shall” means that the contractor must perform the stated services. Use “shall” whenever the statement expresses a provision from which the contractor must not deviate.
- ⁿ The word “may” denotes the permissive. Use “should” and “may” whenever it is necessary to express a declaration of purpose for the Board’s benefit.
- ⁿ The word “will” is a declarative. It should be used when simple statements about the future are made, or in a context such as “Electrical power for the motor will be supplied by the diesel engine.”

### **3.12.346 Selection of Visuals**

Illustrations, diagrams, or drawings may be necessary for some procurements. These may be particularly important for systems or building renovation.

### **3.12.35 Review and Revision**

It is particularly helpful if several knowledgeable technical persons at the Board are able to review the draft statement of work. The draft must be checked as follows:

- ⁿ Determine if the document clearly describes what the contractor and the Board are obligated to do.
- ⁿ Ensure that the evaluation factors are applicable to the detailed requirements of the statement of work.
- ⁿ Consider the statement of work in its entirety and, in doing so, identify contradictions and overlaps.
- ⁿ Edit for clarity and conciseness, consistency of terms, and logical, factual, or grammatical errors.

## **3.12.4 Proposal Evaluation Plan**

### **3.12.41 General**

The proposal evaluation plan consists of a set of criteria that are ranked in order of their importance. These criteria inform an offeror of what the

*The proposal evaluation must measure actual factors that will determine what the Board expects to receive.*

*When developing evaluation factors, use a limited number of important factors.*

Board considers most critical for a particular procurement. They will be used by the Technical Evaluation Committee in selecting the best proposal(s) submitted in response to a solicitation.

The development of an effective and comprehensive evaluation plan is one of the most important steps in the preparation of a work package. The plan must be formulated prior to the issuance of a solicitation and is not to be changed thereafter.

It is extremely important for the evaluation plan to mesh effectively with the statement of work for the following reason: The statement of work describes the Board's need, and the evaluation plan describes how the proposals designed to fulfill that need will be judged.

### **3.12.42 Use of the Evaluation Plan**

The evaluation plan is the most important tool to be used by the Technical Evaluation Committee in determining who will ultimately receive a contract award. In addition, it is a most important guideline for a firm in preparing a proposal in response to a solicitation. And finally, it is an invaluable tool for the Procurement Staff during the debriefing session.

### **3.12.43 Offeror List**

The initial list of offerors should come from the end user, the person who knows the requirement best. Procurement will assist in identifying possible offerors, if requested.

The offeror list should be compiled by the chair of the Technical Evaluation Committee after researching his or her own resources and consulting with other members of the committee. Every offeror that could perform in an acceptable manner should be listed.

The following information about offerors should be included:

- ⁿ Corporate name
- ⁿ Address
- ⁿ Phone and fax numbers
- ⁿ Contact name, title, department, and mail stop
- ⁿ E-mail address

The Procurement Section will remove any offeror deemed unqualified to fulfill the job requirements or add any other offeror deemed qualified. Procurement will always work with the end user or the Technical Evaluation Committee in the final decision to modify the list.

The following steps will help in developing offeror lists for solicitations:

#### **Step 1 Identify known interested sources with established capability and known past performance.**

The technical work package should include a list of sources that have

background experience and known capability. Past performance can be an indicator of future performance.

**Step 2 Identify other potential sources from trade journals.**

Journals and trade magazines contain advertisements and information on specific firms with unique capabilities that may apply to the specific requirements. If a firm appears to have a capability in the area of need, its name should be added to the list of potential offerors.

**Step 3 Obtain leads from the Procurement Section.**

The Procurement Section maintains capability statements and brochures submitted by prospective vendors, including minority- and woman-owned business enterprises. This information should be reviewed for names that should be added to the offeror list.

### **3.12.44 Disadvantaged Business Set-asides**

To promote the use of disadvantaged business enterprises, the Board can designate procurements for minority competitive solicitations. Awards must be made in areas in which there are known women or minority vendors and contractors that will provide the Board with best value. The Board will not compromise quality standards.

In such a case, the offeror mailing list will be composed of only disadvantaged business enterprises. Any business concern that asks for inclusion on the mailing list will be informed that the procurement is a competitive set-aside for disadvantaged minority business enterprises.

### **3.12.45 Determination of Evaluation Factors/ Relative Weights**

#### **3.12.451 General**

The evaluation factors set forth in the proposal evaluation plan must be defined and included in the solicitation. These factors will be the sole basis on which the resulting proposals will be judged. Therefore, the Contracting Officer's Technical Representative (COTR) must formulate these criteria while preparing the technical work package.

To weight the technical evaluation factors to be used, the COTR must understand what is required by the statement of work and the performance schedule. The person compiling these criteria must have the ability to assess the importance of relevant factors and to rank them accordingly. Frequently used factors include managerial capability, technical expertise, experience in a particular field, and skills of sufficient variety to meet the entire scope of work. When establishing the evaluation factors, the requestor must ensure that specific elements have been emphasized and that the criteria will cover the Board's overall project objectives.

In conjunction with the establishment of the main evaluation factors for each procurement, a series of subfactors must be developed to further

**Checklist for  
Developing  
Evaluation  
Factors —  
Appendix B**

explain the intent of each main factor. The same rationale and philosophy expressed in developing the main factors should be present in the subfactors.

### **3.12.452 Mandatory/Desirable Factors**

After the evaluation factors have been listed, they can be divided into two categories:

- ⁂ Mandatory factors
- ⁂ Desirable or “optional” factors.

The mandatory factors are rated as “pass/fail.” The desirable or optional factors are scored by the TEC to arrive at a technical score. The number of factors in either category is a function of the complexity of the goods or services sought. An “off-the-shelf” item with a single line-item description may have only one factor, a simple mandatory criterion. Complex requirements (for example, computers and peripherals or consulting services) may have several mandatory factors as well as one or more desirable factors.

### **3.12.453 Relative Weights**

After developing the evaluation factors, the COTR must determine the importance of the nonmandatory factors. This can be done by listing the factors according to their relative importance, then assigning points to each based on its relative importance.

## **3.2 ISSUING THE SOLICITATION**

### **3.2 Issuing the Solicitation**

Procurement Staff prepares and routes SOA for internal approvals

- ⁂ Requesting division
- ⁂ Legal Division (if contract is expected to be more than \$100K or sole source > \$50K)
- ⁂ Procurement

Solicitation issued to selected offerors

### **3.21 GENERAL**

The solicitation—referred to as the Solicitation, Offer, and Award (SOA) or the Request for Proposal (RFP)—is the means by which the Procurement Section communicates the requirement to prospective contractors. Currently, the Board generally uses the SOA, which combines the solicitation and the award process in a single document. For purposes of the discussion below, the term “solicitation” refers to both the SOA and the RFP.



## 3.22 CONTENTS

The solicitation contains a detailed statement of work, with specifications or drawings if applicable, and a discussion of the evaluation factors and the process for contract award. The factors include mandatory requirements and optional elements, both listed in descending order of importance.

The solicitation also includes boilerplate documents and general information about proposal submission, the evaluation and award process, and contract administration. Boilerplate information includes the contract's general terms and conditions, representations, and other statements about the firm and its compliance with government rules and regulations.

When issued as an SOA, the solicitation includes the Solicitation, Offer, and Award form (see appendix H). This form includes an offer and award section to be completed by the offeror and the Board. In addition, the solicitation contains other standard forms to be completed by the offeror, including the price/cost form, the vendor information form, and the consultant nondisclosure statement.

## 3.23 REVIEW AND APPROVAL

Once the Procurement Staff completes the solicitation document, it will be circulated internally for approval. The COTR is responsible for obtaining all necessary staff reviews and approvals by the requesting division. Procurement will get all other approvals, including approvals from the Legal Division when required.

## 3.3 COMMUNICATING WITH PROSPECTIVE OFFERORS

### 3.3 Communicating with Prospective Offerors

Offerors submit questions/Preproposal conference held (if required)

- <sup>n</sup> Procurement Staff distributes written answers to all qualified offerors

Solicitation is amended (if required)

## 3.31 GENERAL

From the time it is determined that a good or service will be procured until the final debriefing has been concluded, the Procurement Staff will have *all* contact with prospective offerors about *all* aspects of the procurement.



### **3.32 CONDUCTING A PREPROPOSAL CONFERENCE**

The preproposal conference may be used as a means of briefing prospective offerors after a solicitation has been issued but before proposals are prepared. It is generally used in connection with complex, high-dollar-value procurements or when site conditions must be verified by potential offerors, for example, with construction contracts. This procedure permits the Board to explain or clarify complicated technical requirements to interested firms. The preproposal conference may also be used to provide an opportunity for interested firms to examine or inspect the Board site before their proposal can be prepared.

If time permits, the Procurement Staff will ask prospective offerors to submit any questions in advance. This will allow Board representatives time to prepare responses and make the conference as productive as possible. Questions from the floor are also permitted at the conference.

The Procurement Section will make all arrangements, including ensuring that a record is made of the proceedings of the conference.

### **3.33 AMENDING THE SOLICITATION**

An amendment to the solicitation may be issued as a result of questions received at the preproposal conference or any other time prior to award. The amendment may add, delete, or modify the requirements.

## **3.4 ANALYZING THE OFFEROR'S PROPOSAL**

### **3.4 Analyzing the Offeror's Proposal**

#### **Technical Evaluation Committee (TEC) formed**

- TEC Chair recommends membership
- Procurement reviews/approves recommendations
- Procurement opens proposals on due date

#### **TEC evaluates technical proposals**

- Conducts oral presentations in lieu of written submission (if desired)
- Grades proposals and notes ambiguities/deficiencies
- Holds consensus meeting and assigns scores
- Submits TEC Chair report to Procurement Staff for review

*—continued on page 28*

—continued from page 27

### Procurement analyzes cost/price proposals and conducts final analysis

- ⁂ Reviews technical/cost evaluations
- ⁂ Determines competitive range with TEC Chair and notifies unsuccessful offerors
- ⁂ Requests proposal clarifications or correction of deficiencies (if required)
- ⁂ Performs determination of responsibility
- ⁂ Submits final results/recommends award to TEC Chair
- ⁂ Notifies offerors outside the competitive range

## 3.41 RECEIPT AND PROCESSING OF PROPOSALS

### 3.41.1 General

The proposals are received in the Procurement Section by the due date specified in the solicitation. The Procurement Staff separates the price proposals from the technical proposals and reviews the technical proposals to ensure that they do not contain price data. The price proposals are forwarded to the Senior Pricing Analyst for evaluation, and the technical proposals are forwarded to the Technical Evaluation Committee.

### 3.41.2 Evaluation Work Package

The Procurement Staff will prepare an evaluation work package for the Technical Evaluation Committee that contains the following:

- ⁂ A copy of the solicitation and each technical proposal
- ⁂ Proposal evaluation guidelines
- ⁂ A summary rating sheet
- ⁂ A list of TEC appointees

**Checklist for  
Developing the  
Evaluation  
Factors —  
Appendix B**

## 3.42 TECHNICAL EVALUATION

### 3.42.1 General

Each response to a solicitation is subject to the same review and assessment process. The evaluation factors specified in the solicitation are the only factors against which offers may be evaluated. Proposals are evaluated and ranked on the points awarded by the Technical Evaluation Committee.

### **3.42.2 Objective**

The Board's objective is to select a proposal that offers the best apparent technical effort, satisfies all the requirements of the procurement, and is in the best interest of the Board.

### **3.42.3 Technical Evaluation Committee**

#### **3.42.31 Role**

The Technical Evaluation Committee (TEC) is appointed before the proposals are received by the Procurement Section. The TEC's function is to determine the compliance of the technical proposals received with the evaluation factors set forth in the solicitation.

#### **3.42.32 Chair**

The TEC Chair is appointed by the Contracting Officer to provide the leadership necessary to facilitate the TEC's evaluation of the technical proposal. This person is usually, but not always, the COTR.

In addition to providing overall guidance on the technical evaluation, the TEC Chair must

- ⁂ Convene TEC meetings (Procurement Staff will attend the initial meeting and is available upon request for others)
- ⁂ Present the Procurement Staff with a list of proposal deficiencies and clarifications
- ⁂ Prepare and sign the evaluation summary of TEC findings
- ⁂ Participate with the Procurement Staff in determining the need to establish a competitive range and in conducting any price negotiations

#### **3.42.33 Membership**

Membership on the TEC is recommended by the COTR. These recommendations are reviewed and approved with or without modification by the Procurement Section. TEC members should be chosen on the basis of

- ⁂ Their expertise in the field or fields covered by the project
- ⁂ Their availability to participate in the evaluation process

Availability to participate must be ensured by checking with the nominees and their superiors.

#### **3.42.34 Disclosure/Confidentiality**

TEC members must not discuss their findings with any other person, with the exception of the Chair, who may serve in an advisory capacity.

### **3.42.4 Evaluation Factors**

The winning proposal is determined by the combination of the technical and price scores. The process needed to make this determination entails a systematic evaluation of offers, as discussed below.

The evaluator must have an understanding of the evaluation factors before proceeding with the analysis. Evaluation of the technical/management proposal is based on the evaluation factors specified in the statement of work. The factors to be considered include management and technical capabilities, and mandatory and desirable factors and their associated weights. These factors describe what is required by the Board to the level of detail necessary for the offeror to make a proposal.

Some examples of evaluation factors are dimensional and weight data or a “footprint”; operational requirements such as electrical power, cooling, or ventilation; compatibility with existing equipment or facilities; capability for economical upgrade; Mean Time Between Failures/Mean Time To Repair (MTBF/MTTR); cost to operate; spare parts provisioning; and the availability of field service.

Some evaluation factors require subjective evaluation—for example, writing samples, years of experience, or degrees or certifications.

### **3.42.5 Evaluation Process**

Depending on the requirement, an offeror’s capability may be evaluated by analysis of the written proposal and/or an oral presentation and by conducting site inspections.

#### **3.42.51 Written Proposal**

Each TEC member/evaluator will review all proposals and complete a score sheet for each proposal. The evaluator will review each proposal independently against the evaluation factors. In other words, the evaluator will not compare one proposal with another.

The evaluator will check the technical proposal to see that it addresses all of the evaluation factors, first the mandatories, then the desirables. The evaluator will also note any proposal ambiguities or deficiencies (see section 3.42.55).

If a proposal does not meet any one of the technical factors, it is found to be entirely nonresponsive if it cannot be made compliant by clarification.

#### **3.42.52 Oral Presentation**

The Board may request that an offeror make an oral presentation for the following reasons:

- <sup>n</sup> To eliminate the need for a written technical proposal

## **Guidelines for Numerical Ratings — Appendix B**

## **Scoring Technical Proposals — Checklist C-1**

- ⁿ To permit evaluators to receive information as to the capability of the offeror
- ⁿ To enhance the Board's understanding of a written technical or management proposal
- ⁿ To give the Board an opportunity to evaluate contract personnel in person

The presentations may include oral explanations or visual demonstrations of technical and management approaches, for example, plans, capabilities, and processes. The presentation must be delivered by key members of the offeror's team.

### **3.42.53 Site Inspection**

In addition, the TEC may visit the offeror's facilities to review its capabilities.

### **3.42.54 Technical Proposal Evaluation Methods**

The Procurement Staff will provide the TEC with guidelines for scoring technical proposals. Two methods for evaluating technical proposals are (1) percentage scoring and (2) requirements range scoring. Regardless of the method used, the evaluator must comply with the following requirements:

- ⁿ The weights and point assignments must be established prior to starting the evaluation.
- ⁿ The proposals must be evaluated fairly and in a consistent manner.

### **3.42.55 Proposal Ambiguities/Deficiencies**

Upon review of the proposal, all ambiguities and deficiencies must be noted on the rating sheet for discussion at the TEC meeting. The TEC may request, through the Procurement Staff, that the offeror provide either a plan to remedy proposal deficiencies or written clarification about the technical proposal.

Examples of ambiguities or deficiencies include the following:

- ⁿ Uncertainty exists as to what the proposer is stating or implying.
- ⁿ There seems to be contradiction in the proposed approach and the proposed program.
- ⁿ It is not apparent that the offeror understands the solicitation's requirements.

## **3.42.6 Documentation**

### **3.42.61 Written Narrative**

The evaluator must document how the numerical rating was computed. The narrative evaluation must not contain any unsupported assertions. Strengths as well as weaknesses of the proposal in relation to each evaluation factor must be pointed out.

The importance of a well-written narrative cannot be overemphasized—*Any numerical rating system can be only as good as the rationale used to obtain the numerical rating.*

### **3.42.62 Score Sheet**

The evaluator must complete a score sheet for each proposal. Documentation of the evaluation (including notes) must be retained until advised by the Procurement Staff.

## **3.42.7 TEC Consensus Meeting**

After each TEC member has independently evaluated each technical proposal, the TEC Chair convenes a meeting to establish a consensus on each proposal rating. If requested by the TEC, the Procurement Staff will be present at the meeting.

By group discussion, the TEC will prepare a consensus scoring of each proposal. If a TEC member can show other members where they have misinterpreted or misunderstood information, the other evaluators should alter their scoring and rationale.

## **3.42.8 TEC Chair Report**

### **3.42.81 Purpose**

The TEC Chair's report must fully describe the committee findings. It serves as a tool for establishing the competitive range and conducting the technical debriefing.

### **3.42.82 Technical Debriefing**

If the report contains a detailed discussion of each proposal, including a rationale for the scoring, this should aid the debriefing process. Debriefings do not usually occur until after contract award.

### **3.42.83 Report Elements**

At minimum, the report must contain the following elements:

- <sup>n</sup> A summary table of numerical scores showing each evaluator's rating for each proposal and the consensus score of the committee

- <sup>n</sup> A summary of the rationale used to arrive at the consensus score for each proposal

The report must take into full account all points raised by each evaluator and discuss each proposal thoroughly. The report must also show accord. Under no circumstances should a minority report be issued. All evaluation sheets must be attached to the consensus report.

## **3.43 PRICE AND FINAL ANALYSIS**

### **3.43.1 General**

The Senior Pricing Analyst will conduct the final analysis by ranking price proposals according to price and then combining the technical rankings with the price rankings. The Pricing Analyst will report findings to the Procurement Staff, who will then present the final results to the TEC Chair. A Price Evaluation Team must be established for all proposals estimated to exceed \$100,000 and must include a representative from the Planning and Budget Section.

### **3.43.2 Determination of Responsibility**

An offeror is considered responsible when the goods or services it proposes are something for which it is a recognized provider. Thus, the Procurement Staff must ensure that the offeror has a sufficient labor force as well as the facilities, equipment, and financial stability to perform without extraordinary assistance from the Board or another source. Past performance is also considered. After all of this information has been gathered, the finding of responsibility or nonresponsibility is the duty of the Procurement Staff. A finding of nonresponsibility will disqualify an offeror from receiving award of a contract.

### **3.43.3 Small Business Subcontracting Plan**

A small business subcontracting plan is required from large businesses for contracts greater than \$500,000 (or \$300,000 if construction). If a plan is required, the Procurement Staff will ensure that the plan has been submitted and will monitor compliance.

## **3.44 THE COMPETITIVE RANGE**

### **3.44.1 Establishing the Competitive Range**

Upon the Procurement Staff's review of the TEC Chair's report, he or she will furnish the TEC Chair with the evaluation of each cost proposal. Using the ratings of the technical proposals and the costs associated with each proposal, the Procurement Staff and the TEC Chair will determine which offerors are in the acceptable and marginal categories. From these

two categories, the Procurement Staff and the Chair will determine which offerors should be solicited for best and final offers.

### **3.44.2 Notifying Offerors Outside the Range**

The Procurement Staff must notify those offerors whose proposals have been rated unacceptable or determined to be outside the competitive range. This notification must be made by letter as soon as practical after such a decision has been made and must summarize the reasons why the offer has been declined.

The reasons cited will be based primarily on the rationale presented in the TEC Chair's report.

### **3.45 DISCLOSURE**

TEC members must not discuss the evaluation results with anyone except the Procurement Staff or the TEC Chair, who will act in advisory capacity.

## **3.5 AWARDING THE CONTRACT**

### **3.5 Awarding the Contract**

Procurement may make call for best and final offers (BAFOs) from offerors in competitive range

- ⁂ Procurement holds discussions with TEC Chair in attendance
- ⁂ Offerors may submit revised technical/cost proposals by due date
- ⁂ Procurement performs final analysis of BAFOs with TEC Chair

Procurement awards contract to low-priced, technically responsible/responsive offeror

- ⁂ Documents acquisition
- ⁂ Notifies unsuccessful offerors in writing
- ⁂ Debriefs unsuccessful offerors formally or informally (if required)

Board reviews/approves/signs contract according to acquisition policy

- ⁂ Procurement distributes documents according to policy and procedures



## **3.51 BEST AND FINAL NEGOTIATIONS**

### **3.51.1 General**

A call for best and final offers (BAFOs) is issued if the Procurement Staff recommends it. Best and final negotiations may be conducted with all responsible offerors determined by the Procurement Staff to be within the competitive range. Offerors will be given an equal opportunity to submit revisions to their proposals as specified in the request for BAFOs. All offerors must be informed of the deadline by which BAFOs must be received.

Negotiations will be conducted after the TEC Chair report has been submitted. The Procurement Staff will lead in negotiation sessions.

### **3.51.2 Analysis**

Once BAFOs have been received, the TEC Chair and the Procurement Staff analyze the responses. Although the technical analysis is performed essentially by the TEC Chair and the cost/price analysis by the Senior Pricing Analyst, the team concept still prevails. The final analysis and the subsequent recommendation must be made jointly by both members of the acquisition team.

## **3.52 SELECTION AND CONTRACT AWARD**

### **3.52.1 Determining Best Value**

In awarding contracts, it is the Board's policy to use the "best value" procedure—that is, to obtain significantly more value for a higher price. To be considered, the value offered must be relevant to the goods or services procured.

### **3.52.2 Award**

A contract will be awarded to the low-priced, *responsive, responsible* offeror, not simply to the low-priced offeror.

### **3.52.3 Selection Memorandum**

The Procurement Staff must prepare a memorandum to the Chief Acquisition Officer with adequate documentation as to the final technical and cost analysis.

### **3.52.4 Contract Preparation/Approvals**

The Procurement Staff prepares the proposed contract and related documents. Before award, the proposed contract must be reviewed and approved as specified in the Board's Acquisition Policy.

### **3.53 NOTIFYING UNSUCCESSFUL OFFERORS**

The Procurement Staff is the only person authorized to discuss the award with unsuccessful offerors. Unsuccessful offerors are individually notified in writing as soon as possible after the award is made. The Procurement Staff may furnish the following information:

- ⁂ Number of prospective firms solicited under the solicitation
- ⁂ Name of the firm receiving the award
- ⁂ Total dollar amount of the award

### **3.54 DEBRIEFING**

#### **3.54.1 General**

Many firms seek additional information about why their proposals have not been accepted. They may request a formal debriefing session, or they may solicit additional information from the Board by informal means.

Note: If COTRs receive informal inquiries from a firm about an unsuccessful proposal, *they must not provide any information*. Instead, they must *immediately* refer the inquiry to the Procurement Staff.

#### **3.54.2 Formal Debriefing**

The Procurement Staff will arrange for the formal debriefing session. Depending on the complexity of the procurement evaluation, this meeting may be conducted by the Procurement Staff alone or jointly with technical personnel. The session is chaired by either the Procurement Staff or an appointed representative.

As the Board's technical representative, the COTR's role in a debriefing is of utmost significance—particularly when a firm's proposal has been determined to be unacceptable for technical reasons. The COTR must prepare for the debriefing as follows:

- ⁂ Discuss his or her role in the debriefing with the Procurement Staff well in advance, and establish a debriefing posture that is mutually acceptable.
- ⁂ Plan to discuss only those factors that rendered a particular proposal unacceptable.
- ⁂ Review the evaluation summary sheets and compile a list of factors that caused the proposal to be declined.

During a debriefing, TEC members must adhere to these rigid guidelines:

- ⁂ Explain the method of evaluation to assure unsuccessful firms that their proposals were treated fairly, impartially, and objectively.

- ⁿ Restrict discussion to the rejected firm's proposal. Highlight specific strengths and areas of high merit, and thoroughly explain areas that were considered deficient or inferior.
- ⁿ Refrain from comparing the unsuccessful proposal with that of the successful offeror or with any other proposal received.
- ⁿ Do not disclose scores assigned to a particular company.
- ⁿ Do not reveal information of a proprietary or confidential nature pertaining to other proposals.
- ⁿ Be prepared to conclude the debriefing session with a summation of the specific areas of the proposal that did not measure up to the established standards.

### **3.54.3 Documentation**

After a formal debriefing, the Procurement Staff will prepare a memo to the file summarizing all of the significant items that were discussed at the session.

## **3.6 DOCUMENTING THE ACQUISITION**

All procurement actions are subject to audit by the Board's Office of Inspector General. Thus, the Procurement Staff will document the acquisition process in the contract file. Examples of documentation include the number of offerors issued a solicitation, the number of proposals received, the technical and price evaluation results, the negotiation results, and the final contract award summary.

# 4 Contract Administration

## 4.1 GENERAL

*Procurement's job does not end with contract award, but continues until the contract is complete.*

Contract administration begins upon award and ends after final acceptance of the work effort and final payment to the contractor. During this period, Board property may be supplied or purchased with contract funds, change proposals submitted, and requests made for additional funding—all of which would result in a contract modification. In some cases, there may be a contract termination or dispute.

Because of these varied activities, effective monitoring and control are essential to ensure that the contractor uses and manages resources in a manner that meets the Board's expectations regarding quality, timeliness, and cost. Thus, progress reports must be submitted. As with all phases of the procurement cycle, contract administration requires a team effort between the COTR and the Procurement Staff.

## 4.2 COTR RESPONSIBILITIES

### 4.21 GENERAL

**COTR  
Acknowledgement  
Form —  
Appendix D**

Contract administration requires not only attention to routine duties, but also constant alertness and judicious evaluation of the many factors involved in Board procurement. The intangible nature of many contracts means that the COTR's evaluations are largely deduced rather than directly observed. The COTR must weigh evidence using every available source and method—for example, business and technical reports, visits to the job site, informal letters and telephone calls, and the opinion of the Procurement Staff. A thorough understanding of the contractor's progress will allow the COTR to concentrate effectively on the mechanics of administration.

### 4.22 DUTIES AND RESPONSIBILITIES

Generally, the COTR is briefed by the Procurement Staff as to the COTR's scope of authority at the inception of the procurement phase.

Consistent with this delegation of responsibility, during contract administration the COTR must perform key functions that include the following duties and responsibilities:

- <sup>n</sup> Familiarize himself or herself with all portions of the written contract,

placing special emphasis on the technical requirements.

- ⁿ Ensure that the contractor's project manager has access to the *entire* contract.
- ⁿ Meet periodically with the contractor to review performance:
  - ⁿ Determine actual performance as compared with scheduled performance.
  - ⁿ If the contractor is behind schedule, ask for corrective action.
  - ⁿ When Board-furnished property is involved, observe whether it is being properly recorded, marked, segregated, maintained, and used for the purpose for which it was provided. This includes property purchased by the contractor with contract funds. Inform the Procurement Staff of the conditions noted.
- ⁿ Check for any information that might adversely affect the Board's interest, such as changes in financial status, personnel or labor difficulties, or overextension of labor or facilities.
- ⁿ Review the contractor's periodic billings or invoices in relation to the contract and progress reports to determine whether the work accomplished is commensurate with the payment requested. Also determine whether the labor categories charged are those relevant to the contract.
- ⁿ Review progress, technical, and management reports, and advise the Procurement Staff of any significant deviations from the scheduled progress or planned expenditures.
- ⁿ Forward copies of contract-related correspondence to the Procurement Staff.
- ⁿ Recommend in writing to the Procurement Staff desired changes to the scope of work, giving full explanation of the proposed action.

Note: Only the Contracting Officer can modify the terms of a contract. If the contractor proposes a change, the COTR must obtain a written statement to that effect and forward the statement, with recommendations, to the Procurement Staff. This statement must include the estimated cost of any proposed increase or decrease in the scope of work.

*The COTR is responsible for evaluating the contractor's performance*

## 4.3 MONITORING CONTRACT PERFORMANCE

### 4.3 Monitoring Contract Performance

Upon award, COTR executes within scope of authority and according to contract terms

- ⁂ Evaluates and documents work in progress
- ⁂ Submits progress report on predetermined basis

Procurement Staff monitors small business plan compliance

COTR reviews, certifies, and approves invoices

- ⁂ Ensures that invoice reflects actual work in progress
- ⁂ Reports problems or discrepancies to Procurement Staff
- ⁂ Approves/returns invoices to Accounting

*Contract administration is a team effort. The COTR must keep the Procurement Staff up to date on the contractor's performance, and on any problems or issues.*

### 4.31 GENERAL

Contractor performance may be monitored by the COTR by the following methods: preparing progress reports, attending briefings and meetings, and auditing invoices. In addition, the Procurement Staff must monitor adherence to the Small Business Subcontracting Plan, when applicable.

#### 4.31.1 Progress Report

The COTR must prepare periodic progress reports and submit them to the Procurement Staff on a regular basis. The report provides a narrative summary of all the significant work accomplished during the reporting period, problems encountered, corrective action taken, and work projected for the next reporting period. The report must document whether

- ⁂ Contract objectives are being met
- ⁂ Contract progress is in compliance with the scope of work and the contract terms (cost, schedule, and deliverables)
- ⁂ Potential problems or any inconsistencies are being resolved

In addition, the progress report may include recommendations resulting from the review.

#### 4.31.2 Briefings and Meetings

During the performance period, status meetings should be held on a regular basis. Although some contracts specifically require these meetings, others leave it to the discretion of the COTR. If a meeting is held, the agenda

should be well planned and reviewed in advance so that each party has the opportunity to prepare. The agenda is generally predetermined by the commitments set forth in the contract.

### **4.31.3 Invoices**

By the terms of most contracts, a contractor submits an invoice for costs incurred during the performance period on a scheduled basis. Before the Finance and Accounting Section makes payment, the COTR must review, certify, and approve the invoice for payment. All contracts should use on-line receiving; manual review of contracts should be the exception.

This review accomplishes the following:

- ⁂ The COTR has the opportunity to ensure that invoice amounts accurately reflect contract progress.
- ⁂ Comparisons are made between cost and progress.
- ⁂ Apparent discrepancies are noted and reported to the Procurement Staff.
- ⁂ It can quickly be determined if the contractor is deviating from contract objectives.
- ⁂ It can be determined if program plan commitments are being met and milestones being reached.

Payment can be withheld for unsatisfactory work and used as leverage, if required, to improve efforts.

### **4.31.4 Final Acceptance**

The COTR must acknowledge receipt of final deliverables in writing.

## **4.32 SMALL BUSINESS SUBCONTRACTING PLAN**

For contracts subject to small business subcontracting plan procedures, the Procurement Staff will monitor performance for adherence to the plan. Any exceptions to the plan must be approved by Procurement. The Procurement Staff will ensure that the companies named in the plan, or acceptable substitutes, are used by the prime contractor. The COTR may assist in the process, if required.

## **4.4 CONTRACTOR PERFORMANCE EVALUATION**

To ensure quality performance on future contracts, the COTR must evaluate and document contractor performance. This information will be used as an evaluation factor for some RFPs. Thus, a contractor performance evaluation must be prepared for all contracts upon completion or annually, whichever comes sooner, and forwarded to the Procurement Staff.

However, poor contractor performance must be immediately documented and reported to the Procurement Staff. If given a negative evaluation, the contractor will have an opportunity to submit a rebuttal. Contractors that consistently receive negative evaluations will be removed from the Board's bidder list.



## APPENDIX A

### Statement of Work

## Checklist A-1

### Writing the Background Statement

**Check off each of the following questions if the answer is “yes” or “not applicable.” Only when each question has been checked off is the background statement complete.**

- ☐ Does the background statement explain the rationale for the project?
- ☐ Does the statement cite only data and reports that are available to the prospective offerors?
- ☐ Will the statement help offerors prepare a sound technical proposal?
- ☐ Does the statement summarize information that is essential for understanding the scope of work?
- ☐ Are the facts accurate and unambiguous?

## Checklist A-2

### Writing the Scope of Work

**Check off each of the following questions if the answer is “yes” or “not applicable.” Only when each question has been checked off is the scope of work complete.**

- ☐ Have you defined the major tasks and the subtasks for each?
- ☐ Have you explained the interrelationships between tasks, and how the tasks are related to desired results and deliverables?
- ☐ Have you identified constraints and limitations?
- ☐ Have you established a timetable for completion of major milestones and/or tasks that must be carried out?
- ☐ Have you avoided overly restricting the methodology, which might preclude innovation or competition by offerors?
- ☐ Are necessary technical details provided?
- ☐ Is sufficient information available on which to develop a responsive technical proposal?
- ☐ Will the scope of work result in a product that satisfies the Board’s requirements?

## Checklist A-3

### Critiquing the Statement of Work

**Check off each of the following subquestions if the answer is “yes” or “not applicable.” Only when each subquestion has been checked off is the statement of work complete.**

1. With knowledge of the requirement from oral conversations as well as written correspondence, consider the following questions:
  - ☐ Does the description of services in the statement of work (SOW) clearly define the tasks?
  - ☐ If background information is included, is it distinguishable from the contract objectives and the contract requirements?
  - ☐ Are all delivery and performance requirements contained in the SOW, including reports necessary for effective contract administration?
  - ☐ Are quality standards included in the description?
  - ☐ If services are being requested on a unit-price basis, have estimated hours for service work been included? Have units of measure for any reimbursable materials been indicated?
  - ☐ If services are being requested on a fixed-price basis, is the SOW sufficiently detailed to estimate the costs of performance?
  - ☐ If key personnel are being requested or will be approved prior to award, does the SOW address procedures that will apply if the contractor needs to substitute these people with others?
  - ☐ If testing and acceptance is required, has the process been clearly established?
2. If the service contractor will need access to a work site other than its own, consider the following:
  - ☐ Are site access procedures necessary and indicated?
  - ☐ Are on-site safety and fire protection requirements necessary and indicated?

## Checklist A-3 — continued

- ☐ Are requirements for coordination between the contractor and other on-site activities identified?
- ☐ If the contractor would need equipment storage or office space to perform these services, is the availability of this storage indicated?
- 3. Considering the responsibilities of the Board,
  - ☐ Is it necessary to furnish any services to the contractor (e.g., electricity)? Is this responsibility acknowledged in the SOW?
  - ☐ If the requesting division needs to furnish property to the contractor in order to complete contract performance, is the current location of the property known?
  - ☐ Does the SOW indicate when the contractor would receive the property?
  - ☐ Are property-control procedures indicated (contractor receipt for the property and so forth)?
- 4. Considering potential contract administration problems:
  - ☐ Are controls adequate for verifying whether performance is complete and up to the quality standards stated in the SOW?
  - ☐ Has the COTR been identified?

Adapted with permission from *Performance-Based Contracting* (Educational Services Institute, February 1996).

## APPENDIX B

### Evaluation Factors

## Checklist for Developing Evaluation Factors

**Check off each of the following questions if the answer is “yes” or “not applicable.” When each question has been checked off, the evaluation factors are complete.**

- ☐ Will the factors lead to selection of the contractor most appropriate for carrying out the project and for achieving the objective?
- ☐ Will the factors communicate to prospective offerors the most important elements for winning the contract (e.g., personnel, facilities, or understanding of technical requirements of the scope of work)?
- ☐ Are the factors weighted properly? Does the most important factor carry the greatest assigned weight?
- ☐ Will the factors help in evaluating the forthcoming technical proposals?
- ☐ Are the factors specific and tailored to the unique characteristics of this particular procurement?
- ☐ Can any of the factors be mistakenly interpreted? Are they clear and unambiguous?

## Guidelines for Numerical Ratings

### Evaluation Objective

The Board aims to obtain the best possible technical effort that satisfies all the requirements of the solicitation and is in the best interest of the Board. This is accomplished by the impartial, equitable, and comprehensive evaluation of those proposals that are technically responsive to the solicitation.

The evaluation factors specified in the solicitation are the only factors against which offers may be evaluated for technical qualification. These factors may include price, scheduling, past performance, or other variables. They become the focal point, or target, at which each potential offeror will aim and the sole basis on which the resulting proposals will be judged technically.

### Evaluation Process

Proposals may not be evaluated based on a predetermined cutoff score as to acceptability.

For the proposal to be in the acceptable range, mandatory requirements must be fully met. To receive further consideration, a proposal must be in the acceptable range.

Each proposal must be evaluated on its own merits, using the criteria stated, and not in comparison with or contrast with any other proposal. The evaluation must be recorded in writing by each team member and, as necessary, must be accompanied by comments as to acceptability or unacceptability.

All proposals must be evaluated by each member of the Technical Evaluation Committee. Proposals may not be divided among the members; for example, if ten proposals are received, each member must evaluate each of the ten, independently and without reference to other members or other proposals.



## Guidelines for Numerical Ratings — continued

After all TEC members have scored each proposal, the team, by group discussion, will prepare a consensus scoring of each proposal. Unanimity will be attempted.

An evaluation sheet listing each team member's score for each proposal and the consensus score for the proposal will be prepared by the TEC Chair. The proposals will be ranked in descending order.

The TEC Chair will prepare an evaluation summary that will include the evaluation sheet, the rating sheets of each evaluator, a narrative discussion of the strong and weak points of each proposal, and a list of questions that will be clarified during negotiations with individual offerors.

Analysis and evaluation of the price proposals will be made by the Price Evaluation Team. The TEC will not have access to the price proposals until after completion of the technical evaluation. Only proposals that have been deemed technically acceptable will receive further consideration.

Technical clarification discussions may be held if necessary with all offerors who have submitted technically acceptable proposals within a competitive price range. If supplemental information is received from offerors during discussions, the TEC will re-evaluate the proposal. The Board may also use this process to make a proposal acceptable.

After all technical questions have been answered and the technical evaluation has been completed, final price negotiations will be conducted with all offerors who have submitted technically acceptable proposals.

## Scoring Factors

A matrix can be used as a tool to compare the offerors' scores. Use of a matrix is illustrated below. In this illustration, the factors evaluated are the same factors shown in the Solicitation, Offer, and Award (the document generally used at the Board). The scores for the offerors can be generated using several methods. Two simple methods are percentage scoring and requirements range scoring (see examples).

In this illustration, Offeror A did not understand the Board's requirements. It failed to address how it would supply the necessary personnel to provide the services required. None of the resumes submitted were for company employees, and no plan was supplied to show how the necessary personnel would be hired.

<b>Factor</b>		<b>Offeror A</b>	<b>Offeror B</b>	<b>Offeror C</b>
<b><i>Resumes</i></b> Maximum 10 points		5	10	10
<b><i>Experience</i></b> Maximum 30 points	<b><i>References</i></b> 10 points	10	10	10
	<b><i>Project list</i></b> 20 points	15	20	10
<b><i>Management approach</i></b> Maximum 10 points		4	10	8
<b><i>Total</i></b> Maximum 50 points		34	50	38
Note: The captions "Offeror A," "Offeror B," and "Offeror C" are used for illustration purposes only. The actual offeror name must be entered on the matrix.				

### Percentage Scoring

The Technical Evaluation Committee may want to use scoring factors as illustrated:

Rating	Scoring Factor
Not acceptable	0
Acceptable but has negative aspects	.2
Acceptable	.4
Good	.6
Good and has some outstanding aspects	
Excellent in all aspects	1.0

In scoring the proposals, the scoring factor that has been assigned is applied to the possible points for each technical factor, as the following example shows:

Possible points for technical criteria	Factor	Score
20	.6	12
20	.4	8
20	.6	12
20	.2	4
<b>Total:</b> 80		<b>Total:</b> 36

## Requirements Range Scoring

A third approach rates proposals within ranges of acceptability.

*Acceptable* — Proposal evaluation factor fulfills all the expressed RFP requirements

10  
9  
8  
7

*Marginal* — Proposal evaluation factor may fail to meet the expressed RFP requirements but is of such a nature that it has correction potential

6  
5  
4

*Unacceptable* — Proposal evaluation factor fails to meet the expressed RFP requirements and would require substantial revision to become acceptable

3  
2  
1  
0

## APPENDIX C

### Proposal Evaluation

## Checklist C-1

### Scoring Technical Proposals

**Check off each of the following questions if the answer is “yes” or “not applicable.” Only when each question has been checked off is the technical scoring process complete.**

- ☐ Have you scored each proposal on the basis of the evaluation criteria in SOA?
- ☐ Can you justify your scores on the basis of the information provided in the technical proposals?
- ☐ Are you consistent in how you score? That is, are you using a systematic method of scoring so that if you had to rate the same technical proposal on two different days, you would end up with essentially the same scores?

## Checklist C-2

### Documenting the Technical Proposal Evaluation

**Check off each of the following questions if the answer is “yes” or “not applicable.” Only when each question has been checked off is the technical scoring process complete.**

- ☐ Do you have a consistent procedure for writing up a narrative that points out the strengths and weaknesses of each technical proposal on the basis of each evaluation factor?
- ☐ Does your written narrative support your quantitative scoring, and vice versa?
- ☐ Are your comments relevant to the project objective and the scope of work?
- ☐ Will your written narrative be of sufficient detail that you can justify your judgments at debriefing sessions if there is a protest?

# APPENDIX D

## Forms





## Contractor/Vendor Performance Evaluation

The contractor list data must be imported into the form for you to use and pre-populate the form.

Highlight the link below, right click copy and click the "Import Contractors" button.

Right click paste in the open window's file name field and click "Open".

(b)(7)(E)

Import  
Contractors

### CONTRACT INFORMATION

Contract Number

Contractor/Vendor

Performance  
Period

From

To

COTR

Division

Contract Specialist

Date Submitted

Contract Type

Description of Work

Task Order #

Send to COTR



### Please rate the Contractor/Vendor performance:

	Outstanding	Satisfactory	Unsatisfactory	Comments
Quality of Work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Timely Performance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Compliance with SOW/Specifications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Business Relations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
On-Site Work Practices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Change Order Processing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Overall Performance*</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Would you recommend using this vendor again?\* ☐ Yes ☐ No

Provide any additional comments regarding your ratings.

### Please rate how well Procurement supported you during the performance period:

	Outstanding	Satisfactory	Unsatisfactory	Comments
Timeliness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Responsiveness	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Provide any additional comments regarding your ratings.



## Contractor/Vendor Performance Evaluation

\_\_\_\_\_  
COTR Signature

\_\_\_\_\_  
Date



BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, DC 20551

DIVISION OF  
FINANCIAL MANAGEMENT

**CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE  
ACKNOWLEDGEMENT FORM**

**Solicitation, Offer and Award  
Number  
Vendor Name**

The undersigned is designated the cognizant Contracting Officer's Technical Representative (COTR) who will represent the Contracting Officer in the administration of technical details within the scope of the contract and in inspection and acceptance of services provided. The COTR is not otherwise authorized to make any representations or commitments of any kind on the Board's behalf. The COTR does not have the authority to alter, change, or modify the contractor's obligation or the contract terms and conditions. If, as a result of technical discussions, it is desirable to alter, change, or modify the terms and conditions, such actions will be issued in writing and signed by the Contracting Officer.

Some of the types of actions that are within the scope of the COTR's authority are:

- To assure compliance of the Contractor's performance with the statement of work.
- To perform or cause to be performed those inspections necessary to determine the Contractor's compliance with the technical requirements and the statement of work.
- To maintain both oral and written communications with the Contractor concerning those aspects of this Contract within his or her purview.
- To monitor the Contractor's performance and to advise the Board's Contract Specialist of any deficiencies.
- To coordinate the availability of Board-furnished property and services and to provide entry to the work area for the Contractor's personnel, as required.
- To obtain the Contractor's proposal for a change order and to relay the information in a memo to the Contract Specialist.
- To review invoices and, based on satisfactory performance of the terms and conditions of the contract, to notify the Board's Management Division that a payment should be made pursuant to the contract.

The undersigned acknowledges the COTR's duties and limitations.

\_\_\_\_\_  
COTR Name

\_\_\_\_\_  
COTR Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contracting Officer's Name (Procurement Staff Member)

# APPENDIX E

## Acquisition Policy



## Acquisition

- [General Purpose](#)
- [Definitions](#)
- [Procurement Authority](#)
- [Acquisition Guidelines](#)
- [Contract Administration](#)
- [Contract Drafting](#)
- [Responsibility](#)
- [References](#)

### General Purpose

This policy governs the Board of Governors of the Federal Reserve System's (Board) acquisition of goods, services, and real property for use in conducting the operations of the Board as approved in the Board's budget or by a program change request. When used in conjunction with the Board's [Delegations of Administrative Authority](#),<sup>1</sup> the *Procurement Manual for Technical Personnel*, and the [Supplier Diversity](#) policy, this policy is intended to foster efficiency and effectiveness in the acquisition process, and help the Board acquire the highest-quality goods, services, and real property within the time required and at the best possible value. These objectives are achieved by

- using competitive acquisition methods to the maximum extent practicable;
- making awards only to responsible vendors;
- considering a variety of factors, such as product quality, reliability, dependability, and life-cycle price, in determining which offer provides the best value to the Board;
- providing vendors with a fair opportunity under competitive acquisition methods; and
- fostering fair and equitable relationships between the Board and its vendors.

### Definitions

*Acquisition* means the Board's purchase of goods, services, or real property for use in conducting the operations of the Board as approved in the Board's budget or by a program change request. It includes all functions pertaining to the purchasing process, including the description of

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<sup>1</sup> All persons acting under this policy may delegate their authority granted herein, provided that any delegation preserves the review authority of the delegating official(s).

requirements, the solicitation and selection of sources, the award of contracts and purchase orders, and contract administration.

*Contract* means any type of written agreement, regardless of form, for the acquisition of goods, services or real property.

*Contract administration* means the oversight of a contract by the contracting officer or the contracting officer's technical representative in order to ensure that a contractor meets all terms, conditions, and requirements of the contract.

*Contracting officer (CO)* means a Board employee who has the required delegated authority to sign contracts on behalf of the Board.

*Contracting officer's technical representative (COTR)* means an authorized representative of the CO who is acting within a scope of authority as delegated by the CO.

*Program change request* means a written request to change the current mission, organization, or approved resources of an individual cost center or division when the thresholds are met.

*Purchase card (P-Card) purchases* means acquisitions made with the Board's P-Card(s) by a Board employee authorized by his or her division or office.

*Purchase order (PO)* means a short-form contract document between the Board and a vendor that is produced from the Board's automated procurement system.

*Responsible vendor* means a vendor who, in the Board's opinion, possesses the skill, ability, integrity, and financial and other resources necessary for the complete performance of the work and who has complied with all required qualifications set forth in a request for quotation (RFQ) or an SOA.

*Services* mean the furnishing of labor, time, or effort by a vendor, but does not include construction or the furnishing of supplies.

*Solicitation, offer, and award (SOA)* means the Board's solicitation for a proposal and terms for performance, which becomes the contract when the Board's CO countersigns the SOA form of the vendor who is selected to perform the work. The SOA may contain language that incorporates the vendor's proposal into the terms of the contract.

*Statement of work (SOW)* means the document that describes and defines the work activities and deliverables a vendor must provide in order to successfully perform the contract. The SOW may also include the time frames for performing the work. If an SOA is used as the contract, the SOW is part of the SOA. An SOW may be one section of an SOA, or its own standalone attachment to a PO.

*Supplies* mean property, except for real property. Supplies include furniture and equipment.



## Procurement Authority

- A. The Board's procurement authority.** The Board is authorized to procure goods, services, and real property under section 10, paragraphs 3 and 4, of the Federal Reserve Act (12 USC 243 and 244). The Board's expenditures are not "acquisitions" as that term is defined by the Federal Acquisition Regulations (see 48 CFR 2.101). This policy also follows section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203 Stat. 1376.
- B. Delegation of procurement authority.** Delegation of procurement authority within the Board is outlined in the [Delegations of Administrative Authority](#). On the basis of the delegations, the Chief Operating Officer (COO), Chief Financial Officer (CFO), and Chief Acquisition Officer (CAO) have the authority to procure goods, services, or real property for use in conducting the operations of the Board as approved in the Board's budget or by a program change request. This authority may be further delegated. Except as stated below, all contracts must be initiated, finalized, and administered by the Procurement Function in the Division of Financial Management ("Procurement"):
1. The CAO re-delegates to staff in the Research and Legal libraries who are authorized to procure books, periodicals, data, and other materials (including electronic resources) the authority to make such purchases without further review or approval by Procurement and without regard to the procedures set forth in the "Acquisition Guidelines" section below, provided that the total cost of any individual purchase does not exceed \$50,000 annually. Purchases shall not be artificially divided to permit the use of this delegated authority.
  2. The CAO re-delegates to staff that are authorized to use the Board's P-Cards the authority to purchase items under their P-Card limits and consistent with the P-Card procedures set forth in the Board's [Procurement Procedures](#). Any contracts resulting from purchases made with a P-Card will be administered by the acquiring division or office, unless the acquiring division or office requests that Procurement execute the purchase under Procurement's P-Card authority, in which circumstance Procurement will be responsible for administration of the contracts arising from use of Procurement's P-Card.
  3. As set forth in the Delegations of Administrative Authority, procurements by the Board's Inspector General, when the Inspector General has determined that operational necessity warrants, are not subject to further review or approval and are not subject to the procedures set forth in the [Procurement Procedures](#). In all other circumstances, however, procurements for the Office of Inspector General shall follow the Board's Procurement Procedures.

## Acquisition Guidelines

The Board prefers to acquire goods and services through open and fair competition, using one of the standard acquisition methods listed below, because that process is generally the most reliable way of ensuring that the Board is obtaining the highest quality goods and services for the best available prices. Thus, one of the standard acquisition methods must be used unless the conditions for a non-competitive purchase are met. To foster use of competitive methods, the term of a contract (including all options to renew) generally should not exceed 60 months. Additionally, to the maximum extent practicable, a contract's term should follow the Board's



budget cycle (i.e., the initial term of a contract generally should conclude by the end of the calendar year in which that contract is awarded). All acquisitions must also adhere to the Board's [Procurement Procedures](#).

The Legal Division must review all procurement actions whose value exceeds or is expected to exceed an annual cost of \$200,000, except

- a. Legal Division review is required for any contract, regardless of expected annual cost, whose terms address copyrights, patents, or other intellectual property rights, indemnification obligations, application of foreign law, or waivers or disclaimers of liability;
- b. Legal Division review is not required for the exercising of an option that was priced in a contract already reviewed by the Legal Division when no other contract modifications are being made in conjunction with exercising such option;
- c. Legal Division review will occur as noted below for specific types of procurements; and
- d. Legal Division review for procurement actions may be requested by Procurement regardless of expected annual contract cost when Procurement deems such review to be beneficial to the Board's interests. As a general rule, Procurement actions shall not be artificially divided to avoid any of the required reviews set forth in this Acquisition policy or the [Procurement Procedures](#).

#### **A. Standard Acquisition Methods**

1. **Micro-purchase procedures.** This process may be used when goods and services have a total annual cost of \$5,000 or less. Informal price and/or quality comparisons are encouraged, but not required. Procurements of this small dollar value (commonly referred to as the "micro-purchase threshold") should generally be made by P-Card to minimize the Board's administrative costs. However, because documentation of the terms of purchase is minimal when a P-Card is used, P-Cards may not be used for services that exceed \$2,500 annually.
2. **Acquisitions from the General Services Administration's Federal Supply Schedule or other federal contract or schedule.** This method may be used when a vendor has a contract to sell goods and/or services to the federal government that is listed on the General Services Administration's Federal Supply Schedule (GSA Schedule). The Board may purchase the goods and services listed on a vendor's GSA Schedule contract without considering other vendors, except when the Board is purchasing services that are priced hourly.

For hourly priced services, the CO should attempt to obtain at least three quotations and determine which one best meets the Board's needs. If the hourly priced contract is not awarded to the low price bidder, the acquiring division or office shall provide a memorandum explaining the basis for the award. For any GSA Schedule vendor, the CO may negotiate for pricing or other contract terms more favorable than what is listed in the GSA Schedule, including the addition of non-schedule items, if the price for all schedule and non-schedule items does not exceed the price of the schedule items alone.



The CO may purchase goods or services listed on another federal agency's contract or government-wide schedules in the same manner as set forth above for GSA Schedule purchases, provided the Legal Division has determined that such contracts or schedules operate in a manner that is consistent with the GSA Schedule.

3. **Formal bidding.** Formal bidding is the process of requesting that vendors submit sealed bids for goods or services. Formal bidding may be used when the quality, characteristics, or other aspects of goods or services to be acquired are so standard that no technical evaluation is needed. The contract is awarded to the lowest priced, responsible vendor whose bid meets all the terms and conditions of the request for bid.
4. **Negotiated procurement.** Negotiated procurement is the process of considering price and other evaluation factors, such as technical ability, to determine which vendor represents the best value to the Board. Negotiated procurement commonly uses an SOA to facilitate competition among vendors who are believed to be qualified to perform the work. This method should be used when other standard acquisition methods are not applicable or when there are significant tradeoffs in the quality, price, vendor support, timeliness, and reliability of the goods or services being acquired. The contract is awarded to the responsible vendor whose proposal is most advantageous to the Board, considering price and other factors set forth in the SOA.
5. **Other competitive methods for certain best value procurements.** In addition to the methods set forth above, the following services may be competitively procured under the methods described hereunder.
  - a. *Agreements for conferencing or hotel space.* For agreements with hotels or other facilities for hotel/conference space and related services (e.g., catering) with costs exceeding \$5,000 per event, Procurement does not typically use an SOA document to solicit proposals. Instead, Procurement checks availability, capacity, and other requirements and solicits pricing from at least three providers based on written requirements from the acquiring division or office.

Procurement works with the acquiring division or office to select the provider that offers the best value when weighing such factors as availability, space, price of the services, and the Board's budget for the event. The acquiring division or office will provide Procurement a memorandum explaining the basis of the best value determination. The CFO will review such determination for any event whose cost exceeds \$100,000. Additionally, notwithstanding the dollar thresholds for Legal Division review set forth in the Board's [Procurement Procedures](#), if the cost of any event will exceed \$100,000, Procurement sends the hotel agreement to the Legal Division for review before executing.

- b. *Agreements for professional legal services.* In addition to using any of the standard acquisition methods listed above in paragraphs 1 through 4 of this section, the CO may acquire professional legal services that the general counsel or inspector general deems necessary through a best value determination of qualified offerors identified by the Legal Division or Office of Inspector General. Such determination must include consideration of the price of the services, level of experience and expertise, general



reputation or reputation in the specialized legal practice, availability to perform the services in the time required, and past performance.

The Legal Division or Office of Inspector General will provide Procurement a memorandum explaining the basis of the determination. Use of an SOA document is not required to solicit proposals from law firms or legal professionals for these types of agreements; however, prior to soliciting proposals, a SOW should be developed in order to generate consistent responses from offerors.

## **B. Non-Competitive Methods**

Despite the Board's preference for using competition to determine contract awards under the standard acquisition methods described above, special circumstances may exist where goods or services must be acquired through alternate methods.

The following alternative methods describe the special circumstances under which the Board may procure goods or services with limited or no competition. Except for methods 7 through 12, the facts and circumstances supporting the contracting method must be documented in writing and approved in accordance with the Board's [Procurement Procedures](#), before the contract is awarded.

1. **Sole source.** This method may be used when goods or services are economically available from only one responsible vendor and no other type of good or service will satisfy the Board's requirements. Extending the scope or term of an existing contract under this method is permissible only if it can be shown that award to another vendor is likely to result in substantial duplication of cost to the Board, and that those costs are not expected to be recovered through competition.

Procurements made under this method must be requested by the director of the division or office funding the procurement and will be permitted only if approved by the CAO. If the annual cost of the procurement exceeds \$100,000, the CAO must obtain input from the Legal Division prior to reaching a decision on the request. However, if the request is made by the CFO for any amount or if the request is made by the General Counsel for an annual cost that exceeds \$100,000, the COO must decide whether a sole source contract award is appropriate.

2. **Exigency.** This method may be used when the need for the goods or services is of such an unusual and compelling urgency that the Board could incur material risk, financial loss or injury if standard acquisition methods were used. Lack of advance planning in performing market research or initiating a standard acquisition method does not justify an exigency purchase. Further, even when an exigency circumstance is established, the term and scope of the exigency-based contract should be minimized to the length of time that mitigates the Board's immediate risks. On-going need for goods or services after the exigency period should be accomplished under a standard acquisition method unless another non-competitive purchase method is approved. Procurements made under this method must be requested by the director of the division or office funding the procurement and decided under the same rubric as set forth for sole source requests.

3. **Acquisitions using the National Procurement Office or the Federal Reserve Information Technology Office.** When the Board is purchasing the same goods or services as the National Procurement Office (NPO) or the Federal Reserve Information Technology office (FRIT), and the CAO has determined there is a need for substantial similarity between the Board and the Reserve Banks in the use of those goods or services, the Board may acquire such goods or services from the contractor selected by the NPO or FRIT without further competition. The CAO must consult with the Legal Division prior to making such a determination when the procurement exceeds \$200,000 annually.
4. **Research materials and information-service subscriptions.** Divisions or offices may procure without competition research materials and subscriptions to information services and publications that contain unique editorial content or that provide compilations of data or information in a way or format that the acquiring division or office deems necessary to fulfilling its business functions.
5. **Experts and neutrals for litigation.** The COO, on behalf of the Office of Diversity and Inclusion, and the General Counsel, on behalf of the Legal Division, may approve non-competitive procurement of services from experts or neutrals (such as mediators or arbitrators) determined necessary to assist in the analysis, preparation, presentation, defense, or resolution of actual or reasonably anticipated litigation or dispute in which the Board is, or is likely to be, a party.
6. **Directed purchase.** Occasionally, due to certain circumstances, an acquiring division or office may find it necessary to acquire goods or services without competition for situations other than those listed as non-competitive methods 1 through 5, above. In those situations, requests and justifications for a directed purchase must be in writing.

Except for procurements requested by the Division of Financial Management and the Office of the Chief Operating Officer, the CFO is authorized to approve directed purchases whose total contract value (i.e., the total cost of the contract including all option periods) does not exceed \$250,000. All requests by the Division of Financial Management must be decided by the COO. The COO is authorized to approve directed purchases up to a total contract value of \$1,000,000, provided that prior notification has been given to the Administrative Governor for any directed purchase whose total contract value exceeds \$250,000.

All requests from the Office of the Chief Operating Officer and requests whose total contract value exceeds \$1,000,000 must be decided by the Administrative Governor. In addition, the CAO will submit a summary of all approved directed purchases to the Administrative Governor every six months.

7. **Agreements between the Board and one or more of the Federal Reserve Banks.** Legal Division review of these agreements is required, regardless of the expected annual cost.
8. **Agreements with other federal, state, or local government entities (such as Interagency Agreements, Memoranda of Understanding, or Memoranda of Agreement).** Legal Division review of these agreements is required, regardless of the expected annual cost.



9. **Agreements with visiting scholar(s) or subject matter expert(s) to speak at official Board events.** These services are obtained by letter agreement and must be for an amount under \$10,000 per event, and must not exceed four (4) official Board events per scholar or expert, per calendar year. The \$10,000 per event not-to-exceed amount includes any reimbursement for travel costs associated with the event(s) that are approved by the COTR in accordance with the Board's [Travel policy](#).
10. **Detail agreements.** These services involve the temporary assignment of Board employees to another governmental entity or of another governmental entity's employee to the Board. The agreement covers matters such as the term and purpose of the detail, who has responsibility for compensating the detailed employee, and how the employee's performance will be evaluated. Legal Division review of these agreements is required, regardless of the expected annual cost.
11. **Purchase or lease of real property.** When real property is purchased or leased pursuant to the Board's [Relocation policy](#), the procedures thereunder apply, and there is no competition requirement or additional approval process imposed by this Acquisition policy. All other purchases of real property require approval by the Board of Governors. Leases of real property that do not arise from the Board's Relocation policy and whose initial lease term exceeds \$1,000,000 must be approved by the CAO in consultation with the General Counsel and be in compliance with the Board's [Procurement Procedures](#).
12. **Memberships and training.** When the Board's participation in a group or organization incurs a membership fee, approval from the division director of the employee(s) who will be representing the Board's interest in such group or organization is necessary if such group or organization is selected without using a standard (competitive) acquisition method. When a Board employee attends training provided by an outside party and incurs a fee, approval from the division director of the employee is required if the fee is paid by way of a Board purchase order issued by Procurement.

## **Contract Administration**

### **A. Roles and Responsibilities**

1. The Procurement Function shall document the acquisition process in the contract file as per the requirements in the Board's [Procurement Procedures](#).
2. The division or office funding the contract must designate a COTR to act as the CO's representative to perform specific functions under awarded contracts. The COTR normally represents the CO in administering technical and program details within the scope of the contract. If more than one division or office is funding a contract, the CO will designate the COTR.
  - a. Any employee designated as a COTR must take a Board-sponsored or Board-approved course on COTR responsibilities. If the employee has not already completed the course prior to commencing COTR responsibilities, the employee must take the course within six months of designation as a COTR.
  - b. The COTR is responsible for keeping the CO apprised of the status of the contract, for performing necessary inspections, and for accepting goods or services. The COTR reviews invoices and decides whether to approve them for payment. The COTR is



required to maintain all documentation needed to support payments and contractor performance.

- c. The COTR is not authorized to make any representations or commitments of any kind on behalf of the CO or the Board. The COTR does not have the authority to alter the contractor's obligations or change the terms and conditions of any contract. Any changes to a contract, including a modification or change order, must be issued in writing and signed by the CO.

## **B. Release of Acquisition Information**

Information concerning proposed acquisitions may not be released to any vendor except through the Procurement Function or with the CO's prior consent. If information concerning proposed acquisitions is inappropriately provided to vendors and the vendor would obtain an unfair competitive advantage over other vendors, the vendor receiving such advantage may be disqualified from being awarded the contract.

Until an award is made, any information contained in bids or proposals and other information concerning the award shall not be released to any person except Board staff directly involved in the evaluation and selection process. Additionally, where technical ability is being considered in addition to price, the bidders' price proposals may not be viewed by any member of the technical evaluation panel prior to the establishment of all bidders' technical scores. After an award is made, information may be disclosed if required under the Freedom of Information Act (FOIA) or other applicable law.

## **C. Reporting of Anticompetitive Practices**

Whenever the Procurement Function or other individuals involved in the procurement process have reason to believe that collusion or any anticompetitive or unlawful practice has occurred, a written notice of the relevant facts should be sent to the Board's Office of Inspector General.

## **D. Ethics Issues**

For ethics issues such as conflicts of interest, refer to the Board's [Ethical Conduct policy](#) or contact the Board's designated agency [ethics official](#).

## **E. Knowledge of Acquisition Policy, Procedures, and Related Guidelines**

All Procurement Function staff, division or office administrators, COTRs, and authorized users of P-Cards should have a thorough understanding of the Board's Acquisition policy, [Procurement Procedures](#), as well as other related policies, including the Board's [Ethical Conduct policy](#), the [Small and Disadvantaged Business Acquisition policy](#), the [Supplier Diversity policy](#), and the *Procurement Manual for Technical Personnel*. In addition to semiannual training of COTRs, the Procurement Function will offer periodic training on the Acquisition policy and [Procurement Procedures](#).

## **Contract Drafting**

The division or office requesting an acquisition will work with the Procurement Function to draft, review, and approve the SOW and any other description of the product and/or services to be acquired. The COTR will be responsible for ensuring that the appropriate review within the acquiring division or office has been conducted.

## **A. Standard for Developing Specifications**

Plans, drawings, specifications, standards, purchase descriptions, and “brand-name or equal” descriptions for acquisitions should seek to promote economy and encourage competition in satisfying the Board’s needs and should not be designed for the purpose of steering work to a particular vendor.

## **B. Required Contract Clauses**

Clauses addressing the following issues must be included in all Board contracts, unless the Board’s CAO has expressly waived the Board’s rights regarding such issues. Attachment 1 to the [Procurement Procedures](#) on the Procurement Function’s [website](#) sets forth the standard language that should be included in the contract; however, if the vendor to whom the contract will be awarded requests non-substantive changes to such language, the CO may make such changes if he or she deems the changes to be reasonable and within the business interests of the Board.

The CAO, in consultation with the Legal Division, may make substantive changes to these clauses or may expressly waive the Board’s rights regarding any of the following issues if the CAO determines that the business risk of making the change or waiver is outweighed by a compelling business need to award a contract on such terms:

1. Termination for convenience
2. Default termination
3. Protests
4. Disputes
5. Indemnification and liability limits
6. Non-publicity
7. Governing law and jurisdiction
8. Funding and payment

## **Responsibility**

The Division of [Financial Management, Procurement Function](#), administers this policy. This policy will be reviewed and updated as needed.

## **References**

[Delegations of Administrative Authority](#)

[Ethical Conduct Policy](#)

[Small and Disadvantaged Business Acquisition Policy](#)

[Supplier Diversity Policy](#)

[Procurement Manual for Technical Personnel](#)

[Procurement Procedures](#)

# APPENDIX F

## Acquisition Procedures





BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
PROCEDURES

Approved by *Christine M. Fields*  
Date: *August 28, 2015*

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ACQUISITION PROCEDURES

**1 GENERAL PURPOSE**

This document contains the desk instructions for processing purchase requisitions and the resulting contracts in accordance with the Board's Acquisition and Small and Disadvantaged Business policies. The Purchase Card Procedures is covered under a separate document.

**2 DEFINITIONS**

*Acquisition* is the Board's purchase of goods, services, or real property for use in conducting the operations of the Board as approved in the Board's budget or by an authorized program change request. It includes all functions pertaining to the purchasing process, including the description of requirements, the solicitation and selection of sources, the award of contracts and purchase orders, and contract administration.

*Chief acquisition officer (CAO)* is the Board officer designated as the head of the procurement function by the Chief Financial Officer.

*Chief financial officer (CFO)* is the Board officer primarily responsible for managing the financial risks of the Board.

*Chief operating officer (COO)* is the Board officer primarily responsible for overseeing the Board's administrative functions.

*Common law employee (CLE)* is an individual who performs services for the Board under a written contract but whom the Legal Division determines is subject to income tax, Social Security, and Medicare (FICA) withholding.

*Contract* is any type of written agreement, regardless of form, for the acquisition of goods, services or real property.

*Contract administration* is the oversight of a contract by the contracting officer or the contracting officer's technical representative in order to ensure that a contractor meets all terms, conditions, and requirements of the Contract.

*Contract assistant* is a procurement individual who tracks procurement activity and ensures that permanent records are complete.



*Contracting officer (CO)* means a Board employee who has the required delegated procurement authority to sign Contracts on behalf of the Board.

*Contracting officer's technical representative (COTR)* is an authorized representative of the CO who is acting within a scope of authority as delegated by the CO.

*Control (C)* is a process designed to provide reasonable assurance regarding efficiency and effectiveness of operations, reliability of financial reporting, and compliance with applicable laws and regulations.

*Covered company* means a firm qualified as a small business concern under the Small Business Act (15 USC 632) and regulations thereunder, including (1) business concerns that meet the size eligibility standards set forth in 13 CFR 121; (2) small business concerns owned and controlled by veterans or service-disabled veterans as defined by 15 USC 632(q); (3) qualified HUB Zone small business concerns pursuant to 15 USC 632(p) and 13 CFR 126; (4) socially and economically disadvantaged small business concerns as defined by 15 USC 637 and certified as such under 13 CFR 124; and (5) small business concerns owned and controlled by women as defined by 15 USC 632(n).

*Division* is the functional structure utilized by the Board to accomplish its missions. This functional structure includes both divisions and offices.

*Division Administrator (DA)* is the individual designated by a division's director to handle administrative matters for that division. DAs may enter purchase requisitions into Oracle but have read-only access to purchase orders.

*End user* is the primary individual or group employed by the Board who uses the service or product to be purchased.

*Key control (KC)* provides a relatively high degree of assurance that adequate protection exists to prevent or detect a significant exposure that could result in a significant loss of assets or reputation to the Board. A key control ensures management that a business process is working appropriately.

*National Procurement Office (NPO)* is an organization that negotiates contracts on behalf of the twelve Reserve Banks in the Federal Reserve System.

*Procurement authority* is the authority to enter into Contracts on behalf of the Board.

*Procurement function (Procurement)* is a Division of Financial Management function that facilitates the acquisition of goods and services and ensures adherence to the procurement policies of the Board.

*Program Change Request (PCR)* is a written request to change the current mission, organization, or approved resources of an individual cost center or division when the thresholds are met.

*Purchase order (PO)* is a contract short-form document between the Board and a vendor that is produced from the Board's automated procurement system.

*Purchase requisition (PR)* is the authorizing document used to commit funds for the purchase of goods, services, or real property.

*Request for information (RFI)* is a formal process designed to gather market information to better inform end-users about the current market realities and how best to acquire certain items.

*Request for quote (RFQ)* is a formal process inviting suppliers to bid on specific products or services.

*Responsible vendor* is a vendor who, in the Board's opinion, possesses the skill, ability, integrity and financial and other resources necessary for the complete performance of the work and who has complied with all required qualifications set forth in an RFQ or SOA.

*Responsive vendor* is a vendor who has submitted a bid or proposal that conforms in all material respects to the requirements of an RFQ or SOA.

*Services* are the furnishing of labor, time, or effort by a vendor, but does not mean the furnishing of construction or supplies.

*Small and disadvantaged business (SDB)* is a company that is majority-owned by a protected class and is favored in competitive procurements based on guidelines established in the Board's SDB acquisition policy.

*Solicitation, offer, and award (SOA)* is the Board's solicitation for a proposal and terms for performance, which becomes the Contract when the Board's CO countersigns the SOA form of the vendor who is selected to perform the work. The SOA may contain language that incorporates the vendor's proposal into the terms of the Contract.

*Statement of Work (SOW)* is the document that describes and defines the work activities and deliverables a vendor must provide in order to successfully perform the Contract. The SOW may also include the timeframes for performing the work. If an SOA is used as the Contract, the SOW is part of the SOA. An SOW may be one section of an SOA, or its own standalone attachment to a PO.

*Supplier* is a company that provides supplies or services to the Board, also called vendor.

*Supplies* are property except for real property. Supplies include furniture and equipment.

### **3 AUTHORIZATION**

- 3.1 The Board's Chief Operations Officer (COO), Chief Financial Officer (CFO) and Chief Acquisitions Officer (CAO) have the authority to procure goods and services, or real property for use in conducting the Board operations as approved in the budget or by an authorized program change request. All contracts must be initiated, finalized and administered by Procurement.

- 3.1.1 The CAO may further delegate that authority, as stated below:

- 3.1.1.1 The CAO may re-delegate Procurement authority to staff in the Research and Legal libraries who are authorized to procure books, periodicals, data, and other materials, including electronic resources. Purchases may be made without further review or approval provided the total cost does not exceed \$50k for any individual purchase. These purchases shall not be artificially divided to permit use of this delegated authority.
  - 3.1.1.2 The CAO re-delegates to staff that are authorized to use the Board's P-card to procure items under their purchase card limits as set forth in the Board's Purchase Card Procedures. Any contracts resulting from P-card purchases are administered by the acquiring division, unless the acquiring division requests that Procurement be responsible for administering the contract.
  - 3.1.1.3 The Board's Inspector General may procure goods and services for use in conducting the operations of the office that are not subject to further review or approval when the Inspector General warrants it's an operational necessity. In all other cases, normal Board procurement procedures will be used if the office uses the Board to procure the items or services.
- 3.2 Each division establishes a routing cycle and signature authority level for the release of PRs. The requestor routes purchase requisitions and related documents/requirements to relevant end users and documents approval per division delegation of authority level before releasing the requisition to Procurement.
- 3.3 The PO procurement authorities regardless of originating division are as follows:
- 3.3.1 CO as stated in the most recent delegation memo from the CAO.
  - 3.3.2 Manager up to \$750k.
  - 3.3.3 CAO has unlimited authority.

Note: In the absence of all higher levels of authority, procurement staff may act in accordance with a higher procurement level with appropriate notation in the contract file.

#### **4 LIMITATIONS/EXCEPTIONS**

- 4.1 To ensure that the Board obtains the highest quality goods and services for the best available price, one of the standard acquisition methods must be used unless the conditions for a non-competitive purchase are met. (See section 5.3:Non-competitive purchases for further clarification.)
- 4.2 Acquisitions shall not be artificially divided to permit the use of procedures that apply at or below a certain threshold value.
- 4.3 Standard acquisition methods to award contracts are:
  - 4.3.1 Formal bidding: If no technical evaluation is needed, the contract is awarded to the lowest priced, responsible vendor whose bid meets all the terms and conditions of the request for bid and the vendor provided a price quotation through a formal request and bid submission process.
  - 4.3.2 Negotiated Procurement: This method is used when price and other evaluation factors such as technical ability contribute to determining which vendor represents the best value to the Board and there are significant tradeoffs in the quality, price, vendor

support, timeliness and reliability of the goods or services being acquired. The contract is awarded to the responsible vendor whose proposal is most advantageous to the Board, considering price and other factors set forth in a solicitation.

4.3.3 Acquisitions from the General Services Administration Federal Supply Schedule or other Federal contract schedule: The Board may purchase the goods and services listed on a vendor's GSA Schedule contract without considering other vendors, except with purchasing services that are priced and provided on an hourly basis.

4.3.3.1 For hourly priced services, the CO should attempt to obtain at least three quotations and determine which one best meets the Board's needs.

4.3.3.2 If the hourly priced contract is not awarded to the low price bidder, the acquiring division shall provide a memorandum explaining the basis for the award.

4.3.3.3 For any GSA Schedule vendor, the CO may negotiate a more favorable price than what is listed in the GSA Schedule, including the addition of non-schedule items, if the price for all schedule and non-schedule items does not exceed the price of the schedule items alone.

4.3.3.4 The CO may purchase goods and services listed on another federal agency's contract or government-wide schedules in the same manner as set forth above for the GSA Schedule purchases, provided the Legal Division has determined that such contracts or schedules operate in a manner that is consistent with the GSA Schedule.

4.4 Contracts issued by the Board cannot exceed a 60 month term. This 60 month maximum term includes the initial contract term and all options, if exercised. The initial contract term can only include the period of time from the effective date to the end of the Board's next fiscal year. The exceptions are as follows:

4.4.1 Leases for property that are covered in the Board's Acquisition's Policy, section IV. Acquisition Guidelines, B. Purchase or lease of real property.

4.4.2 Purchases for capital assets or goods and services that the requesting division has had prior approval from the CAO.

4.4.3 Memorandums of Understanding (MOUs)

4.4.4 Inter-Agency Agreements (IAAs)

4.5 Micro-purchases: When goods or services have a total annual cost of < \$5k, informal price and/or quality comparisons are encouraged, but not required. P-Cards may be used for small dollar values to minimize the Board's administrative costs. However, since documentation of the terms of purchase is minimal, P-Cards may not be used for services > \$2.5k annually. (See Board's Purchase Card Procedures for further clarification.)

## 5 PROCEDURES

### 5.1 Purchase Order Procedures

#### 5.1.1 PR Preparation – Division Responsibilities:

5.1.1.1 End User determines requirement and directs Division Administrator (DA) or authorized individual to prepare the PR and enter it into Oracle.

5.1.1.2 Information in a PR: A PR includes the following, as necessary:

5.1.1.2.1 SOW, specifications, drawings, or common law employee forms.

5.1.1.2.2 Evaluation criteria

- 5.1.1.2.3 Sole source, exigency, confirming order memo, or directed purchase must be approved by the requesting division director and e-mailed or mailed to Procurement manager.
- 5.1.1.2.4 COTR's name-in the requestor's field
- 5.1.1.2.5 COTR form, if applicable. (See "COTR Form" - Internal Web\Procurement\Templates)
- 5.1.1.2.6 Estimate of cost or price.
  - 5.1.1.2.6.1 The PR is the division's official notification to Procurement that the division has approved the purchase and that budget funds are available.
  - 5.1.1.2.6.2 Procurement will not accept budget placeholders of \$1.00, except in the cases of Basic Ordering Agreement (BOA) renewals or similar contract actions related to BOAs.
  - 5.1.1.2.6.3 The budget amount also triggers review thresholds.
- 5.1.1.2.7 The CO obtains a Capital Purchase Information form when applicable from the COTR, e-mails a copy to accounting, and keeps a copy in the procurement file.
- 5.1.1.2.8 Prior to PO placement, if the estimate on the PR is less than the quote, then the PR is returned or a second PR is required to make up the difference.
- 5.1.1.2.9 (C) The CO ensures that a PR or PRs exist which fully authorizes the funds on a PO.
- 5.1.1.3 (KC) Route PR through the automated division approval cycle as defined by the divisions' procedures as established in Oracle.
- 5.1.1.4 (KC) COTR ensures appropriate level division management from all impacted divisions review the SOW and evaluation criteria for accuracy and completeness.
- 5.1.1.5 All PRs with annual value  $\leq$  \$200k and have been approved through the Board's automated purchasing system will go directly to Procurement.
- 5.1.1.6 (C) Route PRs  $>$  \$200k to Planning and Budgeting (PAB) for approval and then to Procurement.
  - 5.1.1.6.1 (KC) PAB ensures the PR contains the correct accounting code and reviews whether project scope is consistent with division's allocated budget.
- 5.1.1.7 (C) Accounting reviews all capital items for appropriateness of capitalization in accordance with GAAP. ( See Property Management procedures.)
- 5.1.1.8 (C) Buy American Act - When a purchase greater than the micro purchase threshold (\$5k) is solely or primarily for products, end users identify whether the products are domestic or foreign-made.
  - 5.1.1.8.1 If the purchase is  $\leq$  \$175k, the end user also identifies the product's country of origin.
  - 5.1.1.8.2 A written waiver from the Director of Division of Financial Management is required for the purchase of foreign-made goods between \$5k and less than or equal to \$175k, and may be required for certain foreign-made goods  $>$  \$175k.
- 5.1.1.9 (C) Section 508 of the Rehabilitation Act- applies when the Board procures electronic and information technology (EIT). The end user and the CO must ensure that the EIT allows individuals with disabilities to have access to and use of the information and data that is comparable to that which the Board provides

to individuals without disabilities, unless an undue burden would be imposed on the Board. Section 508 is applicable to EIT used internally by Board staff and to EIT, such as a web site, which the Board makes available to the public.

5.1.1.9.1 If the Board determines that providing the required access would impose an undue burden, Section 508 requires the Board to provide the information and data at issue to the individual with disabilities through an alternative means that permits the individual to have access to and use of the data. A determination of the undue burden must be documented by the end user and approved by Legal.

5.1.1.9.2 The standards issued by the U.S. Access Board set out how EIT is required to comply with Section 508. EIT that complies with these standards fulfills an agency's obligation to provide comparable access to those with disabilities. These standards and further information on section 508 are located on the Board's Section 508 web site at <http://fedweb.frb.gov/fedweb/boardlirm/sec508/about508.htm>.

#### 5.1.2 PR Receipt By Procurement:

5.1.2.1 The procurement manager or supervisor procurement programs determines the complexity of PR and assigns to staff member. If PR information is complete, the due date is determined based on complexity. (See "Procurement Review Standards" - Internal Web\Procurement\Reports).

5.1.2.2 Contract assistant enters PR into the tracking spreadsheet and sends the spreadsheet to designated list via e-mail.

5.1.2.3 (C) Manager and supervisors review tracking spreadsheet daily to ensure procurement projects are on time and to discuss any policy or procedural interpretations.

5.1.2.4 (C) On completed projects, the manager ensures the CO sends the final contract/modification to the COTR.

#### 5.1.3 Solicitation Process:

5.1.3.1 CO determines initial procurement method based on the following factors:

5.1.3.1.1 If  $\leq$  \$25k, oral solicitations are acceptable if all offers are technically the same. CO solicits 3 bids, informs vendors of factors on which award is based, and maintains record of e-mail or faxed bids.

5.1.3.1.2 If  $>$  \$25k, use written documentation. CO solicits 3 bids via fax or other written means, informs vendors of factors on which awards are based, and maintains records to document bids. As a rule, CO uses a RFQ for commodity purchases that only require a price. CO uses a SOA when there is a statement of work or other complex issue such as a technical evaluation. (See section Solicitation, Offer and Award of these procedures for further discussion of this process.)

5.1.3.1.3 Bids from a SDB should be included in the competition whenever possible.

5.1.3.1.4 May use GSA schedule for products and services that are not priced hourly with no additional competition.

5.1.3.1.5 When ordering hourly services from the GSA schedule, the CO shall review quotes from at least three contractors and select the one that best meets the Board's needs. If a division does not select the offeror quoting the lowest bid, the division must provide a memorandum to the Procurement section justifying the selection.

- 5.1.3.1.6 Request that vendor complete the Supplier Information Form and W9 form, if a new Vendor. (See "Supplier Information Form and W9" - Internal Web\Procurement\Templates)
- 5.1.3.2 (C) CO reviews vendor evaluations from past procurements to determine whether to exclude a vendor from the competition. CO checks all companies on bidders list on System for Award Management (www.sam.gov/) to ensure no active exclusions apply, and prints results for the contract file.
- 5.1.3.3 CO receives the bidder's quote via phone, fax, electronically, US Mail, or priority mail.
- 5.1.3.4 (C) CO does not share price or cost data with technical evaluation team or to anyone without a need to know until the technical review is complete.
- 5.1.4 PO Preparation Process:
  - 5.1.4.1 (KC) Service Contract Act: For non-professional services, if annual service contract is  $\geq$  \$2.5k, the PO includes Service Contract Act language. (See "Service Contract Act" Internal Web\Procurement\Policies and Regulations)
  - 5.1.4.2 (C) CO reviews prices and consults with pricing analyst if applicable
  - 5.1.4.3 (KC) Small and Disadvantaged Business (SDB):
    - 5.1.4.3.1 For non-SDB contracts, the CO performs the following price calculations, as required by the SDB Act:
      - 5.1.4.3.1.1 If  $\geq$  \$100k, add 3 percent to the cost of bids less than \$500k.
      - 5.1.4.3.1.2 If  $\geq$  \$500k, add 3 percent to the first \$500k, plus 1 percent of any amount over \$500k.
      - 5.1.4.3.1.3 If  $\geq$  \$100k, the CO also includes provision in the solicitation concerning the Board's SDB policy.
    - 5.1.4.3.2 For contracts  $\geq$  \$300k, a subcontract plan to use SDBs is required from non-SDB suppliers, except for services that are personal in nature and construction, which requires a plan  $\geq$  \$500k.
    - 5.1.4.3.3 Price adjustments are not calculated for following acquisitions, even if a covered company is a bidder:
      - 5.1.4.3.3.1 Value of contract is  $\leq$  \$100K.
      - 5.1.4.3.3.2 Acquisition is a set-aside under SDB policy.
      - 5.1.4.3.3.3 Covered company has executed a waiver of the price preference.
      - 5.1.4.3.3.4 Price is not a factor in the evaluation.
      - 5.1.4.3.3.5 Contract is being awarded pursuant to the Trade Agreements Act or another international agreement.
    - 5.1.4.3.4 CO determines if subcontracting possibilities exist for non-SDBs:
      - 5.1.4.3.4.1 Does supplier routinely subcontract part of the work or maintain in-house capability?
      - 5.1.4.3.4.2 Review nature of the supplies or services to be subcontracted.
      - 5.1.4.3.4.3 Are covered companies available in geographical area where the work will be performed?
      - 5.1.4.3.4.4 Contractor's long-standing relationship with its suppliers.
    - 5.1.4.3.5 CO documents determination findings if subcontracting possibilities don't exist. Subcontracting plans are not required from covered companies.
    - 5.1.4.3.6 (C) CO forwards all documents to supervisory contracts analyst for review before sending to Legal.
  - 5.1.4.4 (C) Legal reviews:

- 5.1.4.4.1 New contracts and modifications for sole source and exigency acquisitions with annual cost that is  $\geq$  \$100k.
- 5.1.4.4.2 New NPO contracts with annual cost  $>$  \$200k.
  - 5.1.4.4.2.1 **Note:** The Board writes its own contract/PO even if using a NPO contract as a basis.
- 5.1.4.4.3 All procurements with annual cost  $>$  \$200k.
  - 5.1.4.4.3.1 POs after CO solicits bids, but before CO signs or issues PO.
  - 5.1.4.4.3.2 SOAs before they are issued to request proposals.
- 5.1.4.4.4 Any written agreement or contracts that involve copyrights, patents, other intellectual property, indemnification obligations, application of foreign law, or waivers or disclaimers of liability matters regardless of amount, such as all inter-agency contracts, and research material and information-service subscription purchases.
- 5.1.4.4.5 Conference and hotel space agreements that include terms that conflict with or deviate from the Board's standard terms/provisions.
- 5.1.4.4.6 Before a PO is issued to intended contractor, except in following instances:
  - 5.1.4.4.6.1 Exercise of an option year that was pre-priced when the contract was formed and SOA was reviewed by Legal and no additional modifications are made beyond the option year exercise.
  - 5.1.4.4.6.2 Issuance of a task order against a basic ordering agreement (BOA) where the initial BOA was reviewed by Legal and the task order is within the approved scope of work.
- 5.1.4.4.7 (C) Legal checks these contracts for compliance with the Board's policies, federal contract law, general law, the risk of a challenge by an unsuccessful bidder, and general risk assessment.
- 5.1.4.4.8 **Note:** Legal review of directed procurements is not required, but may be requested.
- 5.1.4.5 Tracking timeliness: CO e-mails contract assistant with interim and final due dates along with the following as the procurement progresses:
  - 5.1.4.5.1 Informationally-complete date
  - 5.1.4.5.2 Any issues that would delay schedule
  - 5.1.4.5.3 Any issues that would necessitate increasing the level of complexity
  - 5.1.4.5.4 Date sent to Legal/date received back from Legal
  - 5.1.4.5.5 Date sent to vendor/date due/received back from vendor
  - 5.1.4.5.6 Date completed
  - 5.1.4.5.7 Date contract sent to COTR
- 5.1.5 Award Administration Process:
  - 5.1.5.1 CO inputs notes on prices and competition into Oracle. At a minimum, the following information is entered into Oracle:
    - 5.1.5.1.1 Price
    - 5.1.5.1.2 Option years, which must be priced except for:
      - 5.1.5.1.2.1 Government agencies
      - 5.1.5.1.2.2 Software licensing
    - 5.1.5.1.3 COTR
    - 5.1.5.1.4 Original contract date
    - 5.1.5.1.5 Current contract date



- 5.1.5.1.6 Contract expiration date and contract maximum date if there are option years.
- 5.1.5.1.7 Compliance fields: Sole source and Buy American Act
- 5.1.5.1.8 Shipments: Match Approve Level as appropriate, the CO sets this at
  - 5.1.5.1.8.1 2-Way: does not require a receipt, and invoices are e-routed for approval.
  - 5.1.5.1.8.2 3-Way: (default) requires a receipt for invoice validation and approval.
- 5.1.5.2 CO finalizes award by:
  - 5.1.5.2.1 (KC) Approving PO in Oracle; and
  - 5.1.5.2.2 (C) Signing a hard copy of contract, if applicable.
- 5.1.5.3 CO e-mails/faxes PO to vendor.
- 5.1.5.4 CO sends an e-mail to end user and the contract assistant that the PO was issued, referencing the PR/PO number.
- 5.1.5.5 CO notifies losing bidders via e-mail.
- 5.1.5.6 CO or contract assistant issues PO/contract to vendor.

## 5.2 File Administration

- 5.2.1 The contract assistant sets up PO/contract file that includes:
  - 5.2.1.1 Copy of PO/contract;
  - 5.2.1.2 Notes on pricing and competition;
  - 5.2.1.3 All related documentation such as:
    - 5.2.1.3.1 Sole source memo;
    - 5.2.1.3.2 Confirming order memo;
    - 5.2.1.3.3 Exigency memo;
    - 5.2.1.3.4 Directed procurement memo;
    - 5.2.1.3.5 Agreements (Detail, Visiting Scholar, IAAs, MOUs, Memo of Agreements, FR Banks);
    - 5.2.1.3.6 Common law employee form;
    - 5.2.1.3.7 Buy American Act waivers;
    - 5.2.1.3.8 Contract letters;
    - 5.2.1.3.9 Contractor performance evaluation (See "Contractor Performance Evaluation" - Internal Web\Procurement\Templates.)
- 5.2.2 Contract assistant saves documents on section's shared drive that could include the following:
  - 5.2.2.1 Sole source memos;
  - 5.2.2.2 Confirming order memos;
  - 5.2.2.3 Exigency memos;
  - 5.2.2.4 Directed procurement memos;
  - 5.2.2.5 Research materials and information-service subscriptions;
  - 5.2.2.6 Agreements (Detail, Visiting Scholar, IAAs, MOUs, Memo of Agreements, FR Banks);
  - 5.2.2.7 Common law employee;
  - 5.2.2.8 Buy American Act waivers;
  - 5.2.2.9 National Procurement Office contracts;
  - 5.2.2.10 Purchase or lease of real property;
  - 5.2.2.11 Contractor performance evaluations.
- 5.2.3 Permanent Records:

- 5.2.3.1 The contract assistant forwards one complete copy of contract documents to the Board's Records section for entry into FIRMA.
  - 5.2.3.1.1 Note: PO is not sent to FIRMA since it's stored in Oracle.
- 5.2.3.2 The contract assistant maintains a list of all files sent to the Board's Records section for offsite storage, which includes the following information:
  - 5.2.3.2.1 Supplier name;
  - 5.2.3.2.2 Contract number and Mod number;
  - 5.2.3.2.3 Description;
  - 5.2.3.2.4 Dollar value; and
  - 5.2.3.2.5 Date sent.
- 5.2.4 Records Retention
  - 5.2.4.1 The retention period<sup>1</sup> for all procurement records is 6 years and 3 months. Procurement records include, but are not limited to, the following:
    - 5.2.4.1.1 Contracts;
    - 5.2.4.1.2 Requisitions;
    - 5.2.4.1.3 Purchase orders;
    - 5.2.4.1.4 Interagency agreements;
    - 5.2.4.1.5 Memoranda of agreement specifying a financial obligation;
    - 5.2.4.1.6 Hotel/conference contracts/POs;
    - 5.2.4.1.7 Solicitations/requests for bids, quotations or proposals for contracts
    - 5.2.4.1.8 Proposals, quotations, bids (accepted, rejected, unopened) for contracts
    - 5.2.4.1.9 contingent fee justifications;
    - 5.2.4.1.10 FAIR Act (A-76) records linked directly to specific procurement actions
    - 5.2.4.1.11 Credit card/purchase card/charge card statements and supporting documentation;
    - 5.2.4.1.12 Vendor tax exemption records;
    - 5.2.4.1.13 Invoices;
    - 5.2.4.1.14 Leases;
    - 5.2.4.1.15 Documentation of contractual administrative requirements submitted by contractors, such as status reports;
    - 5.2.4.1.16 Correspondence and papers pertaining to award, administration, receipt, inspection of and payment for goods and services; and
    - 5.2.4.1.17 Records of financing employee relocations.
  - 5.2.4.2 For purchases procured by Procurement Function staff, a copy of the records will be retained in the contract file.
  - 5.2.4.3 All procurement files and any unique documentation made by divisions without the Procurement Section are also retained for 6 years and 3 months.
  - 5.2.4.4 Financial transaction records include those created in the course of procuring goods and services, paying bills, collecting debts, and accounting for all finance activity.
  - 5.2.4.5 Documentation may be destroyed 6 years and 3 months after final payment or contract cancellation, but longer retention is authorized if required for business use.
    - 5.2.4.5.1 See Appendix J – Information Classification and Handling Standard, IT Division, for instructions on destroying printed and digital information.

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<sup>1</sup> The National Archives and Records Administration: General Records Schedule 1.1; sets the retention period for procurement and contracting records.

### 5.3 Non-Competitive Purchases:

Special circumstances may exist where goods and services are acquired through alternate non-competitive methods. The following alternative methods describe situations where the Board may procure goods and services with limited or no competition. All methods, except for the Agreements section below, must include the facts and circumstances to support the contracting method, document in writing, and approvals in accordance with these procedures before the PO/contract is awarded.

#### 5.3.1 (C) Legal reviews non-competitive acquisitions before any other written contract is assigned, including:

- 5.3.1.1 Sole source and exigency acquisitions with annual cost > \$100k;
- 5.3.1.2 Acquisitions with annual cost > \$200k, including NPO;
- 5.3.1.3 All following contracts/agreements regardless of amount:
  - 5.3.1.3.1 Inter-agency contracts;
  - 5.3.1.3.2 Research materials and information-service subscriptions.
  - 5.3.1.3.3 Federal Reserve Bank agreements;
  - 5.3.1.3.4 Detail agreements;
  - 5.3.1.3.5 Purchase and lease of real property: Lease agreements, if initial term > \$1M;
  - 5.3.1.3.6 Any contracts involving copyrights, patents, other intellectual property matters, indemnification obligations, application of foreign law, or waivers or disclaimers of liability.

#### 5.3.2 Sole Source/Exigency Process: (1) Sole source requests are submitted when the goods or services are economically available from only one vendor and no other type of goods or services will satisfy the Board's requirement; (2) The exigency method is used when urgent circumstances arise and need to be corrected immediately to reduce material risk, financial loss, or injury to the Board if standard acquisition methods were used.

- 5.3.2.1 Exigency expenses are not included in budgeted funds and lack of advance planning does not justify an exigency purchase. The division details written request for exigency purchases which includes the (1) project description; (2) justification; (3) recommendation that includes cost to correct the problem; and (4) assurance that term of contract does not extend beyond time to correct the problem.
- 5.3.2.2 COTR initiates sole source memo for procurements > \$5k and obtains approval for up to five years for sole source acquisitions from the appropriate division director or designated officer before sending to Procurement. (See "Sole Source Justification"- Internal Web\Procurement\Templates.)
- 5.3.2.3 Division officer e-mails or mails justification to Procurement manager.
- 5.3.2.4 (C) Procurement manager performs the following steps: (1) confirms authority of division officer requesting the acquisition; and (2) reviews the sole source/exigency information for accuracy and completion before submitting for approval.
- 5.3.2.5 Only the director of division funding the procurement may originate a sole source/exigency request.
- 5.3.2.6 (C) Approval of sole source and exigency procurements:
  - 5.3.2.6.1 If > \$5k and <= \$100k - CAO approves acquisition.

- 5.3.2.6.2 If total annual cost > \$100k, the CAO will obtain Legal review prior to approving the request.
  - 5.3.2.6.3 The COO and Legal approve proposals from DFM.
  - 5.3.2.6.4 The administrative governor approves all confirming order memos, sole source and exigency procurements requested by the Office of Chief Operating Officer.
  - 5.3.2.7 CAO e-mails approval or rejection to Procurement manager.
  - 5.3.2.8 If CAO or Legal denies request:
    - 5.3.2.8.1 The originating division director may appeal the denial to the CFO, whose decision on appeal is final;
    - 5.3.2.8.2 The CO notifies the COTR who either rewrites the sole source/exigency to clarify the point(s) that lead to its rejection and resubmits or works with the CO to develop a bidder's list to compete the procurement.
  - 5.3.2.9 Procurement manager forwards approved sole source/exigency to contract assistant and CO.
  - 5.3.2.10 CO prepares PO while sole source/exigency is in review/approval stage.
  - 5.3.2.11 CO awaits written approval before issuing PO.
- 5.3.3 National Procurement Office (NPO) or Federal Reserve Information Technology (FRIT) Contract
- 5.3.3.1 When the Board is purchasing the same goods or services as the NPO or FRIT office, the Board may non-competitively select the NPO or FRIT vendor if a need for substantial similarity is established and approved by the CAO, even if NPO or FRIT selected that vendor non-competitively.
  - 5.3.3.2 (C) If < = \$200k annually, CAO approval is needed.
  - 5.3.3.3 (C) If > \$200k annually, CAO consults with the Associate General Counsel for Litigation, Enforcement and System Matters prior to acquisition.
- 5.3.4 Research Materials and Information-Service Subscriptions.
- 5.3.4.1 Divisions or offices may procure without competition research materials and subscriptions to information services and publications that contain unique editorial content or that provide compilations of data or information in a way or format that the acquiring division deems necessary to fulfilling its business functions.
  - 5.3.4.2 (C) If > \$5k and < = \$100k annual acquisition, CAO approves
  - 5.3.4.3 (C) If > \$100k annual acquisition, CAO obtains Associate General Counsel for Litigation, Enforcement and System Matters review prior to approving.
- 5.3.5 Confirming Order Memo
- This process will document an acquisition of goods or services when the acquiring division failed to submit the required purchase requisition and documentation to Procurement for processing before acquiring the goods or services.
- 5.3.5.1 COTR initiates a confirming order memo requesting that Procurement take action to remedy the division's failure to submit the required justification to Procurement for processing and memorialize the acquisition. The confirming order memo includes the required justification for the acquisition of any capital goods or services.
  - 5.3.5.2 (C) COTR's division director approves and e-mails the confirming order memo to the Procurement manager, contract assistant, and CAO for review.

- 5.3.5.3 (C) Procurement manager reviews confirming order memo and forwards recommendation to CAO once review is complete.
- 5.3.5.4 (C) CAO reviews and forwards:
  - 5.3.5.4.1 If  $\leq$  \$100k to Director of DFM for approval.
  - 5.3.5.4.2 If  $>$  \$100k sends to Legal to obtain review prior to DFM director approval.
  - 5.3.5.4.3 COO approves all confirming order memos proposed by the Office of DFM.
  - 5.3.5.4.4 Administrative Governor approves all confirming order memos proposed by the COO.
- 5.3.5.5 DFM director e-mails approval response to CAO and Procurement manager.
- 5.3.5.6 Procurement manager e-mails approval response to CO and contract assistant (CA).

#### 5.3.6 Directed Procurement

- 5.3.6.1 In unusual circumstances, an acquiring Division may find it necessary to obtain goods or services without competition when other acquisition procedures are not appropriate. All requests and justifications for a directed procurement must be submitted in writing from the division director.
- 5.3.6.2 (C) The requestor or COTR initiates a directed order memo and obtains the requesting division's appropriate reviews and division director approval.
- 5.3.6.3 The requesting division director e-mails the directed order memo to the Procurement manager for review of memo for completeness and clarity.
- 5.3.6.4 Procurement manager forwards review results to CAO.
- 5.3.6.5 (C) CAO reviews and forwards recommendations for further review as follows:
  - 5.3.6.5.1 If  $\leq$  \$250k annually - DFM director approves directed purchases.
  - 5.3.6.5.2 If  $>$  \$250k annually – COO authorizes directed purchases and from the Office of the DFM.
  - 5.3.6.5.3 Administrative Governor approves all directed purchases proposed by the COO.
  - 5.3.6.5.4 Legal review is not required for directed procurements, but may be requested.
- 5.3.6.6 CAO e-mails approved directed order memo to CO who modifies memo if necessary and adds approval memo to PO file before issuing PO.
- 5.3.6.7 (C) After the purchase, Procurement reviews the purchase to determine if future services should be competed or continued under the current contract.

#### 5.3.7 Agreements

- 5.3.7.1 An agreement is an acquisition of services agreed upon between the Board and FR Banks, and other federal, state or local government entities. These agreements are typically contracts written as Interagency Agreements (IAAs), Memoranda of Understanding (MOU), Memoranda of Agreements (MOA) and detail agreements.
- 5.3.7.2 Procurement staff receive a written request for services and develop the agreement using template developed by Legal.
- 5.3.7.3 (C) The Procurement manager, supervisory contracts analysts, or CAO will review or approve the agreement.
  - 5.3.7.3.1 If  $\leq$  \$750K, Procurement manager or supervisor contracts analyst approves

- 5.3.7.3.2 If > \$750K, CAO approves
- 5.3.7.4 After review and approval, the original agreement is sent to Legal for review before execution.
- 5.3.7.5 Amendments/renewal of agreements, do not require Legal review as long as no changes are made to the agreement.
- 5.3.7.6 CO sends signed or final copies of all Agreements as notification to Accounting AP or AR, depending upon the payment details.
- 5.3.8 Visiting Scholar or Subject Matter Expert(s) to Speak at Official Board Events.
  - 5.3.8.1 (C) The visiting scholar service must not exceed \$10k per event per visiting scholar and must not exceed 4 official Board events per calendar year. The \$10k per event limit amount includes any reimbursement for travel costs associated with the event(s) that are approved by the COTR in accordance with the Board's Travel Policy.  
Note: If contract is > \$10k, it must be covered under a sole source.
  - 5.3.8.2 COTR completes the Visiting Scholar contract letter.
    - 5.3.8.2.1 (C) If contract amount is <= \$10k, the DA creates the requisition.
  - 5.3.8.3 (C) The appropriate division officer reviews and approves before submitting contract document to Procurement.
  - 5.3.8.4 (C) CO reviews requisition and works with COTR and DA to finalize contract documents listed below.
    - 5.3.8.4.1 If CO finds that information is not complete, it's returned to COTR to modify requisition and obtain division approval before resubmitting requisition to CO for another review and approval
    - 5.3.8.4.2 When contract is complete, the CO creates PO, then finalizes PO and letter contract and approves PO.
  - 5.3.8.5 Upon approval, the CO contacts Accounts Payable section for payment details.
  - 5.3.8.6 CO sends visiting scholar a copy of following signed forms and documentation:
    - 5.3.8.6.1 COTR Acknowledgment Form (To identify COTR)
    - 5.3.8.6.2 Non-Benefits Eligible Form (To be signed and returned to CO)
    - 5.3.8.6.3 General Contract Provisions (Section M of SOA)
    - 5.3.8.6.4 Consultant Nondisclosure Agreement (Signed and returned to CO)
    - 5.3.8.6.5 Removal of Information from the Board by Departing Officers, Employees, and Consultants Form (Signed and returned to CO)
    - 5.3.8.6.6 Board's Information Security Policy
    - 5.3.8.6.7 Information Technology Permissible-Use and Privacy Policy
- 5.3.9 Purchase or Lease of Real Property
  - 5.3.9.1 (C) Board of Governors approves purchases of real property, except purchases made through the Board's Relocation Policy.
  - 5.3.9.2 The Secretary documents these purchases in the Board of Governor's minutes.
  - 5.3.9.3 Procurement maintains a copy of the approval documents.
  - 5.3.9.4 When real property is purchased or leased pursuant to the Board's Relocation Policy, there are no competition requirements or additional approval needed.
  - 5.3.9.5 (C) DA creates requisition and obtains division approval before submitting request for purchase or lease of real property to CO for review and initial approval. Request includes justification and supportive documentation.
  - 5.3.9.6 CO works with COTR and outside lease vendor to finalize lease documentation.

- 5.3.9.7 Lease agreements are submitted to CAO for approval, using a MOU or IAA if a GSA property.
  - 5.3.9.7.1 (C) CAO approves initial lease terms  $\leq$  \$1M.
  - 5.3.9.7.2 (C) CAO in consultation with the General Counsel, approves leases of real property with initial annual lease terms  $>$  \$1M and ensures compliance with these procedures.
  - 5.3.9.7.3 (C) Legal reviews all purchase or lease of real property contracts, regardless of amount.
  - 5.3.9.7.4 CAO informs COTR of approval or rejection.
- 5.3.9.8 (C) Governor with oversight responsibility of requesting division reviews and grants final approval of purchase documents.
  - 5.3.9.8.1.1 If rejected, CAO informs COTR, Legal and CO.
  - 5.3.9.8.1.2 CAO is informed of approval decision.
- 5.3.9.9 If purchase is approved, the Secretary of the Board documents the purchase in BOG minutes and forwards copy of approval documents to Procurement for PO issuance and Legal for maintenance.
- 5.3.9.10 Upon approval, the Procurement manager contacts Accounts Payable section for payment details of occupancy agreement.

#### 5.3.10 Conference and Hotel Space/Services

- 5.3.10.1 (C) End user documents its need for conference or hotel space or other facilities (“venue”) and related services (e.g., catering) with costs exceeding \$5k per event and submits written documentation and PR to Procurement.
- 5.3.10.2 (C) CO checks availability, capacity, and other requirements and solicits pricing from at least 3 venues that potentially meet division requirements.
- 5.3.10.3 (C) If the estimated cost is  $\leq$  \$25k, oral solicitations are acceptable, but CO documents results in writing for the file. If the estimated cost  $>$  \$25k, CO uses written documentation to solicit proposals.
  - 5.3.10.3.1 **Note:** Procurement does not typically use a SOA document to solicit proposals for these types of agreements.
- 5.3.10.4 CO shares pricing/other details of proposals with end user and discusses to select the venue based on factors that may include availability, space, and pricing. End user sends written documentation to CO to verify selection and reason for selection.
- 5.3.10.5 Once venue is selected, CO contacts venues to inform of the decision.
- 5.3.10.6 Hotels generally submit their own contract to Board for review.
- 5.3.10.7 If cost of event is  $>$  \$100,000, the CFO must review the determination for the event.
- 5.3.10.8 (C) If cost of event is  $>$  \$100,000 or contract includes terms that are questionable, CO sends to Legal for review.
- 5.3.10.9 After appropriate reviews are obtained, CO submits hotel contract to end-user for written approval before officially signing off on contract.

#### 5.3.11 Retention of Law Firms or Legal Professionals

- 5.3.11.1 The CO may acquire professional legal services that the General Counsel or Inspector General (IG) deems necessary through a best value determination of qualified vendors.

- 5.3.11.1.1 The best value determination must include consideration of the price of the services, level of experience and expertise, general reputation in the specialized legal practice, availability to perform the services in the time required, and past performance.
- 5.3.11.2 DA creates the purchase requisition and it is approved through the appropriate process. (see Section 5.1-Purchase Order Procedures to create and process PR and PO.)
- 5.3.11.3 Use of a SOA document is not required for these types of services; however, a SOW shall be developed in order to generate consistent responses from offerors.
- 5.3.12 Retention of Dispute Resolution and Investigation Services
  - 5.3.12.1 The Office of Minority Women Inclusion (OMWI) director must submit a sole source request for services that support the Office of Diversity Inclusion (ODI).
- 5.3.13 Common Law Employee (CLE)
  - 5.3.13.1 CO ensures that the COTR completes and returns the SOW and CLE questionnaire form. (see "Common Law Employee Questionnaire" - Internal Web \Procurement\ Template).
  - 5.3.13.2 (C) CO reviews the SOW and CLE form and completes the standard CLE contracting template before submitting to Legal to determine if the individual is a CLE or not.
  - 5.3.13.3 If Legal determines that the individual meets the CLE definition, the CO informs the COTR and Payroll to begin withholding taxes and maintain workers compensation insurance and ensures that Accounting functions are complete.
  - 5.3.13.4 CO issues PO and closes PO line.
  - 5.3.13.5 (C) CO directs the CLE to HRASO, MGT Division, on the first day of employment to complete the USCIS Form I-9 (Employment Eligibility Verification).
    - 5.3.13.5.1 This form must be completed no later than the first day of employment, but not before the CLE has accepted the position.
  - 5.3.13.6 CO informs COTR to sign and return the COTR acknowledgment form. (see "COTR Acknowledgment Form" - Internal Web \Procurement\ Template).
  - 5.3.13.7 CO sends CLE a final signed copy of contract and sole source justification memo with following enclosures:
    - 5.3.13.7.1 SOW
    - 5.3.13.7.2 Non-Benefits Eligible Form (Sign and return to CO)
    - 5.3.13.7.3 Consultant Nondisclosure Agreement (Sign and return to CO)
    - 5.3.13.7.4 Conduct for Executive Branch Employees
    - 5.3.13.7.5 Travel Policy
    - 5.3.13.7.6 Removal of Information and Material from the Board by Departing Officers, Employees, and Consultants form.
    - 5.3.13.7.7 If hourly, Contractor Timesheet (Contractor sends bi-weekly timesheet to COTR for approval of hours worked.)
    - 5.3.13.7.8 Information Technology Permissible Use and Privacy Policy.
    - 5.3.13.7.9 Information Security Policy.



## 5.4 Solicitation, Offer, and Award

### 5.4.1 Pre-Purchase Requisition Operations - Division Responsibilities:

PR Preparation: The formal procurement process begins when Procurement receives a PR that is an informationally complete PR. Prior to that, an end user may take many actions while preparing for the purchase. Any work performed during this period is subject to the Acquisition Policy. Procurement integrity rules apply to all actions taken and information gathered at all times. End users may request information or help from Procurement during this period.

5.4.1.1 Market Research: End users may conduct market research to develop budgetary information, specifications, and general product information. At this stage, end users inform contacted vendors that no purchase will necessarily result from these activities. The end user forwards to the CO all relevant data for use in a formal RFQ.

5.4.1.2 Request For Information (RFI): The RFI is a formal process where the CO drafts a document that includes the SOW (prepared by the COTR), specifications, schedule, and other pertinent information and sends it to potential vendors for their comments. Responses would discuss the feasibility of the request, technical problems and risks, and possibly provide budgetary or not-to-exceed cost numbers. Based on the feedback, the COTR may revise the draft so the CO can issue the final RFP. The CO also:

5.4.1.2.1 Informs vendors that the RFI is to collect information only and that formal bids may or may not follow as a result of this effort.

5.4.1.2.2 Ensures that proprietary data collected from the vendors is properly marked and not shared with third parties without the vendor's consent.

5.4.1.3 Scheduling: As soon as a COTR identifies a requirement, a schedule is prepared based on when the division needs the product or service in place.

5.4.1.3.1 The schedule should take into consideration all aspects of the project including document preparation time, bidding time, and review time.

5.4.1.4 Statement of Work (SOW):

5.4.1.4.1 COTR prepares a SOW using standard templates located on Procurement's webpage. (See "Statement of Work-Construction, IT Consulting, and Training Materials" - Internal Web\Procurement\Templates)

5.4.1.4.2 COTR may solicit assistance from CO while developing SOW.

5.4.1.4.3 The SOW contains:

5.4.1.4.3.1 Description of work to be completed

5.4.1.4.3.2 Products to be delivered

5.4.1.4.3.3 Process division will use to accept work and products

5.4.1.4.3.4 Delivery schedule

5.4.1.4.3.5 Section 508 compliance

5.4.1.4.3.6 Buy American Act & Trade Agreement compliance

5.4.1.5 (C) Division management reviews and approves the draft SOW and evaluation criteria for accuracy and competency before submitting to Procurement to release the materials to the public. COTR is responsible for ensuring this review and approval are done.

5.4.1.6 End user develops list of possible suppliers

5.4.1.7 Project budget: COTR develops an in-house estimate using the following techniques:

- 5.4.1.7.1 Actual past costs
- 5.4.1.7.2 Prices or budgetary estimates from RFI
- 5.4.1.7.3 Estimate provided by current supplier on contract or basic ordering agreements
- 5.4.1.7.4 Prices found on the internet, GSA contracts, vendor catalogs, government contracts, or other public sources
- 5.4.1.7.5 This estimate is included in the requisition and routed for budgetary approval.

Note: The Purchase Order Procedures (5.1), File Administration (5.2), and rules for Non-Competitive Methods (5.3) are the same for SOAs as for POs including the roles, responsibilities, processing requirements, review limits and approval authorities. See the appropriate section for guidance.

#### 5.4.2 SOA Process – Procurement Responsibilities

- 5.4.2.1 (C) CO reviews SOW and evaluation criteria.
- 5.4.2.2 SOAs with option years should have firm pricing for all of the years covered.
  - 5.4.2.2.1 Exercise of option years is solely at the Board's discretion.
- 5.4.2.3 CO works with end users to prepare final SOW and evaluation criteria.
- 5.4.2.4 Evaluation teams: End user establishes technical team in concurrence with Procurement manager. The Procurement manager appoints cost/price evaluation team to evaluate SOA responses.
  - 5.4.2.4.1 CO briefs team members on responsibilities, review techniques, review process, and consensus report.
  - 5.4.2.4.2 Weighting of cost and technical evaluations are dependent upon nature of the acquisition. The final determination of the weighting will be made by the Procurement manager.
  - 5.4.2.4.3 Procurement manager approves a price factor < 50 percent.
  - 5.4.2.4.4 Team members sign confidentiality and conflict of interest forms, plus any other required forms required by Procurement or Legal.
- 5.4.2.5 In coordination with end user, CO develops schedule for bid release, bidders' conference, vendor response, evaluation period for technical team, approval process, and contract award date.
- 5.4.2.6 CO prepares remainder of SOA document including cover letter, bidders' list, and other attachments such as drawings. (see "Solicitation, Offer, and Award" - Internal Web\Procurement\Templates)
- 5.4.2.7 CO and end users coordinate to prepare for bidders' conference if applicable.
- 5.4.2.8 (C) Procurement manager and/or supervisory contracts analyst reviews CO's documentation for quality and content.
- 5.4.2.9 (C) Supervisory contracts analyst reviews all documents before sending to Legal for review.
- 5.4.2.10 (C) Legal reviews standard competitive acquisitions < = \$200k before SOA is let to potential bidders.
- 5.4.2.11 CAO or Procurement manager may submit any procurement to Legal for review.
  - 5.4.2.11.1 Legal will provide review results or comment in writing to Procurement.
  - 5.4.2.11.2 Legal review does not address contractor performance, desirability of entering into the contract, or the division's need for contract or technical criteria unless requested by Procurement
- 5.4.2.12 (C) End user reviews final SOA before it is issued

#### 5.4.3 Bid Receipt:

- 5.4.3.1 SOA directs bidders to deliver their bids to the Federal Reserve Board, 20th and C Streets NW, Washington, DC 20551.
- 5.4.3.2 All bids are secured prior to opening.
- 5.4.3.3 Bids delivered to the offsite mail facility on the day due are considered on time.
- 5.4.3.4 Two Procurement staff members are present to open and document bids.
- 5.4.3.5 Procurement staff members will not supply price or cost data to the technical team or anyone without a need-to-know before the technical evaluations are complete.
- 5.4.3.6 Upon completion of both the technical and cost review, the CO may distribute the price/cost data internally to those with a need-to-know, such as the COTR or the technical review team. Board personnel shall not release such information to the public because of the sensitivity of competitive procurements.

#### 5.4.4 Evaluation by technical and cost/price teams:

- 5.4.4.1 Technical team determines which bids are responsive.
- 5.4.4.2 (C) Technical and cost teams review bill of material for compliance with Buy American Act and Section 508 certification and compliance.
- 5.4.4.3 (C) CO always reviews prices and consults with pricing analyst/cost team if > \$100k, and as necessary if < = \$100k.
- 5.4.4.4 (C) Technical team members individually review each vendor's technical proposal.
- 5.4.4.5 CO sends cost/technical questions generated by review to vendor(s) for clarification.
- 5.4.4.6 Technical and/or cost teams may hold discussions with vendors.
- 5.4.4.7 (C) CO and technical cost team review clarification/deficiency in responses.
- 5.4.4.8 Technical team meets and agrees on consensus score for each vendor's technical proposal and checks references if appropriate. (See "Guidelines for Proposal Evaluations"-Internal Web\Procurement\Templates).
- 5.4.4.9 Pricing analyst combines technical and cost scores to determine winning vendor.
- 5.4.4.10 (C) Technical team reviews to see if costs are consistent with the vendor's technical proposal.
- 5.4.4.11 If the technical team concludes that the tentative winner's cost proposal was unrealistically low or the cost structure does not match the proposal, the CO may seek cost clarification from all of the vendors or negotiate a best and final offer with the tentative winner.

#### 5.4.5 Best and Final Offer (BAFO)

- 5.4.5.1 If the technical cost reviews generate changes to either the SOA or the vendors' submissions, the CO asks for BAFOs from all vendors that met the original technical requirements.
- 5.4.5.2 (C) Technical and cost teams review bidders' changed BAFOs.
- 5.4.5.3 The pricing analyst calculates a final score combining cost and technical criteria and determines the winning vendor.

#### 5.4.6 Negotiations

- 5.4.6.1 When necessary, Procurement negotiates with the selected vendor in order to obtain better pricing, schedule, or other terms and conditions.
- 5.4.6.2 General reasons for negotiating include:
  - 5.4.6.2.1 Board received only one bid;
  - 5.4.6.2.2 Price bid was more than the division's budget;

5.4.6.2.3 Complexity of SOW requires discussions and negotiations to finalize requirements and pricing; or

5.4.6.2.4 The SOW required changes.

5.4.6.3 Negotiation team: The CO is the lead negotiator. The Procurement manager may head the negotiation team if the situation warrants an increased level of expertise. The negotiation team includes the pricing analyst and at least one subject matter expert from the end user's division.

5.4.6.4 The CO will request additional detailed cost and price data from the vendor.

5.4.6.5 In consultation with the end user, the negotiation team will develop an opening and final position to include:

5.4.6.5.1 A final price that is the maximum the Board will pay;

5.4.6.5.2 Technical trade-offs that the Board is willing to make;

5.4.6.5.3 Technical requirements the Board will not agree to;

5.4.6.5.4 Required schedule; and

5.4.6.5.5 Special terms and conditions such as award fees, penalties, working conditions, or safety issues.

#### 5.4.7 Contract award

5.4.7.1 The CO notifies winning bidder.

5.4.7.2 Within three days of contract award, CO notifies all unsuccessful bidders of contract award.

5.4.7.3 CO provides bidders a debriefing if requested within 10 days.

5.4.7.4 Debriefing includes: winner, award price, technical score and total score of the requesting bidder only, and a summary of the requesting bidder's technical evaluation.

5.4.7.5 CO documents the debriefing in the contract file.

5.4.7.6 CO inputs notes on prices and competition into Oracle/contract file.

5.4.7.7 CO holds kickoff meeting with vendor, COTR, and other Board staff as designated by the COTR.

### 5.5 Travel and Shipping Costs:

5.5.1 Shipping costs that the Board pays are not included as a line item on the PO as the Board pays these costs out of a general fund, and the costs are not usually known ahead of time.

5.5.2 Divisions should include estimates of these costs in their overall budget. Procurement will process a PO with these costs as a separate line item if a division or supplier requires this visibility. The CO ensures that the division uses the correct charge code.

5.5.3 Travel costs may be on a separate line if the Board is reimbursing the vendor for travel costs. A division may request travel costs to be broken out on a separate line. For fixed price contracts there is no need for travel costs to be on a separate line.

5.5.4 All travel paid by the Board adheres to the Board's travel policy which must be provided to the contractor. The Board will not reimburse contractors for any costs that exceed those authorized in the travel policy.

5.5.5 The preferred carrier for normal mail delivery is the US Postal Service. Overnight mail should be sent using the Board's Federal Express account. Suppliers using other carriers are subject to a reduction in reimbursement to the rates charged by USPS or Federal Express.

## 5.6 Consultant Non-disclosure

- 5.6.1 Consultants, independent contractors, and special governmental employees sign a nondisclosure agreement (See "Consultant Nondisclosure Agreement" – Internal Web\Procurement\Templates) stipulating that they keep in strict confidence all information relating to the consulting contract and any information acquired in connection with or because of contract performance.
- 5.6.2 Consultants are also subject to a background check prior to gaining unescorted access to Board facilities.

## 5.7 Government Bill of Lading

- 5.7.1 The Standard Form 1103, U.S. Government Bill of Lading (GBL), is generally used for freight shipments and for household relocation of new Board hires by selected carriers.
- 5.7.2 For each request for freight shipment, the purchasing agent submits a Request for Rate and Route to GSA. GSA will provide the Board with a listing of carriers and their respective rates.
- 5.7.3 The request for GBL must be signed by the Procurement manager or his/her designee.

## 5.8 Validation and Expiration

### 5.8.1 Data

- 5.8.1.1 COs enter the following data in the flex fields in Oracle for POs and SOAs:
  - 5.8.1.1.1 Original contract date;
  - 5.8.1.1.2 Current contract date;
  - 5.8.1.1.3 Expiration date;
  - 5.8.1.1.4 Max contract date - signifying available priced option years or sole source approval period;
  - 5.8.1.1.5 COTR;
  - 5.8.1.1.6 Supplier classification; and
  - 5.8.1.1.7 Compliance fields: Sole source and Buy American Act

### 5.8.2 Frequency

- 5.8.2.1 (C) On a monthly basis, the CO and Procurement manager/supervisory contracts analyst compare information on the validation reports to the supporting documentation, reviewing the flex field data and the award amount. Reviewers initial the validation report when complete. This action confirms data entry in Oracle so that all divisions can access accurate data from one source.
- 5.8.2.2 (C) During the third calendar quarter, Procurement e-mails the DAs a notice to check the Expiration Report for contracts that expire at year end.

## 5.9 Contracting Officer's Technical Representative (COTR) Responsibilities:

- 5.9.1 The COTR represents the CO in the administration of technical details within the scope of the contract and in inspection and acceptance of services provided.
- 5.9.2 The COTR must attend a Board-sponsored or Board-approved course on COTR responsibilities prior to, or within six months of, designation as COTR.
- 5.9.3 The COTRs cannot make any representations/commitments of any kind on the Board's behalf or alter, change or modify the contractor's obligation or the contract terms and conditions.

5.9.4 The CO ensures that this information is stated in the SOA and that the COTR has signed the COTR form acknowledging his/her responsibilities.

5.9.5 (C) The COTR reviews and approves an invoice before payment to the vendor.

When reviewing the invoice for approval, the COTR verifies the following:

5.9.5.1 All supplies and/or services that are invoiced were received;

5.9.5.2 Work performed and/or supplies received meet contract specifications, including due date;

5.9.5.3 Hours charged on indefinite quantity contracts match time sheets and reflect hours actually worked, as required by the contract;

5.9.5.4 Items on the invoice agree with those on the PO: supplier name, PO number, line description, invoice quantity, unit price, period covered;

5.9.5.5 Invoice date is not earlier than the date supplies or services were provided;

5.9.5.6 Extended price is correct;

5.9.5.7 Shipping costs (when applicable) agree with the terms of the contract; and

5.9.5.8 Invoice does not include tax.

(Note: See also Closing Purchase Orders Procedures)

#### 5.10 Requests for GPO Publications

5.10.1 The end user completes a SF-1, Printing and Binding Requisition to the Public Printer, for all publications printed and distributed by the Government Printing Office (GPO).

5.10.2 The supervisor procurement programs keeps a log of all requests and submits a separate SF-1 to GPO for each publication ordered. Identify the publication by title and, if listed, the Office of Personnel Management (OPM) requisition number.

5.10.3 (C) The Procurement manager or his/her designee authorizes and signs the SF-1. This requirement applies to all divisions with the exception of those generated by the Research Library section, which must be authorized by the chief librarian or his/her designee.

#### 5.11 Violation of Acquisition Policy, Procedures and Related Guidelines.

5.11.1 All Procurement staff, division or office administrators, COTR's and authorized users of P-Cards, should have a thorough understanding of the Board's Acquisition Policy, Acquisition Procedures, as well as other related policies, including the Board's Ethical Conduct Policy, the Small and Disadvantaged Business Acquisition Policy, the Supplier Diversity Policy, and the Procurement Manual for Technical Personnel. Any violation of the Acquisition Policy, these procedures, or other Board policies could result in disciplinary action up to and including separation from employment.

## 6 REFERENCES

Acquisition Policy

Appendix J- Information Classification and Handling Standard

Closing Purchase Orders Procedures

Common Law Employee Questionnaire

Consultant Nondisclosure Agreement

Contracting For Services Policy

Contractor Performance Evaluation

COTR Acknowledgement Form  
Guidelines for Proposal Evaluations  
NARA – General Records Schedule  
Procurement Review Standards  
Purchase Card Procedures  
Service Contract Act  
Small and Disadvantaged Business Acquisition Policy  
Sole Source Justification  
Solicitation Offer & Award  
Statement of Work

## **7 APPENDIX 1 - MANDATORY CONTRACT CLAUSES**

The Acquisition Policy identifies specific clauses that are required in all Board contracts. As stated in the Policy, the Contracting Officer may approve non-substantive variations of the following clauses (such as variations that may appear in Section M of the SOA or on the reverse of the Board's Purchase Order form); however, substantive changes or waivers of the provisions set forth below must be approved by the CAO in consultation with the Associate General Counsel for Litigation, Enforcement and System Matters. The required contract clauses are as follows and are provided as a guideline for the minimum that shall apply to Contractors (i.e., the clauses below are not intended and do not operate to replace any additional terms that may appear in an SOA or Board Purchase Order form):

### **7.1 TERMINATION FOR CONVENIENCE**

The Contracting Officer, by written notice, may terminate this contract in whole or in part, when it is in the Board's interest. To the extent that this Contract is for service and is so terminated, the Board shall be liable only for payment in accordance with the payment provisions of this Contract for services rendered prior to the effective date of termination. If the Board terminates this Contract under this paragraph, the Contractor must immediately take all actions necessary to minimize the cost of termination settlement to the Board.

### **7.2 DEFAULT TERMINATION**

7.2.1 The Board may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this Contract in any one of the following circumstances:

7.2.1.1 if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof, or

7.2.1.2 if the Contractor fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

- 7.2.2 In the event the Board terminates this Contract in whole or in part as provided in paragraph (a) of this clause, the Board may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Board for any excess costs for such similar supplies or services; provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.
- 7.2.3 If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of the clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience provisions of this Contract.
- 7.2.4 The right and remedies of the Board provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

### 7.3 PROTESTS:

- 7.3.1 Protests may be submitted by actual or prospective Offerors to the manager of the Procurement Function as follows: Procurement Manager, Division of Financial Management on, 20th and C Streets, NW, Washington, DC 20551. Protests on alleged improprieties in a solicitation that are apparent prior to the closing date for receipt of bids or proposals shall be filed prior to that date. In all other cases, protests shall be filed not later than ten (10) calendar days after the basis of the protest is known or should have been known, whichever is earlier. Protests shall include (1) the name, address, and telephone number of the protester; (2) the solicitation or contract number; (3) a detailed statement of the legal and factual grounds for the protest, including copies of relevant documents; (4) a request for a ruling by the Board; and (5) a statement of the form of relief requested.
- 7.3.2 If the Procurement Manager receives a protest prior to award, an award will not be made until a decision on the protest is issued, or the matter is otherwise resolved unless the Procurement Manager first determines, in writing, that (1) the supplies or services to be contracted for are urgently required, (2) delivery or performance will be unduly delayed by failure to make award promptly, or (3) a prompt award will otherwise be advantageous to the Board. If the award is to be delayed pending resolution of the protest, the other Offerors shall be notified of the protest; and, if appropriate, those Offerors should be requested to extend the time for acceptance to avoid the need for resolicitation.
- 7.3.3 If a protest is received after award, the contract performance will not be suspended unless it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Board's interest.
- 7.3.4 The Procurement Manager will furnish a copy of the written protest ruling to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The protester may appeal the ruling of the Procurement Manager to the Chief Acquisition Officer. Any appeal to the Chief Acquisition Officer



must be made in writing within ten (10) calendar days from the date the protester receives the Procurement Manager's written ruling. If the Chief Acquisition Officer has a conflict, then the Director of the Division of Financial Management will decide the appeal.

#### 7.4 DISPUTES

- 7.4.1 Any claim by the Contractor seeking payment of money in a sum certain, the adjustment or interpretation of Contract terms, or other relief arising under or relating to the Contract must be submitted in writing to the Contracting Officer. Upon receipt of such a claim, the Contracting Officer or his/her representative will contact the claimant and attempt to negotiate a mutually acceptable resolution.
- 7.4.2 Upon the failure to reach such a resolution, the Contracting Officer shall issue a written determination after reviewing the pertinent facts and consulting with legal and other advisors. The written determination shall be issued within a reasonable time, but not less than sixty (60) days after receipt of a written request from the claimant for a written determination. The written determination shall contain (1) a description of the claim or dispute; (2) reference to the pertinent contract terms; (3) a statement of the factual areas of agreement and disagreement; (4) a statement of the Contracting Officer's decision, with supporting rationale; and (5) a statement that the Contracting Officer's decision is final and that the claimant may appeal the decision to the Board's Chief Financial Officer or his/her delegate. The Contracting Officer's decision will be furnished by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
- 7.4.3 Failure of the Contracting Officer to issue a written determination within sixty (60) days of a written request for such determination shall be deemed to be a denial of the claim, which may be appealed to the Board's Chief Financial Officer or his/her delegate. Any appeal to the Board's Chief Financial Officer or his/her delegate must be made in writing within ninety (90) days from the date the claimant receives the Contracting Officer's written decision.
- 7.4.4 The Board will pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim, or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims will be paid at the rate, fixed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat 97), which is applicable to the period during which the Contracting Officer receives the claim.

#### 7.5 INDEMNIFICATION & LIABILITY LIMITS

- 7.5.1 Contractor agrees to save and hold harmless the Board, its members, officers, and employees from liability of any kind or nature, including cost and expenses to which they might become subject, arising or resulting in whole or in part from the negligent performance of the Contractor, including action or failure to act by its owners, directors, officers, employees, agent, or subcontractors.
- 7.5.2 Contractor shall defend, indemnify and hold harmless the Board and/or each of its members, officers, directors, employees, and agents (collectively, "Board Party") from

and against any and all claims, liabilities, losses, damages or expenses of any kind (including reasonable attorneys' fees and disbursements) (collectively, "Claim") incurred by any Board Party, regardless of whether such Claim is brought by Contractor personnel or a third party: (a) relating to contractor's failure to comply with the Fair Labor Standards Act or to withhold federal or state income taxes, FICA or OASDI taxes, or local taxes (if any local taxes should have been withheld) from the wages of Contractor personnel; (b) arising from a workplace injury incurred by Contractor personnel in their performance of this Contract; or (c) for any actual or alleged violations of Wage and Hour laws, EEOC and state discrimination laws, harassment law, tort law, the Family and Medical Leave Act, the Americans with Disabilities Act, Rehabilitation Act, Title VII of the Civil Rights Act, and the National Labor Relations Act.

- 7.5.3 Contractor shall defend, indemnify and hold harmless the Board from and against any and all suits, actions, costs, liability, claims, damages, judgments, awards, losses, and/or expenses (including reasonable attorneys' fees) arising out of any third-party claim that the goods or services the Contractor delivers under this Contract (for purposes of this clause, the "Deliverables"), and/or any reasonably foreseeable use by the Board of such Deliverables that conforms to the terms of the Contract, infringe any copyright, patent, trademark, or other proprietary right, or constitute misuse of a trade secret or confidential information belonging to a third party. Contractor shall defend at its own expense any suit or proceeding brought against the Board alleging such infringement or misuse. Contractor shall not have the right to settle any such claim, suit, or proceeding without the Board's prior written consent if any such settlement: (a) requires that the Board make any payment or bear any other obligations (beyond those expressly required under this Agreement); (b) includes any admission of wrongdoing or liability on the part of the Board; (c) does not include a full release of the Board; and/or (d) includes any manner of injunctive or other equitable relief. If the Board's use of any of the Deliverables is prevented by injunction or found by a court of law to be infringing in any manner and to any degree, or is in Contractor's reasonable opinion likely to become so infringing, Contractor shall, at Contractor's option and expense: (i) procure for the Board the right to continue using such Deliverables; or (ii) modify the Deliverables in a manner acceptable to the Board to become non-infringing; or (iii) substitute other non-infringing Deliverables that are acceptable to the Board; or, (iv) if none of the above alternatives are reasonably achievable, reduce the scope of or terminate the Contract on terms that are mutually agreeable to the Board and Contractor.

## 7.6 NON-PUBLICITY

The Contractor shall not release any publicity or advertising regarding this Contract, and shall not use the name or insignia of the Board or of the Federal Reserve System, or any variation or adaptation thereof, for any commercial, advertisement, promotional or endorsement purposes, unless the Contractor has obtained the prior written consent of the Board's Chief Operating Officer or his authorized representative in such matters.

## 7.7 GOVERNING LAW AND JURISDICTION

This Contract shall be governed by and construed in accordance with the federal laws of the United States and, in the absence of controlling federal laws, in accordance with the laws of

the District of Columbia, without regard to any conflict of laws principles thereof. Neither Party waives any venue or jurisdictional defenses, and except as provided in connection with a Party's indemnification obligation, neither Party shall be obligated to pay the other's attorney's fees and/or costs unless such fees and/or costs are awarded by a court of competent jurisdiction.

## 7.8 FUNDING AND PAYMENT

- 7.8.1 Notwithstanding any other provision herein, the Board's obligations under this Contract are contingent upon the Board providing funding for this Contract. The Board shall not be legally liable or responsible in any way for any payment under this Contract unless and until the Board makes funds available to the Contracting Officer for this Contract. Contractor may request the Contracting Officer's written confirmation of the availability of funds, and the Contracting Officer shall provide such written confirmation if and when the funds become available.
- 7.8.2 Subject to the foregoing, the Contractor will be paid upon the submission of proper invoices and vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as provided under the Contract or required by law. Unless otherwise specified, payment will be made on partial deliveries accepted by the Board when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either one thousand dollars (\$1,000) or fifty (50) percent of the total amount of this Contract. All payments shall be made by electronic funds transfer (EFT), and to receive payment, the Contractor must submit the form titled Vendor Information. Notification will be provided by facsimile to Contractor on the date of payment.
- 7.8.3 Neither the fee(s) nor the invoice shall include any taxes from which the Board, as a federal agency of the United States Government, is exempt. Any late payments shall be subject to the lesser of (a) Licensor's standard penalty and/or interest applicable to late payments or (b) the penalty and/or interest permissible under the Prompt Payment Act.

# APPENDIX G

## Procurement Review Standards

# Procurement Review Standards

04/22/13

			Document Requirements	Reviews
Level One: 10 business days	Simple purchases with specifications:			
		Basic PO off GSA < \$100k	specs, PR	Delegated limits
		Task order off basic ordering agreement < \$100k	specs, PR	Delegated limits
		Basic change order < \$100k	specs, PR	Delegated limits
		Basic sole source < \$50k (ex: software license)	specs, PR, justification memo	*CAO, Legal (all DFM and COO)
		P-card < \$5k	SCA form if services are from 2.5k to 5k	
	Straightforward competition (telephone/fax) or simplified purchase procedures:			
		Oral bids < \$25k, simplified written < \$50k, other basic bids < \$100k	specs, PR	Delegated limits
Level Two: 20 business days	Simple purchases with specifications that require extra review layers due			
		Basic PO off GSA > \$100k	specs, PR	Legal, PAB (> \$200k)
		Task order off BOA > \$100k	specs, PR	Legal, PAB (> \$200k)
		Basic change order > \$100k	specs, PR	Legal, PAB (> \$200k)
		Basic sole source \$50k to \$100k	specs, PR, justification memo	CAO, Legal (all DFM and COO)
		Basic sole source > \$100	specs/SOW, PR, justification memo	CAO, Legal, PAB (> \$200k)
	More complicated but small purchases:			
		Complicated sole source < \$50k	specs/SOW, PR, justification memo	CAO
		Straightforward competition with simplified SOW \$50k to \$100k	SOW, PR	Delegated limits
		* CAO is Chief Acquisition Officer in Mgt.		
			Document Requirements	Reviews
Level Three: > 1 month		All projects requiring a SOW, technical proposal, demonstrations, oral presentations, or input from consultants.	SOW, PR	PAB (> \$200k) areas as needed      Legal (> \$100k)      other Board
Other Procurements:		Directed procurement	specs/SOW, justification memo	Legal (all) PAB (> \$200k) (> \$250k)      COO (< \$250k)      Admin Gov
		Exigency	specs/SOW, justification memo	CAO, (< \$50k) PAB (> \$200k)      Legal (> \$50k, all Mgt. Div)

		<p>The time limit does not start until Procurement has all required inputs. All inputs should be in an electronic format and attached in Oracle to the PR except the request for Sole Source, Directed Procurement, and Exigency Memos. Procurement staff will not begin working on incomplete PRs. Instead, an email will be sent to the COTR listing required information needed to process the PR and giving a four day timeframe to comply with the request. If all required information is not received in four days then the COTR and COTR's Manager will be informed that the PR is being returned along with the reasons why.</p> <p>If serious issues are raised by Legal or End User makes significant changes, the time limit for Procurement is adjusted.</p>
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# APPENDIX H

## Solicitation, Offer, and Award (SOA)

Board of Governors of the Federal Reserve System  
Solicitation, Offer, and Award ZZZZZ

**BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON, DC 20551**



Division of Financial Management

**SOLICITATION, OFFER, AND AWARD  
ZZZ**

Offerors:

The Board of Governors of the Federal Reserve System hereby issues this Solicitation, Offer, and Award (Solicitation) to perform/provide work/services/data ZZZ as described in Section C, the Statement of Work.

By no later than ZZZ, 2005, those intending to submit proposals are required to express their intent by telephone (confirmed by facsimile), facsimile, or electronic mail (confirmed by postal mail). Amendments issued, if any, after this date will not be furnished to those potential Offerors that have not advised this office of their intent to propose.

Pertinent dates associated with this Solicitation are:

Release of SOA:	ZZZ, ZZ 2005
Preproposal conference:	ZZZ, ZZ 2005 If n/a, delete L.18
Closing date for inquiries:	ZZZ, ZZ 2005
Submission of proposals:	ZZZ, ZZ 2005 2:00 p.m. Washington, DC, time



Board of Governors of the Federal Reserve System  
Solicitation, Offer, and Award ZZZZZ

Interested parties may direct questions regarding this Solicitation to me at the following address:

Federal Reserve Board  
Procurement Section, Mail Stop 128  
20th and C Streets, NW  
Washington, DC 20551  
Attention: Specialist Name ZZZ  
RE: Solicitation ZZZ

Telephone (202) 452-ZZZZ/Fax (202) 728-5826/E-mail ZZZ@frb.gov

Sincerely,

Specialist Name ZZZ  
Senior Contract Specialist  
Procurement Section, Management Division

3/1/21 9:49 AM

Board of Governors of the Federal Reserve System  
Solicitation, Offer, and Award ZZZZZ

Please see attached SOA form

## **SECTION B**

### **COST/PRICE PROPOSAL FORM**

#### **B.1 SERVICES TO BE PROVIDED**

Offerors shall submit in their proposals the prices to provide the goods or services set forth in Section C, the Statement of Work, and the Specifications and Drawings YYY, of this Solicitation. Offerors shall use the forms included in this Section B when submitting their Cost/Price Proposals.

#### **B.2 ESTIMATED QUANTITIES**

The quantities shown herein are estimates, based on the best information available to the Board. The Board is furnishing these estimates solely as a basis for computing prices and price totals and are for evaluation purposes only. The Contractor shall furnish all services that may be ordered during the term of the Contract.

#### **B.3 INDEFINITE QUANTITY**

- a. This Contract is for an indefinite quantity for the good or services specified, and is effective for the period stated in the Contract.
- b. Delivery or performance shall be made only as authorized. The Contractor shall furnish, when and if ordered, the goods or services specified in the contract.
- c. Except for any limitations in Section C, the Statement of Work, there is no limit on the number of orders that the Board may issue.
- d. Any order issued during the effective period of this Contract and not completed within that period shall be completed by the Contractor within the time specified in the order.

#### **B.4 PAYMENT OF PREVAILING WAGE: DAVIS-BACON ACT**

The Contractor and all its subcontractors shall pay the prevailing wages that are applicable for Washington, DC. The Contractor shall:

- pay its workers wages that meet the minimum wages set forth in the attached copy of the General Wage Decision No. ZZZ from the US Department of Labor which lists prevailing wages and fringe benefits for building construction projects for Washington, DC
- incorporate in all contracts with subcontractors a provision that the subcontractor shall pay those wages specified in the General Wage Decision No. ZZZ, and
- assist the Board in determining any applicable wage decision for wages not on the General Wage Decision No. ZZZ.

Board of Governors of the Federal Reserve System  
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**Please use attached price form**

Board of Governors of the Federal Reserve System  
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## **SECTION C**

### **STATEMENT OF WORK**

## **SECTION D**

### **WARRANTY – YYY IF N/A, DELETE PARAGRAPHS YYY**

#### **D.1 WARRANTY DURATION**

The Contractor shall warrant all equipment and/or systems installed to be free from all defects in materials or workmanship for (number spelled out) (#) year(s) ZZZ from the date of acceptance by the Board's Contracting Officer's Technical Representative (COTR). The Contractor shall repair or replace the defective equipment or systems at no cost to the Board during such warranty period.

#### **D.2 REPLACEMENT PARTS**

The Contractor shall warrant that replacement parts for all equipment, systems, or their components, be available throughout the life of the warranty described in Paragraph D.1 above.

## **SECTION E**

### **INSPECTION AND ACCEPTANCE**

#### **E.1 INSPECTION AND ACCEPTANCE**

The COTR will inspect and accept the goods and services at intervals that he/she specifies.

#### **E.2 REDELIVERY OF WORK**

If any of the services delivered by the Contractor under this Contract do not conform with the descriptions contained in Section C, the Statement of Work, and the Specifications and Drawings YYY, the Contracting Officer may direct the Contractor to deliver the services again, in conformity with Section C, and the Contractor shall not reinvoice the Board for such rework. When defects in services cannot be corrected by re-delivery, as determined by the COTR, the Contracting Officer may require the Contractor to (1) take actions to assure the Board that future deliveries will conform to contract requirements, and (2) reduce the future amounts invoiced by the Contractor to reflect the reduced value of the nonconforming services.

If the Contractor again fails to deliver conforming services after attempting to re-deliver, or to take the actions necessary to ensure future conformance with contract requirements, the Board may (1) by contract or otherwise, engage a third party to perform and deliver the services in place of the Contractor and charge to the Contractor any charges incurred by the Board that are directly related to this third-party performance, or (2) terminate this Contract for default in accordance with the General Contract Provisions.

Notwithstanding any of the foregoing provisions, at any time, the Contracting Officer may require the Contractor to remedy by correcting or replacing the Contractor's personnel, without cost to the Board, any failure by the Contractor to comply with the requirements of this Contract if failure is due to (1) fraud, lack of good faith, or willful misconduct on the part of any of the Contractor's personnel, or (2) the conduct of one or more of Contractor's personnel selected or retained by the Contractor after the Contractor's management or the Board has grounds to believe that the Contractor's personnel are unqualified or habitually careless.

## **SECTION F**

### **CONTRACT DELIVERABLES**

#### **F.1 DELIVERABLES**

The Contractor shall ZZZ

#### **F.2 WARRANTIES**

The Contractor shall provide copies of all warranties, for both material and labor, prior to final invoice.

#### **F.3 REPORTS**

The Contractor shall submit reports, which may include draft and final reports in both electronic and print format.

#### **F.4 INSURANCE CERTIFICATES**

The Contractor shall provide the Board with insurance certificates for each policy required to be in effect throughout the performance period.

#### **F.5 MANUALS**

The Contractor shall submit [insert description: example technical, operational, user guides, and so on, for each XXX provided] ZZZ



## **SECTION G**

### **INQUIRIES**

#### **G.1 POINT OF CONTACT**

The Board's contact person responsible for providing additional information and answering inquiries about this Solicitation is the Senior Contract Specialist.

- a. The Offeror shall submit all communications, such as requests for clarification and/or information concerning this Solicitation, in writing via electronic mail followed up by postal mail to the following address:

Federal Reserve Board  
Procurement Section, Mail Stop 128  
20th and C Streets, NW  
Washington, DC 20551  
Attention: Specialist Name ZZZ  
RE: Solicitation ZZZ

Telephone (202) 452-ZZZZ/Fax (202) 728-5826/E-mail ZZZ@frb.gov

- b. Inquiries shall be submitted in writing no later than ZZZ, 2005
- c. The Senior Contract Specialist ZZZ will provide answers to questions to potential Offerors giving due regard for the proper protection of proprietary information.

The Senior Contract Specialist ZZZ will not provide information concerning this Solicitation or requests for clarification in response to Offeror-initiated telephone calls. The Offeror shall make all such requests in writing via e-mail followed up by postal mail to the above address. Questions shall identify the specific area of this Solicitation, citing the particular section and paragraph of this Solicitation in which clarification is desired. The Senior Contract Specialist will provide questions and answers to all prospective Offerors. Sources of questions will not be identified.

Note: Offerors are instructed specifically to contact only Specialist Name ZZZ in connection with any aspect of this requirement prior to the Contract's award. The Offeror shall submit proposals and all correspondence relating to this document to the Specialist Name ZZZ.

## **SECTION H**

### **KEY PERSONNEL**

#### **H.1 APPROVAL OF KEY PERSONNEL**

Offerors shall submit resumes with their Technical Proposals (Volume II) of those persons that are essential for the performance of the goods or services described in Section C, the Statement of Work, and the Specifications and Drawings YYY, and who will be assigned to the resulting Contract (Key Personnel). The Contractor shall not remove or replace Key Personnel without prior notification to and approval by the COTR, and the COTR will approve any replacement of key personnel prior to their replacement. Approval of Key Personnel will not be unreasonably withheld.

#### **H.2 PERSONNEL QUALIFICATIONS**

Offerors shall indicate in their Technical Proposals how their Key Personnel will direct or perform the work as described in Section C. In addition, Offerors shall explain the procedures for training Key Personnel. Letters of commitment shall be included in the Technical Proposals for all Key Personnel.

#### **OPTIONAL YYY**

Each Offeror shall include a personnel plan in its Technical Proposal that includes a matrix listing all of the Offeror's Key Personnel who will have responsibility over the Contract, which shall include the Offeror's subsidiaries and subcontractors, where appropriate. The personnel plan shall also include procedures that the Offeror intends to use to provide fully qualified personnel to perform the work required in Section C. Descriptions of the skill sets, qualifications, and experience requirements for the remaining individuals to be employed to perform the work required in Section C shall be included, but need not contain the names of any of the individuals being proposed for those positions.

#### **OPTIONAL YYY**

This Solicitation does not require the identification of Key Personnel.

#### **OPTIONAL YYY**

Brief resumes of the Key Personnel proposed for work on the program shall be included, but need not go below the top three levels of key management and/or technical personnel. Letters of commitment shall be included for all personnel proposed for these key positions.

Descriptions of the skill sets, qualifications, and experience requirements for the remaining positions to be employed on the program shall be included, but need not contain the names of any of the individuals being proposed for those positions.

## **SECTION I**

### **EVALUATION AND AWARD PROCESS**

#### **I.1 EVALUATION OF PROPOSALS - PASS/FAIL YYY**

- a. A proposal consists of Volume I (Offer), Volume II (technical proposal), and Volume III (cost/price proposal) submitted by an Offeror responding to this Solicitation. Each Offeror shall submit a technical proposal and a cost/price proposal, according to the guidelines presented in the following:

- 1. Section B, Cost/Price Proposal Form
- 2. Section C, Statement of Work
- 3. Section L, General Instructions and Information

NOTE: Offerors are advised that a one-word response, for example “comply”, to a mandatory requirement is insufficient and that such a response will receive a fail rating, thereby causing the entire proposal to be rated as fail.

- b. Each technical proposal is subject to the same review and pass/fail analysis by the Board’s technical evaluation team. Each proposal will first be examined to determine if the Offeror is responsible (see I.2) and if the proposal meets all mandatory YYY requirements set forth in Section C, Statement of Work, and the Specifications and Drawings YYY. If any mandatory YYY requirement is not met, the proposal will be rejected and will receive no further consideration. Technical proposals that meet all mandatory requirements will receive a “pass” rating.
- c. A Board price evaluation team will review each Offeror’s cost/price proposal as formatted according to Section B. Offerors are reminded that they must use the format set forth in Section B in submitting their cost/price proposals. The price evaluation team will evaluate the cost/price proposals for price reasonableness, realism, risk, and any other criteria set forth in Section B. The price evaluation team may reject unrealistically low or materially unbalanced offers.
- d. The Offeror with the lowest price, acceptable proposal that received a “pass” rating will be awarded the Contract.

#### **I.1 EVALUATION OF PROPOSALS - MANDATORY REQUIREMENT(S) AND PRICE AND TECHNICAL POINTS –ALTERNATE YYY**

- a. Each Offeror shall submit a technical proposal and a cost/price proposal according to the guidelines presented in Section L, General Instructions and Information, Proposal Submission. In addition, the Offeror shall submit the cost/price proposal in the same format as the sample form provided in Section B, the Cost/Price Proposal Form.

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Each response to this Solicitation shall be subject to the same review and assessment process by the Board's technical and cost evaluation teams.

Each proposal will first be examined to determine if the Offeror is responsible (see I.2) and if the proposal meets all mandatory YYY requirements set forth in Section C, Statement of Work, and the Specifications and DrawingsYYY. If any mandatory requirement is not met, the proposal will be rejected and will receive no further consideration. Technical proposals that meet all mandatory requirements qualify for further evaluation and will receive up to number (#) ZZZ technical points. In addition, these proposals will receive number (#) ZZZ cost points in inverse proportion to the ratio of their cost to that of the lowest proposal. Technical and cost points will be combined to determine who is awarded the Contract.

b. Technical proposal

Factor No. 1: Personnel/past performance. This factor involves an evaluation of the Offeror's references, experience and past performance and the references and experience of its key personnel. The Offeror shall demonstrate satisfactory past performance under prior contracts for similar project services.

Factor No. 2: Overall strategy, technical approach, and methodology. This factor involves evaluating the data submitted with the offer that explains the Offeror's procedures for completing the solicitation requirements.

Factor No. 3: Detailed implementation plan. This factor involves evaluating how thorough the Offeror explains and outlines the work plan.

c. Cost/price proposal

A Board price evaluation team will use the same review process to evaluate each Offeror's cost/price proposal as formatted according to Section B. Offerors are reminded that they must use the format set forth in Section B in submitting their cost/price proposals. The price evaluation team will evaluate the cost/price proposals for price reasonableness, realism, risk, and any other criteria set forth in Section B. The price evaluation team may reject unrealistically low or materially unbalanced offers. The lowest price, acceptable proposal will be awarded number (#) ZZZ points, and higher priced bids will get points in an inverse proportion.

d. Covered Company Preference

If a covered company, as defined in Section M.25, is among the Offerors whose cost/price proposal is being evaluated under this section, costs will be adjusted as described in subparagraph 1., below. The adjusted costs will be used when awarding cost points under the process described in paragraph c., above.

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1. Except for the acquisitions described in subparagraph 2., below, if a responsible covered company submits a responsive bid, quotation, or proposal, the Contracting Officer shall, for the purpose of price evaluation, add to each noncovered company's proposal the following factor(s): three percent (3%) of the first \$500,000, plus one percent (1%) for any amount of the bid, quotation, or proposal that exceeds \$500,000. After applying this price adjustment, the Contracting Officer will evaluate the proposals and award the Contract as provided in paragraphs a. and c., above.
2. No price adjustment will be calculated in any of the following acquisitions, even if a covered company is a bidder: (1) the value of the contract is equal to or less than \$100,000, (2) the acquisition is a set-aside under the Board's Small and Disadvantaged Business Acquisition Policy, (3) the covered company has executed a waiver of the price preference, (4) price is not a factor in the evaluation, or (5) the contract is being awarded pursuant to the Trade Agreements Act or another international agreement.

I.2 FACTORS TO DETERMINE A RESPONSIBLE OFFEROR

- a. The Offeror shall provide financial statements for its two most recently completed fiscal years.
- b. The Offeror shall disclose any actions pending before any body competent to rule on, adjudicate, or referee any legal dispute, including labor or workers' compensation controversies, or bankruptcy filings.
- c. The Offeror shall possess, as of the date of release of this Solicitation, all required licenses and/or permits to conduct business both in the jurisdiction in which their main offices are located, and in Washington, DC. The Offeror shall indicate the type(s) of licenses and/or permits that have been issued to them, and the names of the issuing jurisdictions. The Offeror shall provide copies of such licenses and/or permits if requested. The Offeror shall keep current all required licenses and permits.
- d. The Offeror shall certify, as of the date of release of this Solicitation, that it has paid all taxes due, withholding or otherwise, and that it is not a party to any action by any taxing jurisdiction or authority to collect overdue or back taxes.
- e. If an Offeror has financial statements that are weak, has any actions pending, has not obtained or retained the required licenses and/or permits, has any outstanding taxes, or fails to provide any other information required by this Solicitation, the Offeror shall fully explain such action or deficiency so that the Contracting Officer may have sufficient information to determine whether the Offeror is a responsible Offeror.
- f. The Offeror's past performance (see Factor No. 1 of the technical proposal evaluation) will be evaluated as follows:

Board of Governors of the Federal Reserve System  
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- a. Quality of product or service. This refers to compliance with contract requirements, accuracy of reports, and technical excellence.
- b. Timeliness of performance. This refers to whether the Offeror met interim milestones, was reliable and responsive to technical direction, completed the project on time, including wrap-up and contract administration, and no liquidated damages.
- c. Cost control. This refers to the budget and cost efficiencies, and also whether the invoices were accurate and complete, and there were no overruns.
- d. Business relations. This refers to effective management, effective small and small disadvantaged-business subcontracting programs, reasonable and cooperative behavior, flexible effective Contractor-recommended solutions, and business-like concern for the organization's interest.
- e. Customer satisfaction. This refers to end user satisfaction with the Contractor's service.

OPTIONAL IN THE EVALUATION FACTOR YYY

Past performance will receive number (#) ZZZ of the noncost/price factors ratings. Or the following: YYY

1. A statement of the Offeror's financial condition.
2. Demonstration of prior satisfactory performance. This demonstration shall include a list of references, including individual names, addresses, and telephone numbers of negotiated contracts of those with whom the Offeror has most recently conducted business.
3. Demonstration of adequate financial resources, or the ability to obtain such resources as required during performance of the Contract.
4. Demonstration of the ability to comply with the required or proposed delivery schedule, taking into consideration all existing business commitments, both commercial and Board.
5. Demonstration of the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them.
6. Demonstration of the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

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7. Demonstration that the Offeror is otherwise qualified and eligible to receive an award under applicable laws and regulations.

### I.3 PROTESTS

Any actual or prospective Contractor who is aggrieved in connection with the solicitation or award of a contract may submit a written protest consistent with the provisions of Section M.23.

## SECTION J

### CONTRACT ADMINISTRATION

#### J.1 CONTRACT TYPE

It is contemplated that the Board will award a type ZZZ contract to the successful Offeror.  
(If construction add the Davis Bacon clause) YYY

#### J.2 PERIOD OF PERFORMANCE

The initial period of performance under the Contract will be from ZZZ, 2005 through ZZZ, 2005,  
with one year option periods of performance as set forth in Section J.2.1 below. YYY

##### J.2.1 OPTION TO EXTEND CONTRACT YYY

The Board may extend the Contract for number (#) ZZZ additional one-year periods without formal recompetition, based on the Contractor's satisfactory performance as determined by the COTR at his/her sole discretion, continued project funding, and subject to a continuation of the Contract and the continued need for the Contractor to perform services under the Contract.

The Board may extend the Contract by giving written notice to the Contractor at any time prior to the Contract's expiration date. If the Board exercises this option, the extended Contract shall be considered to include this option provision.

The total duration of this Contract including the exercise of any option under this clause shall not exceed number (#)ZZZ years without written modification to the Contract.

Negotiated extensions of the Contract beyond the option periods without formal competition are a Board prerogative and not a contractual right.

#### J.3 INVOICES

The Contractor shall submit invoices in arrears and on a thirty-day (30) cycle or in accordance with Clause 6, Payments, of the General Contract Provisions. The terms are net 30/prompt payment. All invoices shall show the contract number and modification number, if issued.

The Contractor shall submit invoices via electronic mail to [MGT-Accounts-Payable@frb.gov](mailto:MGT-Accounts-Payable@frb.gov) or by facsimile to (202) 452-2840. If the Contractor does not have access to electronic mail or facsimile equipment, it may also submit the invoice by postal mail in duplicate (original and one copy) to:



Board of Governors of the Federal Reserve System  
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Federal Reserve Board  
Accounting Section, Mail Stop 152  
20th and C Streets, NW  
Washington, DC 20551

If any travel is authorized under this Contract, the Contractor shall attach to the invoice all documentation for travel expenses. The Contractor shall be reimbursed according to the Board's travel policy in effect on the date of travel.

#### J.4 CONTRACT MANAGEMENT

Contract management is as follows:

Name	Title
Name ZZZ	Contracting Officer
Name ZZZ	Procurement Manager
Name ZZZ	Contract Specialist
Name ZZZ	COTR

#### J.5 COTR FUNCTIONS AND LIMITATIONS

Name ZZZ is designated the cognizant COTR who represents the Contracting Officer in administering technical details within the scope of the Contract and in inspecting and accepting. The COTR is not otherwise authorized to make any representations or commitments of any kind on behalf of the Contracting Officer or the Board. The COTR does not have the authority to alter the Contractor's obligations or change the terms and conditions of the Contract. If, as a result of technical discussions, it is desirable to alter or change contract terms and conditions, changes will be issued in writing and signed by the Contracting Officer or his/her authorized representative.

Some of the types of actions within the scope of the COTR's authority are:

- a. To assure compliance of the Contractor's performance with Section C, the Statement of Work.
- b. To perform or cause to be performed those inspections necessary to determine the Contractor's compliance with the technical requirements and the Statement of Work.
- c. To maintain both oral and written communications with the Contractor concerning those aspects of this Contract within his/her purview.

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- d. To monitor the Contractor's performance and to advise the Board's Senior Contract Specialist ZZZ of any deficiencies.
- e. To coordinate the availability of Board-furnished property and services and to provide entry to the work area for the Contractor's personnel, as required.
- f. To obtain the Contractor's proposal for a change order and to relay the information in a memo to the Senior Contract Specialist. ZZZ
- g. To review invoices and, based on satisfactory performance of the terms and conditions of the Contract, to notify the Accounting Section that a payment should be made pursuant to the Contract.
- h. To determine final acceptance of services provided under this Contract.

## **SECTION K**

### **REPRESENTATIONS AND OTHER STATEMENTS OF OFFEROR**

The Offeror shall include one copy of Section K, Representations and Other Statements of Offeror, in Volume I (Offer). To make the offer binding, the Offeror shall complete all blocks of Section K, as required, type in the name of the authorized signing official in the space reserved for his/her signature, and sign the form on that space.

1. Small business concern
2. Regular dealer-manufacturer
3. Quotation acceptance period
4. Contingent fee
5. Type of business organization
6. Persons authorized to conduct negotiations for Offeror
7. Previous contracts and compliance reports
8. Affirmative action compliance
9. Equal employment compliance
10. Intended place(s) of performance or other establishment(s) from which the supplies are to be furnished or services are to be performed
11. Acknowledgment of amendments
12. Acknowledgement of duties, responsibilities, and authority

## **REPRESENTATIONS AND OTHER STATEMENTS OF OFFEROR**

### **K.1 SMALL BUSINESS CONCERN**

The Offeror ( ) is, ( ) is not a small business concern.<sup>1</sup> If the Offeror is a small business concern and is not the manufacturer of the supplies offered, it also represents that all supplies to be furnished hereunder ( ) will, ( ) will not be manufactured or produced by a small business concern in the United States, its possessions or Puerto Rico.

### **K.2 REGULAR DEALER-MANUFACTURER (applicable only to supply contracts exceeding \$10,000.**

The Offeror is a ( ) regular dealer in, ( ) manufacturer of the supplies offered.

### **K.3 QUOTATION ACCEPTANCE PERIOD**

This quotation is valid for ZZZ days from ZZZ. (Delete note: A minimum of sixty (60) calendar days should be allowed. YYY)

### **K.4 CONTINGENT FEE (applicable only to supply contracts exceeding \$100,000)**

- a. The Offeror ( ) has, ( ) has not employed or retained any company or person (other than a full-time, bona fide employee working solely for the Offeror) to solicit or secure this Contract; and
- b. The Offeror ( ) has, ( ) has not paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the Offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract; and
- c. The Offeror agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer.

If the Offeror, by checking the appropriate box, has represented that it has employed or retained a company or a person (other than a full-time bona fide employee working solely for the Offeror) to solicit or secure this Contract, or that it has paid or agreed to pay any

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<sup>1</sup> A small business concern for the purpose of government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is quoting on government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

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fee, commission, percentage or brokerage fee to any company or person contingent upon or resulting from the award of this contract, the Offeror shall provide a statement that:

1. Provides the full name and business address of any or all company(ies) or person(s) employed or retained to solicit or obtain this contract and indicate whether such is an individual, a partnership or a corporation.
2. Describes the relationship of the Offeror to such person or entity (for instance, a sales or purchasing representative, a broker, an employee, or a corporate officer or principal and,
3. Indicates whether a written contract or agreement exists regarding such relationship. If a contract exists, the Offeror must provide a copy of such contract; otherwise, it must state in detail the terms of such arrangement including the amount and the method of computation of compensation and expenses.

The Offeror shall submit two copies of this statement, each signed by an authorized principal. If the Offeror has previously submitted a completed statement to the office issuing this Solicitation, the Offeror may accompany its quotation with a signed statement (i) indicating when it previously furnished such completed form, (ii) identifying by number the previous solicitation or contract, if any, in connection with which it submitted such form, and (iii) representing that the statement in such form is applicable to this quotation.

K.5 TYPE OF BUSINESS ORGANIZATION

The Offeror operates as ( ) an individual, ( ) a partnership, ( ) a nonprofit organization, ( ) a corporation incorporated under the laws of the State of .

K.6 PERSONS AUTHORIZED TO CONDUCT NEGOTIATIONS FOR OFFEROR SHALL BE THE FOLLOWING:

Name(s)/Title(s)	Phone No(s)
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K.7 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (NOTE: Applicable only to contracts or subcontracts that are not exempt from the equal opportunity compliance clause.) YYY

The Offeror represents that:

- a. It ( ) has, ( ) has not participated in a previous contract or subcontract subject either to the Equal Opportunity Compliance clause herein or the clause originally contained in Section 301 of Executive Order No. 10925, dated March 6, 1961, or the clause contained in Section 201 of Executive Order No. 11114, dated June 22, 1963;
- b. It ( ) has, ( ) has not filed all required compliance reports; and

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- c. It shall obtain representations indicating submission of required compliance reports, signed by proposed subcontractors, prior to subcontract award(s).

K.8 AFFIRMATIVE ACTION COMPLIANCE

The Offeror represents that it ( ) has, ( ) has not less than fifty (50) employees.

The Offeror represents that it ( ) has, ( ) has not developed and maintained at each of its establishments a written affirmative action compliance program policy.

K.9 EQUAL EMPLOYMENT COMPLIANCE

By submission of this offer, the Offeror represents that:

- a. To the best of its knowledge and belief, except as noted below, up to the date of this offer no written notice such as a show cause letter, a letter indicating probable cause, or any other written notification citing specific deficiencies, has been received by the Offeror from any Federal government agency or representative that the Offeror or any of its divisions or affiliates or known first-tier subcontractors is in violation of (i) any of the provisions of Executive Order 11246 of September 24, 1965, as amended, or (ii) the rules and regulations of the Secretary of Labor and specifically as to not having an acceptable Affirmative Action Compliance Program or being in noncompliance with any other aspect of the Equal Employment Opportunity Program.
- b. Should there be any change (i) in the Offeror's status or circumstances between this date and the date of expiration of this offer or any extension thereof, or (ii) during any Contract's performance period or extension thereof resulting from this Solicitation, the Offeror will promptly notify the Contracting Officer.

K.10 INTENDED PLACE(S) OF PERFORMANCE OR OTHER ESTABLISHMENT(S)  
FROM WHICH THE SUPPLIES ARE TO BE FURNISHED OR SERVICES ARE TO  
BE PERFORMED

The Offeror shall stipulate in its offer the following: the plant(s) where the work is to be performed, the street address(es), and the name(s) and address(es) of the owner(s) and operator(s) if other than the Offeror. If more than one plant is specified, information must be submitted as to the percentage and the extent of the work that is to be done in each plant listed.

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Company Name

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Street Address

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City/County/State/Zip Code

NOTE: If additional space is needed, attach an addendum.

K.11 ACKNOWLEDGMENT OF AMENDMENTS

Amendment No.      Date

K.12 ACKNOWLEDGMENT OF DUTIES, RESPONSIBILITIES AND AUTHORITY

The undersigned acknowledges his/her company's understanding that:

- a. The Board's Contracting Officer is the only person authorized to sign contracts or contract modifications on behalf of the Board.
- b. The Board's Contracting Officer is the only person authorized to issue change orders to Board contracts. The Contracting Officer will only issue changes in accordance with the changes clause of the General Contract Provisions.
- c. A person designated in any Board contract as a representative of the Contracting Officer to inspect and accept products or services on behalf of the Contracting Officer or to provide technical oversight during contract performance, does not have the authority to make changes to the contract terms and conditions for any reason whatsoever. Such person may have the designation of COTR or Contracting Officer's Representative, or any other designation.
- d. As a Contractor for the Board, any services performed or products delivered not specifically required under the Contract terms and conditions shall be provided at the Contractor's own expense and the Contractor shall not file any claim for reimbursement from the Board.

This acknowledgment is a material representation of fact upon which reliance will be placed by the Board in any contract agreed to as a result of this solicitation.

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Company Name and Address (Typed)

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Name and Title (Typed)

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Date

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Signature



## SECTION L

### GENERAL INSTRUCTIONS AND INFORMATION

#### L.1 GENERAL INSTRUCTIONS

- a. A Solicitation, Offer, and Award form, completed and signed by the Offeror, constitutes the Offeror's acceptance of the terms and conditions of this solicitation. The Offeror shall type in the name of the authorized signing official in Block 15 of the Solicitation, Offer, and Award form. The form shall be executed by a representative of the Offeror who is authorized to commit the Offeror to contractual obligations.
- b. The Offeror is expected to examine the entire solicitation document. Failure to do so shall be at the Offeror's own risk.
- c. Each Offeror shall furnish all information required by this Solicitation. The Offeror shall also fill in all blocks of Section K as required, and shall enter in the name of the authorized signing official in the space reserved for his/her signature.

#### L.2 DEFINITIONS

The following terms shall have the meaning as set forth below for this Solicitation:

*Board* means the Board of Governors of the Federal Reserve System.

*Contract* means this Solicitation, Offer, and Award after execution of the Award section of the Solicitation, Offer, and Award form by the Contracting Officer.

*Contracting Officer's Technical Representative* means the person designated to represent the Contracting Officer in administering the technical details of this Solicitation as more fully described in paragraph J.5 of Section J.

*Contractor* means the Offeror who is awarded a Contract under this Solicitation.

*Offerors* means those persons to whom the Board sent a Solicitation.

*Solicitation* means this Solicitation, Offer, and Award document initially issued by the Board seeking proposals from Offerors.

#### L.3 QUALIFICATION OF PROSPECTIVE CONTRACTOR

The Board will consider proposals only from Offerors who are regularly established in the business called for, and who are financially responsible and able to show evidence of their reliability, capability, and experience. The Offeror shall have the equipment, facilities, and personnel directly employed or supervised by it to render prompt and satisfactory performance at

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the time of award. If the Offeror intends to subcontract any portion of the operation, it shall be so stated in its proposals. The qualifications of the identified subcontractor(s) will then be considered along with those of the prime Contractor.

#### L.4 CONDITIONS

- a. This Solicitation does not commit the Board to pay any cost incurred in the preparation or submission of any proposal. The Board is not liable for any costs incurred in anticipation of a contract award. The Contracting Officer, at his/her sole discretion, may allow those costs that if incurred after contract award would be allowable.
- b. This Solicitation in no way obligates the Board to award a contract(s), and the Board reserves the right to reject any and all offers for any reason that the Contracting Officer determines.
- c. The Board reserves the right to award to other than the low-cost Offeror.
- d. The Board reserves the right to award a contract(s), after receipt of proposals, without further discussion. Therefore, it is emphasized that all proposals should be submitted initially on the most favorable terms from a cost and technical standpoint that the Offeror can submit to the Board.
- e. The proposal shall be signed by an official authorized to commit the Offeror to a contract.
- f. The Offeror will guarantee its prices for a minimum of sixty (60) days from the due date of proposal.

#### L.5 FORBIDDEN CONTACT

Offerors are cautioned against discussing the preparation of proposals or technical questions with Board technical personnel. The circumstances of any unauthorized contact, when verified, may result in disqualification of the Offeror's proposal. Discussions with Board technical personnel concerning the specifications, the documents incorporated by reference, pricing, or any other technical matters are strictly forbidden.

#### L.6 INTERPRETATION OF CONTRACT REQUIREMENTS

No interpretation of any provision of this Solicitation, including applicable specifications, shall be binding on the Board unless furnished or agreed upon in writing by the Contracting Officer or his/her designated representative authorized to make such interpretation.

#### L.7 INSURANCE

The selected Offeror shall obtain all insurance coverage such as workers' compensation or employer's liability coverage, general liability insurance, including commercial general liability,

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completed operations, and any other coverage that may be required by law, regulation, or ordinance, or is otherwise carried as common industry practice.

The insurance referred to above shall protect the Offeror, as named insured, up to the respective policy limits with respect to claims for damages for injury to persons or property arising out of or in connection with any act or omission of the Offeror or of any agent of the Offeror or of anyone directly or indirectly employed or retained by any of them with respect to the performance of services hereunder. The Offeror shall furnish the Board with evidence, in a form satisfactory to the Board, from its insurance companies showing that the above insurance is in force, stating policy numbers, effective dates, expiration dates, and limits of liability there under. All policies providing the above insurance shall be endorsed to provide that the insurance company shall notify the Board, in writing, thirty (30) days prior to any cancellation of or change in the above insurance. Compliance by the Offeror with the foregoing requirements to carry insurance shall not relieve the Offeror from liability assumed hereunder. The Board shall be named as an additional insured on said insurance policies.

#### L.8 EXCEPTIONS AND/OR DEVIATIONS

Offerors are cautioned that any exceptions or deviations taken to any provision of this Solicitation may result in that Offeror's entire proposal being declared unacceptable. It is the Board's intent that an Offeror satisfactorily meet each and every requirement as stated in this Solicitation. Should the Offeror request exceptions and/or deviations from any requirement of Section C, the Statement of Work, and/or any other clauses, provisions, or terms and conditions of this Solicitation, that request will be held to the highest burden of justification. Offerors shall identify in Volume 1 each requirement, clause, provision, or term and condition for which it requests exceptions and/or deviations. Each exception and/or deviation identified shall be fully explained including sufficient justification as to technical advantage, cost savings, and/or benefits to the Board so that the Board can thoroughly evaluate the Offeror's input and determine if it is in the best interest of the Board. If the Offeror's explanation is not acceptable to the Board, the exception and/or deviation will not be allowed, and, unless the original requirement is met, the Offeror's proposal may be found unacceptable.

#### L.9 MULTIPLE PROPOSALS

Offerors may submit more than one proposal in response to this Solicitation provided that each proposal addresses and meets all requirements specified herein. If multiple proposals are submitted, each proposal shall be clearly labeled and identified on the cover page of each separate document, and the reason for each additional proposal and its comparative benefits shall be explained. Each page of each proposal shall identify the proposal to which it belongs. Each proposal shall be a complete offer in and of itself. Each proposal submitted will be evaluated on its own merits. The Board will not accept or evaluate proposals for requirements other than those identified in this Solicitation.

#### L.10 FOCUSED ALTERNATIVES

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Alternate proposals aimed at satisfying specific elements of the Board's overall requirements in a unique or alternative manner will be permitted if accompanied by and fully cross-referenced to a fully compliant proposal. Each such proposal will be evaluated on its focused proposed solutions and the common solutions of the responsive proposal that accompanies it. Proposals that do not address all requirements (either directly or by cross-reference) may be deemed unacceptable.

#### L.11 IDENTIFICATION OF RESTRICTED RIGHTS IN COMPUTER SOFTWARE

Offerors are cautioned of the requirement that any restrictions on the Board concerning use or disclosure of computer software that was developed at private expense and is to be delivered under the Contract must be set forth in an agreement to be negotiated prior to award and made a part of the Contract. Therefore, the Offeror shall identify in its proposal, to the extent feasible, any computer software that was developed at private expense and upon which it desires to negotiate restrictions, and shall state the nature of the proposed restrictions. A listing of such software shall be attached to and included as part of the Technical Proposal. If no such software is identified in the proposal, the Board assumes it has unlimited rights. Offerors will be deemed to have given a warranty by the signing of the proposal section of the Solicitation, Offer, and Award form (Section A) that software rights are not limited.

#### L.12 LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

- a. Any proposal received by the office designated in this Solicitation after the exact time specified for receipt will not be considered unless it is received before award is made; and
  1. it was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receiving offers (for instance, an offer submitted in response to a solicitation requiring receipt of offers by the twentieth of the month shall have been mailed by the fifteenth or earlier),
  2. it was sent by mail, and it is determined by the Board that the late receipt was due solely to mishandling by the Board after receipt at the Board; or
  3. it is the only proposal received.
- b. Any revision of an Offeror's proposal, except a revision resulting from the Contracting Officer's request for best and final offer, is subject to the same conditions as in a.1. and a.2. above.
- c. A revision to an Offeror's proposal resulting from the Contracting Officer's request for best and final offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Board after receipt at the Board's installation.

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- d. The only acceptable evidence to establish:
  - 1. the date of mailing of a late proposal or modification sent either by registered or certified mail is the US or Canadian Postal Service postmark on the wrapper or on the original receipt from the US or Canadian Postal Service.<sup>2</sup> If neither postmark shows a legible date, the proposal or modification of the proposal shall be deemed to have been mailed late.
  - 2. the time of receipt at the Board is the Board's time/date stamp on the proposal wrapper or other documentary evidence of receipt maintained at the Board.
- e. Notwithstanding the above, a late revision of an otherwise successful proposal, which makes its terms more favorable to the Board, will be considered at any time it is received and may be accepted.
- f. Proposals may be withdrawn by written notice received at any time prior to award. Proposals may be also withdrawn in person by an Offeror or its authorized representative, provided that the identity of this person is made known and that he/she signs a receipt for the proposal prior to award.

L.13 PROPOSAL SUBMISSION

- a. Proposals shall set forth full, accurate, and complete information.
- b. Offerors shall submit proposals by mail or messenger to the following address:

Federal Reserve Board  
Procurement Section, Mail Stop 128  
20th and C Streets, NW  
Washington, DC 20551  
Attention: Specialist Name ZZZ  
RE: Solicitation ZZZ

- c. The Board will accept proposals at the above address until the time and date specified below. Proposals received after this time and date will be processed as specified in section L.12 above.

Closing date:           DATE ZZZ

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<sup>2</sup>The term postmark means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. or Canadian Postal Service. Therefore, Offerors should request the postal clerk to place a bull's-eye, that is, a hand-stamped cancellation or postmark, on both the receipt and the envelope or wrapper.

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Closing time: 2:00 pm (Washington, DC time)

- d. Proposals shall be typed on paper no larger than 8-1/2 by 11 inches, using one side only. Expensive paper or elaborate artwork and bindings are neither necessary nor desired.
- e. Information requested in this Solicitation shall be furnished completely in compliance with instructions. The information requested and the manner of submission are essential to permit prompt evaluation of all proposals, and on a fair and uniform basis. Accordingly, the Board reserves the right to declare as nonresponsive, and to reject any proposals in which material information requested is not complete.
- f. Proposals submitted in response to this Solicitation may contain technical data, trade secrets, and commercial or financial information that is privileged and confidential and that the Offeror does not want disclosed or used for any purpose other than evaluation of the proposal by the Board. The Offeror may restrict the disclosure or use of such data or information by identifying specific pages on the proposal as "RESTRICTED DATA" and by marking the cover sheet of the proposal with the legend below:

TECHNICAL DATA, TRADE SECRETS, COMMERCIAL AND/OR FINANCIAL INFORMATION CONTAINED IN PAGES ZZZ OF THIS PROPOSAL NO. ZZZ, AND MARKED "RESTRICTED DATA" SHALL NOT BE DISCLOSED OR USED OTHER THAN FOR PROPOSAL EVALUATION PURPOSES BY THE BOARD, EXCEPT THAT SUCH RESTRICTED DATA MAY BE USED IN ACCORDANCE WITH THE PROVISIONS OF ANY CONTRACT AWARDED AS A RESULT OF, OR IN CONNECTION WITH, THIS PROPOSAL. THIS RESTRICTION DOES NOT LIMIT THE BOARD'S RIGHT TO DISCLOSE OR USE SUCH DATA OR INFORMATION IF OBTAINED FROM ANOTHER SOURCE WITHOUT SUCH RESTRICTIONS.

The above restriction shall not be construed as altering or limiting in any way the Board's obligation under the Freedom of Information Act (5 U.S.C. § 552), or any other applicable law or rule, court order or Congressional requirement, or any other right reserved by the Board.

The Board assumes no liability for disclosure or use of unmarked technical data, trade secrets, and commercial and financial information, and may disclose or use such data or information for any Board purpose.

- g. Nonresponsive proposals will be identified and will be eliminated from further consideration. A proposal that is nonresponsive is one that:
  - 1. Does not address itself to the mandatory requirements of this Solicitation.
  - 2. Contains major deficiencies, omissions, or out-of-line costs.

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- h. Offerors are cautioned that an award may be made without further discussions or negotiations, or a request for best and final offer.
- i. Proposals shall consist of one complete original and the number of copies as stated below. Proposals shall be submitted in three volumes, each separate and complete in itself in order that evaluation of one may be accomplished independently of, and concurrently with, evaluation of the others. Each volume shall be titled and submitted as follows:

**Volume I Cover Letter. Submit one original.** Volume I shall consist of any exceptions taken by the Offeror, the completed and signed Representations and Other Statements of Offerors, and the Vendor Information form.

Part A -- Identification of Exceptions

The Offeror shall provide identification and explanation of any exceptions or deviations taken or conditional assumptions made with respect to the Offeror's proposal versus the requirements of this Solicitation. Any exceptions taken shall contain sufficient amplification and justification to permit evaluation. All benefits to the Board shall be explained for each exception taken. Such exceptions will not, of themselves, automatically cause a proposal to be deemed unacceptable unless they fail to provide sufficient benefits to the Board, or result in material deviations from the requirements of Section C, the Statement of Work.

Part B            Signed Certification and Representation (Section K)

Part C            Vendor Information Form (Section N)

Part D            Solicitation, Offer and Award Form (Section A)

Part E            The information requested in paragraph I.2 of section I

Part F            Subcontractor plan (if required) YYY

**Volume II Technical Proposal. Submit one original and five copies.** Volume II shall be termed the "technical proposal," and shall be prepared in accordance with the instructions provided in paragraph below. The technical proposal shall not contain any reference to price. The technical proposal shall be presented in a concise and straightforward manner.

Part A Management Plan

In this part, the Offeror shall provide a detailed description of its approach to meeting the requirements of this Solicitation. To facilitate evaluation of the

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Management Plan, the order of presentation should follow the sequence set forth below.

1. Key personnel. The Offeror shall provide résumés of key personnel and other information as set forth in Section H.
2. Offeror's experience. The Offeror shall provide a description of its experience in providing services of the type and complexity required in this Solicitation to the federal government, or to the Federal Reserve System, or to other clients of similar-sized workforce. Detailed information shall be provided, including years in business and references as required in Section C, the Statement of Work.
3. Offeror's approach to requirements. The Offeror shall narrate its approach to meeting or exceeding the requirements indicated in Section C, the Statement of Work.

Part B References and Corporate Qualifications

1. References. Offerors shall submit at least six YYY references consisting of present or past clients, within the past five years, who are capable of verifying the following:
  - a. Two YYY references documenting the Offeror's ability to manage projects comparable (as close as possible in size, complexity, and scope) to the Solicitation resulting from this acquisition.
  - b. Four YYY references, for itself and for all major subcontractors, capable of documenting that, in combination, the Offeror and subcontractors have provided, operated and managed contracts comparable (as close as possible in size, complexity, and scope) to those required under this Solicitation.

The Offeror shall provide the following information on each client reference:

- a. Total contract value
  - b. Contracting Officer name, address, and telephone number
  - c. Brief description of the services, size, and scope of services
  - d. Information on whether the Offeror is currently providing services under the Contract
2. Corporate qualifications. Offerors shall submit material describing their general corporate capabilities and qualifications.



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3. Implementation plan. The Offeror shall provide a detailed work plan and schedule for implementing the program.

**Volume III Cost/Price Proposal. Submit one original and two copies.**

Volume III shall be termed "cost/price proposal." This volume shall consist of completed cost proposal forms in the format set forth in Section B. The cost proposal form shall be sealed in a separate envelope marked "Cost/Price Proposal for Solicitation ZZZ."

**L.14 INDEMNIFICATION**

By signing the Proposal section of the Solicitation form, the Offeror agrees to save and hold harmless the Board, its members, officers, and employees from liability of any kind or nature, including cost and expenses to which they might become subject, arising or resulting in whole or in part from the negligent performance of the Offeror upon award of a contract to the Offeror under this Solicitation including action or failure to act by its owners, directors, officers, employees, agent, or subcontractors.

**L.15 NOTICES**

All notices required to be sent under this Solicitation shall be sent certified mail, return receipt requested, overnight deliver (using a service that verifies receipt of delivery), or messenger service (using a service that verifies receipt of delivery).

Notices to the Board shall be sent to:

Federal Reserve Board  
Procurement Section, Mail Stop 128  
20th and C Streets, NW  
Washington, DC 20551  
Attention: Michael Kelly, Procurement Manager  
RE: Solicitation ZZZ

Notices to the Contractor will be sent to the person and address set forth in Section 12. of the Representations And Other Statements Of Offer (Section K).

**L.16 SECURITY**

- a. General. The Contractor shall require its personnel and those of its subcontractors and suppliers to comply with all Board security standards and procedures. Such personnel will be briefed on the Board's security standards and procedures, and will be provided with written documentation of these standards and procedures.
- b. Personnel access. All personnel of the Contractor and its subcontractors, suppliers and associates who require access to Board property must be cleared in advance by the

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Board's Security Department. The Contractor shall provide the Board with a list of all personnel requiring access to the site, which shall include legal names, dates of birth, and social security account numbers. This list shall be continuously updated. The Contractor shall notify the Board immediately, in writing, of any changes to the list, including any personnel who are no longer employed by Contractor or its subcontractors, suppliers and associates.

- c. Access badges. The Board denies access to its premises to any individual who does not possess a valid access badge issued by the Board. Access badges issued by other organizations are not valid at Board facilities. The Board issues two types of badges to non-FRB personnel. The first is a paper "Escort Required" badge, which is valid only on the day on which it is issued. An individual who holds only a daily "Escort Required" badge must be escorted by authorized personnel. The second type of badge is a laminated photo-identification badge. Holders of photo-identification badges are authorized access to Board property without requiring an escort, and are also authorized to escort holders of "Escort Required" badges.

Generally, personnel who work on Board premises for any extended period of time will be issued photo-identification badges, provided that the results of their security checks are satisfactory. Personnel who require only short-term or occasional access to the Board facilities will be issued "Escort Required" badges on a daily basis, and it shall be Contractor's responsibility to ensure that such personnel are properly escorted by a person or persons possessing a valid Board photo-identification badge.

1. Lost or stolen badges. Laminated photo-identification badges should be turned into the Board Security Administration office whenever the job status of the person holding that badge changes, for instance, resignation, assignment to another project, project completion. The Security Administration office shall be notified immediately in the event that a photo-identification badge is lost or stolen. There is a fee for replacing lost badges.
- d. Security checks. The Board will check the names of all Contractor, subcontractor and supplier personnel who require access to Board facilities through the FBI National Crime Information Center (NCIC). Personnel requiring an "Escort Required" badge will be screened by name and social security account number. This screening typically takes less than a day. Personnel who require a laminated photo-identification badge will be screened not only by name and social security account number, but also by their fingerprints. This check is conducted by submitting the individual's fingerprints to the Office of Personnel Management (OPM), which forwards them to the FBI. It normally takes 2-3 days for the FRB to receive a response.
  1. Results of security checks. The determination as to the suitability of any employee or associate of the Contractor or its subcontractors or suppliers to enter the Board's premises shall be made by the Board at its sole discretion. The Board may, as a result of the fingerprint security check described above, deny access to a

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person who had previously been granted temporary access based on a name and social security account number check.

- e. Security alert system. The Board has a security alert system that somewhat models the National Alert System. The Board normally operates at the Code Yellow level. Individuals in possession of a valid Board photo-identification badge are granted uncontrolled access to Board facilities and free movement within the premises (except for certain restricted areas) during Code Yellow conditions, while holders of “Escort Required” badges are required to be screened with magnetometers and their bags and packages must be x-rayed. During Code Orange conditions, all persons entering Board facilities are required to be screened with magnetometers, and all bags and packages must be X-rayed. All vehicles entering Board garages are searched during Code Orange conditions. When Code Red conditions are in effect, Contractor personnel are not allowed on the Board’s premises, unless specific exceptions are granted by the Board Security Administration office.
  - 1. Special circumstances. Notwithstanding its condition at any particular time with respect to the Board’s security alert system, the Board reserves the right to screen individuals and bags, packages or vehicles as indicated above at any time as a precondition to granting such individuals access to Board premises.

L.17 PREPROPOSAL CONFERENCE

- a. A preproposal conference will be conducted as indicated in the Solicitation cover letter.
- b. The Offeror shall submit in writing to the Contract Specialist any questions it has concerning this Solicitation, in accordance with Section G, above. Written responses to questions submitted in writing prior to the preproposal conference will be provided during or after the conference.
- c. Offerors are specifically cautioned that verbal discussion, questions, and replies regarding this solicitation shall not change the clauses or provisions of this Solicitation.
- d. The purpose of this conference is to provide a briefing on this Solicitation, the scope of work, and the specifications. The Board considers attendance at this conference essential to preparing a competitive and cost-effective offer, and to understanding the total result desired by the Board. For building security purposes, please fax in the names of the attendees with their social security numbers and dates of birth at least 24 hours in advance of the preproposal conference.

## **SECTION M**

### **GENERAL CONTRACT PROVISIONS**

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2. Inspection
3. Assignment of claims
4. Federal, state, and local taxes
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- 39. Accessibility of Electronic and Information Technology
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## SECTION M

### GENERAL CONTRACT PROVISIONS

#### M.1 DEFINITIONS

As used throughout this contract, the following terms shall have the meaning as set forth below:

*Board* identifies the Board of Governors of the Federal Reserve System.

*Contract* means all types of agreements and orders, including purchase orders for the procurement of supplies, services, printing, and/or equipment. It includes amendments and supplemental agreements with respect to any of the foregoing.

*Contractor* means an individual, partnership, corporation, or other entity responsible for the execution of a contract to provide goods and/or services at a certain price or rate.

*Contracting Officer* means the person executing this Contract on behalf of the Board or his/her successor or successors.

#### M.2 INSPECTION

- a. All work under this Contract shall be subject to inspection and test by the Board to the extent practicable, at all times (including the period of performance) and places, and in any event prior to acceptance. The Board, through any authorized representative, may inspect the premises of the Contractor or any subcontractor engaged in the performance of this Contract.
- b. The Board may reject any work that is defective or otherwise not in conformity with the requirements of this Contract. If the Contractor fails or is unable to correct or to replace such work within the delivery schedule or such later time as the Contracting Officer may authorize, the Contracting Officer may accept such work at a reduction in price which is equitable under the circumstances.
- c. If any inspection or test is made by the Board on the premises of the Contractor or a subcontractor, the Contractor shall provide, without additional charge, all reasonable facilities and assistance for the safety and convenience of the Board inspectors in the performance of their duties. If the Board inspection or test is made at a point other than the premises of the Contractor or subcontractor, it shall be at the expense of the Board. All inspections and tests by the Board shall be performed in such a manner so as not unduly to delay the work. Final inspection and acceptance or rejection of the work shall be made as promptly as practicable after delivery except as otherwise provided in this Contract, but failure to inspect and accept or reject the work shall neither relieve the

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Contractor from responsibility for such work as is not in accordance with the Contract requirements nor impose liability on the Board therefore.

- d. The inspection and test by the Board of any work shall not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regard to latent defects, fraud, or such gross mistakes as amount to fraud.
- e. The Contractor shall provide and maintain an inspection system acceptable to the Board covering the work hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Board during the performance of this Contract and for such longer period as may be specified elsewhere in this Contract.

M.3 ASSIGNMENT OF CLAIMS

- a. Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. Section 3727, 41 U.S.C. Section 15), if this Contract provides for payments aggregating \$1,000 or more, claims for monies due or to become due the Contractor from the Board under this Contract may be assigned to a bank, trust company, or other financial institution, including any federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this Contract not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing.
- b. In no event shall copies of this Contract or of any plans, specifications, or other similar documents relating to work under this Contract, if marked "Top Secret," "Secret," or "Confidential" be furnished to any assignee of any claim arising under this Contract or to any other person not entitled to receive the same. Nevertheless, a copy of any part or all of this Contract so marked may be furnished, or any information may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

M.4 FEDERAL, STATE, AND LOCAL TAXES

- a. Except as may be otherwise provided in this Contract, the contract price includes all applicable federal, state, and local taxes and duties.
- b. Nevertheless, with respect to any federal excise tax or duty on the transaction or property covered by this Contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and
  - 1. results in the Contractor being required to pay or bear the burden of any such federal excise tax or duty or increase in the rate thereof which would not

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otherwise have been payable on such transactions or property, the Contract price shall be increased by the amount of such tax, duty, or rate increase, provided that the Contractor, if requested by the Contracting Officer, warrants in writing that no amount for such newly imposed federal excise tax, duty, or rate increase was included in the contract price as a contingency reserve or otherwise; or

2. results in the Contractor not being required to pay or bear the burden of, or in its obtaining a refund or drawback of, any such federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the Contract price, the Contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount shall be paid to the Board as directed by the Contracting Officer. The Contract price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of or does not obtain a refund or drawback of any such federal excise tax or duty.
- c. No adjustment pursuant to paragraph (b) above shall be made under this Contract unless the aggregate amount thereof is or may reasonably be expected to be more than two hundred and fifty dollars (\$250).
- d. As used in paragraph (b) above, the term "contract date" means the date set for the bid opening or, if this is a negotiated Contract, the date of this Contract. As to additional supplies or services procured by modification to this Contract, the term "contract date" means the date of such modification.
- e. Unless there does not exist any reasonable basis to sustain an exemption, the Board, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this Contract to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this Contract, evidence appropriate to establish exemption from duties will be furnished only at the discretion of the Contracting Officer.
- f. The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the Contract price, and shall take action with respect thereto as directed by the Contracting Officer.

#### M.5 BOARD-FURNISHED PROPERTY

No material, labor, or facilities will be furnished by the Board unless otherwise provided for in the Solicitation.



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M.6 FUNDING AND PAYMENT

Notwithstanding any other provision herein, the Board's obligations under this Contract are contingent upon the Board providing funding for this Contract. The Board shall not be legally liable or responsible in any way for any payment under this Contract unless and until the Board makes funds available to the Contracting Officer for this Contract. Contractor may request the Contracting Officer's written confirmation of the availability of funds, and the Contracting Officer shall provide such written confirmation if and when the funds become available.

Subject to the foregoing, the Contractor will be paid upon the submission of proper invoices and vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as provided under the Contract or required by law. Unless otherwise specified, payment will be made on partial deliveries accepted by the Board when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either one thousand dollars (\$1,000) or fifty (50) percent of the total amount of this Contract. All payments shall be made by electronic funds transfer (EFT), and to receive payment, the Contractor must submit the form titled Vendor Information. Notification will be provided by facsimile to Contractor on the date of payment.

M.7 EXTRAS

Except as otherwise provided in this Contract, no payment for extras shall be made unless the Contracting Officer authorizes such extras and the price in writing.

M.8 NONDISCLOSURE

The Contractor acknowledges that all information and material related to (a) the security arrangements and strategies of the Board; (b) economic data; (c) financial, statistical and personnel data pertaining to Federal Reserve Banks or other financial institutions; and (d) financial, statistical, personnel, planning and similar information relating to past, present or future activities of the Board, which has or will come into the possession or knowledge of Contractor or its agents or employees in connection with this Agreement or the performance hereof shall be considered to be confidential and proprietary, the disclosure of which to third parties will be damaging to the Board. The Contractor, therefore, agrees to use such information only for the Board's benefit and will use the same effort to avoid publication or dissemination of such information as it employs with respect to the Contractor's own confidential information. The Contractor agrees to require each of its agents or employees assigned to perform services for the Board under this Agreement, by means or appropriate written agreements, to keep any such information obtained by them while performing such services confidential in the same manner as, and using the same discretion required of, such persons with respect to confidential information of Contractor and not to disclose such information to any person (other than a Contractor's employee requiring such information in connection with the performance of services hereunder) without the Board's prior written consent. Notwithstanding any of the foregoing, the Contractor shall not be required to keep confidential or limit its use of any ideas,

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concepts, know-how or techniques related to data processing that the Board intentionally discloses in writing at any time to the Contractor or developed by either party, and if developed by the Board intentionally disclosed by the Board in writing, during the course of this Agreement. The Board by this Agreement does not agree to give Contractor any rights to any third party ideas, concepts, know-how or techniques. The Contractor shall have no obligation of any kind with respect to any information which: (a) is already in the possession of the Contractor except that which has been received under another confidentiality agreement with the Board; (b) is rightfully received by the Contractor from a third party; (c) is independently developed by or for the Contractor; or (d) is or becomes publicly available.

#### M.9 INSPECTION OF BOOKS & RECORDS

- a. This clause is applicable to any Contract regardless of the amount or the manner into which it was entered.
- b. The Contractor agrees that the Board (including its authorized representative and/or its OIG) (collectively for this Section M.9, "Board") shall, until expiration of three (3) years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Board shall have the same rights to the subcontractor as specified in paragraph (a) above.
- c. The periods of access and examination described in (b) and (c) above, for records which relate to (1) litigation or the settlement of claims arising out of the performance of this Contract, or (2) costs and expenses of this Contract as to which exception has been taken by the Board, shall continue until such litigation, claims, or exceptions have been disposed of.

#### M.9A BOARD'S OFFICE OF THE INSPECTOR GENERAL (OIG)

- a. This clause is applicable to any Contract regardless of the amount or the manner into which it was entered.
- b. For the avoidance of doubt, nothing in this Contract (including Section M.9) shall limit the OIG's authority under the Inspector General Act to examine the Contractor's books, documents, papers, etc.
- c. The Contractor and any subcontractor shall make notification (including posting notices in each of their respective facilities) to all Contractor and subcontractor employees working on this Contract of the Board's OIG hot line telephone number, 1-800-827-3340, and to report any suspected "waste, fraud, or abuse" transactions related to the performance of this Contract.

#### M.10 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

Note: This clause is applicable to all contracts exceeding one hundred thousand dollars (\$100,000).

- a. The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.
- b. In the event of any claim or suit against the Board on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Board, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Board except where the Contractor has agreed to indemnify the Board.
- c. This clause shall be included in all subcontracts in the amount of fifty thousand dollars (\$50,000) or more.

#### M.11 COVENANT AGAINST CONTINGENT FEES AND CONFLICT OF INTEREST

The Contractor warrants that no person or agency has been employed or retained to influence, solicit, or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, contingent fee, or special interest, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Board shall have the right to annul this Contract without liability, or in its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### M.12 GRATUITIES

- a. The Board may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Contract if it is found, after notice and hearing, by the Board or its duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Board with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determination with respect to the performance of such Contract, provided that the existence of the facts upon which the Board or its duly authorized representative makes such findings shall be an issue and may be reviewed in any competent court.

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- b. In the event this Contract is terminated as provided in paragraph (a) hereof the Board shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor.
- c. The rights and remedies of the Board provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

M.13 ANTI-KICKBACK PROCEDURES

Note: This clause is applicable to all contracts over one hundred thousand dollars (\$100,000).

- a. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations of the Anti-Kickback Act (41 U.S.C. 51-58) in its own operations and direct business relationships.
- b. The Anti-Kickback Act prohibits any person from (1) providing, or attempting to provide, or offering to provide any kickback; (2) soliciting, accepting, or attempting to accept any kickback; or (3) including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the Contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.
- c. When the Contractor has reasonable grounds to believe that a violation of the Anti-Kickback Act may have occurred, the Contractor shall promptly report in writing the possible violation to the Board's Office of the Inspector General.
- d. The Contractor shall cooperate fully with any federal agency investigating a possible violation of the Anti-Kickback Act.
- e. The Contractor agrees to incorporate the substance of this clause, including this subparagraph (e), but excepting subparagraph (a) in all subcontracts under this Contract exceeding one hundred thousand dollars (\$100,000).

M.14 INTERPRETATION OF CONTRACT REQUIREMENTS

No interpretation of any provision of this Contract, including applicable specifications, shall be binding on the Board unless furnished in advance and agreed to in writing by the Contracting Officer or his designated representative.

M.15 CHANGES

- a. The Contracting Officer may, at any time, without notice to the sureties, by written change order, make any change in the work within the general scope of the Contract, including but not limited to changes (1) in the specifications (including drawings and designs); (2) in the method or manner of performance of the work; (3) in the Board-

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furnished facilities, equipment, materials, services, or site; or (4) directing acceleration in the performance of the work.

- b. Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the Contracting Officer, which causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.
- c. Except as herein provided, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.
- d. If any change under this clause causes an increase or decrease in the part of the work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly, provided, however, that except for claims based on defective specifications no claim for any change under (b) above shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required: And provided further, that in the case of defective specifications for which the Board is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.
- e. If the Contractor intends to assert a claim for an equitable adjustment under this clause, it must, within thirty (30) days after receipt of a written change order (a) above or the furnishing of a written notice under (b) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Board. The statement of claim hereunder may be included in the notice under (b) above. No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

#### M.16 PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause (Clause 15) or any other provision of this Contract, such costs shall be allowed to the extent they are reasonable and allocable. In ascertaining what constitutes a cost, any generally accepted method of determining or estimating costs that is equitable and consistently applied may be used.

#### M.17 BOARD DELAY OF WORK

- a. If the performance of all or any part of the work is delayed or interrupted by an act of the Contracting Officer in the administration of this Contract, which act is not expressly or impliedly authorized by this Contract or by his/her failure to act within the time specified

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in this Contract (or within a reasonable time if no time is specified), an adjustment (excluding profit) shall be made for any increase in the cost of performance of this Contract caused by such delay or interruption, and the Contract modified in writing accordingly. Adjustment shall be made also in the delivery or performance dates and any other contractual provision affected by such delay or interruption. No adjustment, however, shall be made under this clause for any delay or interruption (1) to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or (2) for which an adjustment is provided or excluded under any other provision of this Contract.

- b. No claim under this clause shall be allowed (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such delay or interruption, but not later than the date of final payment under the Contract.

#### M.18 EXCUSABLE DELAYS

Except with respect to default of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this Contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to: acts of God or of the public enemy, acts of the Board in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform or make progress and if such failure arises out of causes beyond the control of both the Contractor and the subcontractor and without fault or negligence of either, the Contractor shall not be deemed to be in default unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other sources, (b) the Contracting Officer ordered the Contractor in writing to procure such supplies or services from such other sources, and (c) the Contractor failed to comply reasonably with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure, and if he/she determines that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Board under the clause hereof entitled "Termination."

Note: As used in this clause, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.

#### M.19 STOP WORK ORDER

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period of

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ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either (1) cancel the stop work order, or (2) terminate the work covered by such order as provided in the "Default" or the "Termination for Convenience" clauses of this Contract.

- b. If a stop order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price or both, and the Contract shall be modified in writing accordingly, if
  - 1. the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part,
  - 2. the Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Contracting Officer decides the facts justify such action, it may receive and act upon any such claim asserted at any time prior to final payment under this Contract.
- c. If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Board, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.
- d. If a stop work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

#### M.20 TERMINATION FOR CONVENIENCE OF THE BOARD

The Contracting Officer, by written notice, may terminate this contract in whole or in part, when it is in the Board's interest. To the extent that this Contract is for service and is so terminated, the Board shall be liable only for payment in accordance with the payment provisions of this Contract for services rendered prior to the effective date of termination. If the Board terminates this Contract under this paragraph, the Contractor must immediately take all actions necessary to minimize the cost of termination settlement to the Board.

#### M.21 DEFAULT

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- a. The Board may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this Contract in any one of the following circumstances:
  1. if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof, or
  2. if the Contractor fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- b. In the event the Board terminates this Contract in whole or in part as provided in paragraph (a) of this clause, the Board may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Board for any excess costs for such similar supplies or services; provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.
- c. Except with respect to default of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy; acts of the Board in either its sovereign or contractual capacity; fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- d. If this Contract is terminated as provided in paragraph (a) of this clause, the Board, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Board, in the manner and to the extent directed by the Contracting Officer, (1) any completed supplies, and (2) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Board has an interest. Payment for completed supplies delivered to and accepted by the Board shall be



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at the Contract price. Payment for manufacturing materials delivered to and accepted by the Board and for the protection and preservation of property shall be in the amount agreed upon by the Contractor and Contracting Officer. The Board may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Board against the losses because of outstanding liens or claims of former lien holders.

- e. If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of the clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience provisions of this Contract.
- f. The right and remedies of the Board provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- g. As used in paragraph (c) of this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.

M.22 DISPUTES

- a. Any claim by the Contractor seeking payment of money in a sum certain, the adjustment or interpretation of Contract terms, or other relief arising under or relating to the Contract must be submitted in writing to the Contracting Officer. Upon receipt of such a claim, the Contracting Officer or his/her representative will contact the claimant and attempt to negotiate a mutually acceptable resolution.
- b. Upon the failure to reach such a resolution, the Contracting Officer shall issue a written determination after reviewing the pertinent facts and consulting with legal and other advisors. The written determination shall be issued within a reasonable time, but not less than sixty (60) days after receipt of a written request from the claimant for a written determination. The written determination shall contain (1) a description of the claim or dispute; (2) reference to the pertinent contract terms; (3) a statement of the factual areas of agreement and disagreement; (4) a statement of the Contracting Officer's decision, with supporting rationale; and (5) a statement that the Contracting Officer's decision is final and that the claimant may appeal the decision to the Board's Chief Financial Officer or his/her delegate. The Contracting Officer's decision will be furnished by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
- c. Failure of the Contracting Officer to issue a written determination within sixty (60) days of a written request for such determination shall be deemed to be a denial of the claim, which may be appealed to the Board's Chief Financial Officer or his/her delegate. Any appeal to the Board's Chief Financial Officer or his/her delegate must be made in writing within ninety (90) days from the date the claimant receives the Contracting Officer's written decision.

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- d. The Board will pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim, or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims will be paid at the rate, fixed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat 97), which is applicable to the period during which the Contracting Officer receives the claim.

## M.23 PROTESTS

- a. Protests may be submitted by actual or prospective Offerors to the manager of the Procurement Section as follows: Procurement Manager, Management Division, 20th and C Streets, NW, Washington, DC 20551. Protests on alleged improprieties in a solicitation that are apparent prior to the closing date for receipt of bids or proposals shall be filed prior to that date. In all other cases, protests shall be filed not later than ten (10) calendar days after the basis of the protest is known or should have been known, whichever is earlier. Protests shall include (1) the name, address, and telephone number of the protester; (2) the solicitation or contract number; (3) a detailed statement of the legal and factual grounds for the protest, including copies of relevant documents; (4) a request for a ruling by the Board; and (5) a statement of the form of relief requested.
- b. If the Procurement Manager receives a protest prior to award, an award will not be made until a decision on the protest is issued, or the matter is otherwise resolved unless the Procurement Manager first determines, in writing, that (1) the supplies or services to be contracted for are urgently required, (2) delivery or performance will be unduly delayed by failure to make award promptly, or (3) a prompt award will otherwise be advantageous to the Board. If the award is to be delayed pending resolution of the protest, the other Offerors shall be notified of the protest; and, if appropriate, those Offerors should be requested to extend the time for acceptance to avoid the need for resolicitation.
- c. If a protest is received after award, the contract performance will not be suspended unless it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Board's interest.
- d. The Procurement Manager will furnish a copy of the written protest ruling to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The protester may appeal the ruling of the Procurement Manager to the Chief Acquisition Officer. Any appeal to the Chief Acquisition Officer must be made in writing within ten (10) calendar days from the date the protester receives the Procurement Manager's written ruling. If the Chief Acquisition Officer has a conflict, then the director of the Management Division will decide the appeal.

## M.24 COMPETITION IN SUBCONTRACTING

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The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

M.25 SUBCONTRACTING PLAN

- a. For purposes of this clause, “covered company” means a firm qualified as a small business concern under the Small Business Act (15 U.S.C. § 632) and regulations thereunder, including (1) business concerns that meet the size eligibility standards set forth in 13 C.F.R § 121; (2) small business concerns owned and controlled by veterans or service-disabled veterans as defined by 15 U.S.C. § 632(q); (3) qualified HUBZone small business concerns pursuant to 15 U.S.C. § 632(p) and 13 C.F.R § 126; (4) socially and economically disadvantaged small business concerns as defined by 15 U.S.C. § 637 and certified as such under 13 C.F.R. § 125; and (5) small business concerns owned and controlled by women as defined by 15 U.S.C. § 632(n).
- b. The Board has a policy of providing covered companies with an equitable opportunity to compete, as a prime contractor or a subcontractor, in Board acquisitions conducted pursuant to the formal bidding procedures, negotiated procurement procedures, or simplified acquisition procedures of the Board’s Acquisition Policy, to the extent that this opportunity is consistent with efficient contract performance.
- c. Except for solicitations for services that are personal in nature or for solicitations that are expected to be \$300,000 or less (\$500,000 or less for construction), each noncovered company’s bid or proposal must include a subcontracting plan that describes the Offeror’s commitment to provide covered companies the maximum practicable opportunity to participate in contract performance, consistent with the vendor’s efficient contract performance. The subcontracting plan must be acceptable to the Contracting Officer in order for the Offeror to be awarded the contract.
- d. Offerors acting in good faith may rely on the written representations of their subcontractors regarding their status as a covered company.

M.26 IDENTIFICATION OF SUBCONTRACTORS

Note: This clause is applicable to contracts and subcontracts in excess of one hundred thousand dollars (\$100,000).

After Contract award and upon the Contracting Officer’s request, the Contractor shall submit to the Contracting Officer a list of the subcontracts it has awarded to perform the work described in Section C of this Contract that includes: subcontractor name, dollar amount of the subcontract, date of award of the subcontract, description of the activities performed by the subcontractor, and the subcontractor’s ownership status by race, ethnicity, and/or gender.

M.27 FAIR INCLUSION OF MINORITIES AND WOMEN

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The Contractor hereby confirms its commitment to equal opportunity in employment and contracting and the fair inclusion of minorities and women in its workforce. If the value of this Contract exceeds \$100,000, the Board may request, and the Contractor agrees to provide upon such request, documentation of the good faith effort the Contractor has made in support of this commitment. "Good faith effort" may include actions by the Contractor to identify and, if present, remove barriers to minority and women employment or to expand employment opportunities for minorities and women within its workforce, such as recruiting, advertising, or job-related training. A failure to demonstrate good faith effort shall be considered a material breach of this Contract and may result in the Board's default termination of the Contract. The Contractor agrees to insert the substance of this clause in all its subcontracts whose annual dollar value exceeds \$100,000. A "subcontract" for purposes of this Section M.27 is any contract the Contractor enters into with a third party to fulfill the Contractor's obligations to the Board under this Contract.

M.28 EQUAL OPPORTUNITY (See Attachment No. 1)

M.29 EMPLOYMENT OF THE PERSONS WITH DISABILITIES

Note: This clause is applicable to contracts and subcontracts in excess of ten thousand dollars (\$10,000).

- a. The Contractor shall not discriminate against any employee or applicant for employment because of a physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to hire, place, and advance qualified persons with disabilities who are physically or mentally disabled. The Contractor shall not discriminate against persons with disabilities in employment practices such as the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship programs.
- b. The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 793) (the "Act").
- c. In the event of the Contractor's noncompliance with the requirements of this clause, the Board may take such actions of noncompliance as may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor. Such notices shall state (1) the Contractor's obligation under the law to take affirmative action to hire, place, and advance in employment qualified persons with disabilities, and (2) the rights of applicants and employees.

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- e. The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract of understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to hire, place, and advance in employment qualified persons with physical and mental disabilities.
- f. The Contractor shall include the provisions of this clause in every subcontract or purchase order in excess of ten thousand dollars (\$10,000), unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 503 of the Act.

M.30 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA  
VETERANS

Note: This clause is applicable to all contracts and subcontracts of twenty-five thousand dollars (\$25,000) or more.

a. Definitions.

*"Appropriate office of the state employment service system"*, as used in this clause, means the local office of the federal-state national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

*"Openings that the Contractor proposes to fill from within its own organization"*, as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered, and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

*"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement"*, as used in this clause, means employment openings that the Contractor proposes to fill from union halls under their customary and traditional employer-union hiring relationship.

*"Suitable employment openings"*, as used in this clause

- 1. includes, but is not limited to, openings that occur in jobs categorized as (i) production and nonproduction, (ii) plant and office, (iii) laborers and mechanics, (iv) supervisory and nonsupervisory, (v) technical, and (vi) executive, administrative, and professional positions compensated on a salary basis of less than twenty-five thousand (\$25,000) a year; and

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2. includes full-time employment, temporary employment of over three (3) days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, but not openings in an educational institution that are restricted to students of that institution.

b. General.

1. Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a special disabled or Vietnam era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam era veterans without discrimination based upon their disability or veterans' status in all employment practices such as (i) employment; (ii) upgrading; (iii) demotion or transfer; (iv) recruitment; (v) advertising; (vi) layoff or termination; (vii) rates of pay or other forms of compensation; and (viii) selection for training, including apprenticeship.
2. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. Section 2012).

c. Listing openings.

1. The Contractor agrees to list all suitable employment openings existing at Contract award or occurring during Contract performance, at an appropriate office of the state employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this Contract. An independent corporate affiliate is exempt from this requirement.
2. State and local government agencies holding federal contracts of twenty-five thousand dollars (\$25,000) or more shall also list all their suitable openings with the appropriate office of the state employment service.
3. The listing of suitable employment openings with the state employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and non-veterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive Orders or regulations concerning nondiscrimination in employment.

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4. Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the state employment service system, in each state where it has establishments, of the name and location of each hiring location in the state. As long as the Contractor is contractually bound to these terms and has so advised the state system, it need not advise the state system of subsequent contracts. The Contractor may advise the state system when it is no longer bound by this contract clause.
5. Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.

d. Applicability.

1. This clause does not apply to the listing of employment openings which occur and are filled outside the fifty states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.
2. The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

e. Postings.

1. The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.
2. These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.
3. The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam era veterans.

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- f. Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- g. Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of twenty-five thousand dollars (\$25,000) or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

M.31 WALSH-HEALEY PUBLIC CONTRACTS ACT

If this Contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed ten thousand dollars (\$10,000), and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. Section 35-45), they are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereinafter be in effect.

M.32 SERVICE CONTRACT ACT OF 1965 (See Attachment 2)

M.33 BUY AMERICAN ACT

- a. The Buy American Act (41 U.S.C. Section 10) provides that preference should be given to domestic end products.

*"Components"*, as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

*"Domestic end product"*, as used in this clause, means (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (b)(2) or (b)(3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

*"End products"*, as used in this clause, means those articles, materials, and supplies to be acquired for public use under this Contract.

- b. The Contractor shall deliver only domestic end products, except those
  - 1. for use outside the United States;



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2. that the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
3. for which the Board determines that domestic preference would be inconsistent with the public interest; or
4. for which the Board determines the cost to be unreasonable.

M.34 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME  
COMPENSATION

This Contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. Section 327-330), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

- a. Overtime requirements. No Contractor or subcontractor shall require or permit any laborer, mechanic, apprentice, trainee, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of forty hours in such workweek on work subject to the provisions of the contract Work Hours and Safety Standards Act unless such laborer, mechanic, apprentice, trainee, watchman, or guard receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all such hours worked in excess of forty (40) hours in such workweek.
- b. Violation, liability for unpaid wages, and liquidated damages. In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for his/her unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman, or guard employed in violation of the provisions of paragraph (a) in the sum of ten dollars (\$10) for each calendar day on which such employee was required or permitted to be employed on such work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).
- c. Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).
- d. Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in any subcontract exceeding one hundred thousand dollars (\$100,000), and shall require their inclusion in all subcontracts of any tier.

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- e. Records. The Contractor shall maintain payrolls and basic payroll records during the course of contract work for a period of three (3) years from the completion of the Contract. Such records shall be available for inspection by authorized representatives of the Board and the Department of Labor. The Contractor shall permit such representatives to interview employees during working hours on the job. The payroll records shall contain the name and address of each employee, the social security number, the correct classifications, the hourly rates of wages paid, the daily and weekly number of hours worked, the deductions made, and the actual wages paid.

M.35 PRIVACY ACT

- a. The Contractor agrees:
  - 1. to comply with the Privacy Act of 1974, 5 U.S.C. Section 552a, and the rules and regulations issued pursuant to the Act in the design, development, and/or operation of any system of records on individuals in order to accomplish a Board function, when the Contract specifically identifies (i) the system or systems of records, and (ii) the work to be performed by the Contractor in terms of any one or combination of the following: (A) design, (B) development, or (C) operations;
  - 2. to include the Privacy Act notification contained in this Contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the statement of work in the proposed subcontract requires the design, development, or operation of a system of records on individuals to accomplish a Board function.
  - 3. to include this clause, including this paragraph (3), in all subcontracts awarded pursuant to this Contract which require the design development, or operation of such a system of records.
- b. In the event of violations of the Privacy Act, a civil action may be brought against the Board when the violation concerns the design, development, or operation of a system of records on individuals to accomplish a Board function and criminal penalties may be imposed upon the officers or employees of the Board when the violation concerns the operation of a system of records on individuals to accomplish a Board function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish a Board function, the Contractor and any employee(s) of the Contractor are considered to be employee(s) of the Board.
- c. The terms used in this clause have the following meanings:

*"Operation of a system of records"* means performance of any of the activities associated with maintaining the system of records including the collection, use, and dissemination of records.

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*"Record"* means any item, collection, or grouping of information about an individual that is maintained by the Board and/or Government agency, including but not limited to, his/her education, financial transactions, medical history, and criminal or employment history and that contains his name or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

*"System of records"* on an individual means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particulars assigned to the individual.

M.36 PAPERWORK REDUCTION ACT

Information collection requirements contained in this solicitation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Section 3501 et seq. and have been assigned OMB No. 7100-0180.

M.37 COMBATING TRAFFICKING IN PERSONS

The Contractor agrees that the provisions of Federal Acquisition Regulation (48 C.F.R.) 52.222-50, relating to combating trafficking in persons, shall apply to this Contract, and the Contractor agrees to comply with the requirements and responsibilities set forth therein.

M.38 NON-PUBLICITY

The Contractor shall not release any publicity or advertising regarding this Contract, and shall not use the name or insignia of the Board or of the Federal Reserve System, or any variation or adaptation thereof, for any commercial, advertisement, promotional or endorsement purposes, unless the Contractor has obtained the prior written consent of the Board's Chief Operating Officer or his authorized representative in such matters.

M.39 ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY

The Contractor represents that, to the extent it provides services and/or information under this Contract that constitute "electronic and information technology" as that term is defined under Section 508 of the Rehabilitation Act of 1973, as amended (the "Act"), the services and/or information shall comply with the accessibility requirements of the Act (e.g., 36 C.F.R. Section 1194.21 for software applications and operating systems and Section 1194.22 for web-based information and application systems); or, in the absence of full compliance, Contractor shall so inform the Board in writing and cooperate with the Board by:

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- (a) providing the Board with information and documentation supporting any partial compliance with the Act;
- (b) making reasonable efforts to improve compliance with the Act; and
- (c) granting the Board such licenses or other permissions as are necessary for the Board to cause such services and/or information to be compliant or more compliant with the Act (for avoidance of doubt, Contractor hereby agrees that, to the extent necessary for the Board to comply with the Act, any license granted in connection with the Contract permits the Board to publish Contractor information that is incorporated into a Board work product in tabular, graphical, or charted form).

#### M.40 INFORMATION SECURITY

To the extent Contractor provides services that include storage of information belonging to the Board, such services (“Services”) must comply with the Board’s Information Security Program, which requires compliance with the Federal Information Security Management Act of 2002 (FISMA). In this regard, the Board must assure itself that Contractor has or will implement appropriate security controls for the information system that contains the Board’s information and that the controls for that system are effective. The necessary controls, which depend on the security impact rating assigned to the information by the Board, are outlined in the publication entitled, “Recommended Security Controls for Federal Information Systems,” which can be found at: <http://csrc.nist.gov/publications/nistpubs/800-53-Rev2/sp800-53-rev2-final.pdf> (the SP 800-53 controls). As applicable, the Board will assigned the information a security impact rating and the relevant SP 800-53 controls shall apply to information. Therefore, to meet the Board’s obligation of ensuring that Board information is property protected, Contractor must either:

- (a) confirm, to the Board’s satisfaction, that it has adopted the FISMA security control standards or security controls that are consistent with FISMA, and provide the Board with supporting documentation that demonstrates the controls are in place and effective;
- (b) if Contractor has not adopted formal FISMA security control standards, the Contractor must provide the Board documentation describing the security controls that are in place and their effectiveness, along with any independent evaluation of those controls, such an acceptable SAS-70; or
- (c) in the alternative, at the Contractor’s preference or if the information provided by Contractor a is not sufficient, the Board’s Information Security Officer or other appropriate Board official will conduct an on-site data security review.

#### M.41 CONTRACTOR PERSONNEL

In exchange for the amounts agreed upon as the Contract price under Section B, Contractor agrees that it shall remain solely responsible and liable for all costs and expenses that arise in connection with its provision of persons who perform work under this Contract, including the personnel of any subcontractors (all such persons collectively hereafter referred to as “Contractor personnel”). Such responsibility and liability shall include, but not be limited to, the following:

- a. Withholding of Taxes

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Contractor shall, at all times during the period of performance (including any option periods), ensure that the proper amounts of withholding of federal and state income taxes, FICA and/or OASDI taxes as well as local taxes (if any local taxes apply), are made from the wages of Contractor personnel.

b. Workers Compensation Insurance

Contractor shall, at all times during the period of performance (including any option periods), ensure that it and any subcontractors maintain at least the minimum workers compensation insurance required under applicable law for Contractor personnel.

Contractor shall provide the COTR with evidence of such insurance coverage(s) with the proposal and must provide the Board with 30 days' advance written notice of any material changes to such coverage(s), including any changes in the underwriter of such coverage(s) and if such coverage(s) may be cancelled.

c. Reasonable Accommodation

Contractor shall provide, and bear the costs of providing, any reasonable accommodations necessary to enable Contractor personnel to perform work for the Board under this Contract.

d. Indemnification

(1) Contractor shall defend, indemnify and hold harmless Board and/or each of its members, officers, directors, employees, and agents (collectively, "Board Party") from and against any and all claims, liabilities, losses, damages or expenses of any kind (including reasonable attorneys' fees and disbursements) (collectively, "Claim") incurred by any Board Party, regardless of whether such Claim is brought by Contractor personnel or a third party: (a) relating to contractor's failure to comply with the Fair Labor Standards Act or to withhold federal or state income taxes, FICA or OASDI taxes, or local taxes (if any local taxes should have been withheld) from the wages of Contractor personnel; (b) arising from a workplace injury incurred by Contractor personnel in their performance of this Contract; or (c) for any actual or alleged violations of Wage and Hour laws, EEOC and state discrimination laws, harassment law, tort law, the Family and Medical Leave Act, the Americans with Disabilities Act, Rehabilitation Act, Title VII of the Civil Rights Act, and the National Labor Relations Act.

(2) If the Board seeks indemnification it shall notify the Contractor in writing as soon as reasonably possible of the assertion of any Claim, or the commencement of any action or proceeding for which indemnity may be sought under this Contract. Failure to notify the Contractor shall not result in the waiver of indemnity rights with respect to such Claim, suit, action or proceeding, except to the extent that the Contractor is actually prejudiced by the Board's failure to provide such notice. The Board shall not admit any liability for the Claim or make any settlement without the written consent

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of the Contractor, which consent shall not be unreasonably withheld. The Contractor may, in its sole discretion, control the defense of the Claim, suit, action or proceeding. The Board and the Contractor shall cooperate with each other in the defense and settlement of any such Claim, action or proceeding.

(3) In the event that the federal government or any state, province or other governmental body shall have assessed any tax or other charge or imposed any other cost on the Board related to Contractor personnel (collectively, "Expenses") against a Board Party with respect to any feature of, or transaction under, the Contract (such as charges related to unemployment claims made by Contractor's personnel), the Contractor shall, upon the Board's demand, reimburse the Board Party to the extent of such Expenses, provided that upon receipt of notice of such Expenses, the Board notifies the Contractor of same and the Contractor either declines to challenge, is incapable of challenging, or is unsuccessful in challenging, the imposition of such Expenses. For clarity, "Expenses" includes any related costs such as penalties and/or interest assessed or payable in connection with the charges imposed. If the Contractor fails to pay such Expenses prior to challenging the Expenses and the Board pays the Expenses instead, the Contractor shall reimburse the Board to the extent of the Board's payment, either through a return of Board funds previously remitted or by way of an offset against (reduction of) amounts collected from the Board.

Revised August 1986

ATTACHMENT NO. 1

### **EQUAL OPPORTUNITY CLAUSE**

Note: The following clause is applicable unless this Contract is exempted under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR Ch. 60).

(a) If, during a 12-month period (including the 12 months preceding the award of this Contract), the Contractor has been or is awarded nonexempt federal contracts and/or subcontracts that have an aggregate value in excess of ten thousand (\$10,000), the Contractor shall comply with subparagraphs (b)(1) through (b)(7) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performance of this Contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(2) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this

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Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor shall furnish to the Board all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records, and accounts by the Board or the Office of Federal Contract Compliance Programs for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with this Equal Opportunity clause or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Board contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor shall include the provisions of paragraph (b)(1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Contractor. The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Board, the Contractor may request the Board to enter into such litigation to protect the interests of the Board.

(c) Nonsegregated Facilities. Note: This clause is applicable to Contracts exceeding ten thousand dollars (\$10,000) that are not exempt under Clause (a) above. By acceptance of this Contract, the Contractor represents that he does not and will not maintain nor provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The Contractor agrees that a breach of his representation is a violation of the Equal Employment Opportunity clause of this Contract. As used herein the term "segregated facilities" means any waiting rooms, work areas, rest rooms, wash rooms, restaurants (and other

eating areas), time clock, locker rooms, storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for



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employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color, age, or national origin, because of habit, local custom, or otherwise.

Contractor further agrees that (except where subcontractors have similarly certified for specific time periods) he shall obtain identical representations from proposed subcontractors prior to award of subcontracts exceeding ten thousand dollars (\$10,000) which are not exempt from the provisions of the Equal Employment Opportunity clause, that he will retain such representations in his files, and that he will provide the following notification to proposed subcontractors (except where the proposed subcontractors have submitted identical representations for specific time periods) as follows:

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR NONSEGREGATED FACILITIES.** A Statement of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding ten thousand dollars (\$10,000) that is not exempt from the provisions of the Equal Opportunity clause. The statement may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. Section 1001.

(d) Affirmative Action Program. If this Contract is for an amount of \$50,000 or more, Contractor by acceptance of this Contract certifies that he has, or will within one hundred and twenty (120) days from the date of this Contract, develop and maintain at each of his establishments Affirmative Action Programs, pursuant to 41 CFR Section 60-1 and 60-2.

(e) Preaward on Site Equal Opportunity Compliance Review. An award in the amount of one million dollars (\$1,000,000) or more will not be made unless the Contractor and each of his known first-tier subcontractors (to whom he intends to award a subcontract of one million dollars [\$1,000,000]) or more are found on the basis of a compliance review to be able to comply with the provisions of the Equal Opportunity Clause of this contract.

Revised May 1989

ATTACHMENT NO. 2

**SERVICE CONTRACT ACT OF 1965  
AS AMENDED (MAY 1989)**

Note: This Contract, to the extent that it is of the character to which the Service Contract Act of 1965 (41 U.S.C. Section 351 et seq.) applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder.

(a) Definitions. Act, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

*Contractor*, as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term Government Prime Contractor.

*Service employee*, as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in part 541 of title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability*. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in subpart C of 29 CFR part 4.

(c) *Compensation*. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall

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be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than thirty (30) days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within thirty (30) days of receipt or will notify the Contracting Officer within thirty (30) days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of

employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

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(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than one (1) year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after one (1) year and not less often than once every two (2) years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with subpart D of 29 CFR part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively

bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such

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employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor that are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for three (3) years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(I) For each employee subject to the Act --

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(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semimonthly.

(k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary

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to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) Seniority List. Not less than ten (10) days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names, of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

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(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92 - 473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to



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journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than thirty dollars (\$30) a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations 29 CFR part 531. However, the amount of credit shall not exceed \$1.34 an hour beginning January 1, 1981. To use this provision --

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

[54 FR 19828, May 8, 1989]

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**SECTION N**

**SUPPLIER INFORMATION FORM**

# APPENDIX I

## Supplier Information Form

Board of Governors of the Federal Reserve System



# Supplier Information Form

**\*Doing Business With:**

- ☐ Federal Reserve Board (FRB)  
☐ Federal Financial Institutions Examination Council (FFIEC)  
☐ Consumer Financial Protection Bureau (CFPB)

**I. GENERAL INFORMATION**

A. \*Name (Enter Name as shown on Income Tax Return – if taxable; see section II-B.)

B. Business Name/Doing-Business-As (DBA) Name (if different from above)

C. \*Identification Number: Social Security Number (SSN) Taxpayer Identification Number (TIN) D&amp;B Data Universal Numbering System (DUNS) Number

D. \*Address: Street Address 1

Apartment/Suite/Unit

Street Address 2

City

Province

State

Zip/Postal Code

Country

**II. \*SUPPLIER TYPE** (Select only one.)

A. Non-taxable (Skip section IV.)

- ☐ Applicant  
☐ Government Agency  
☐ Speaker (Paid for travel expenses only.)  
☐ System Interchange Participant (FRS)

B. Taxable (Attach tax forms; see Instructions for details.)

- ☐ Corporation  
 Specify (if appropriate):  
☐ Limited Liability Corporation (LLC)  
☐ S Corporation  
☐ Educational Institution  
☐ Individual  
☐ Non-profit Organization  
☐ Partnership  
☐ Sole Proprietorship  
☐ Speaker (Paid for service fees.)  
☐ Other (Specify below)

**III. CONTACT INFORMATION**

A. \*Primary Contact

Name

Title

Section/Department/Division

Email

Phone

Fax

B. Secondary Contact

Name

Title

Section/Department/Division

Email

Phone

Fax

C. \*Preferred e-mail address to receive Notice of Payment

- ☐ Same as in A  
☐ Same as in B  
☐ Other (Specify below)

**IV. SUPPLIER CLASSIFICATION** (Only applies to taxable suppliers; select all that apply)

A. Location of Registered Office

- ☐ Within U.S. (local)  
☐ Outside U.S. (foreign)

C. Ownership

- ☐ Minority-owned  
☐ African American  
☐ American Indian or Alaska Native  
☐ Service-disabled Veteran-owned  
☐ Veteran-owned  
☐ Women-owned  
☐ Asian  
☐ Hispanic or Latino  
☐ Native Hawaiian  
☐ Pacific Islander

B. Size of Business

- ☐ Small  
☐ Large

D. \*How did you meet the Board?

- ☐ Advocacy Group (Specify below)  
☐ Outreach Event (Specify below)  
☐ Other (Specify below)

**V. \*MODE OF PAYMENT**☐ Electronic Funds Transfer (EFT) (Default mode of payment; only applies to suppliers with U.S. bank accounts)Account Type: ☐ Checking ☐ Savings ACH 9-digit Routing/ABA Number Account Number☐ Wire (Only applies to foreign corporation; foreign beneficiary bank must have a U.S. correspondent bank.)International Bank Account Number (IBAN) or  
Clave Bancaria Estandarizada (CLABE) (as applicable) Account Number

Foreign Beneficiary Bank: SWIFT/BIC

Name/Address

U.S. Correspondent Bank: ACH 9-digit Routing/ABA Number

Name/Address

☐ Check

• Only used if EFT is not available; must provide valid requirement on why check is requested and must be approved by the Board.

• Check will be mailed to the address provided in Section I-D.

• For foreign suppliers, check cashing fees with foreign banks will NOT be included in the payment unless negotiated per the contract.

**VI. \*AUTHORIZATION**

I authorize the Board of Governors of the Federal Reserve System to make payments using the information provided above. I will notify the Board as soon as possible if the above information changes.

Signature

Name

Title

Date (mm/dd/yyyy)

E-mail the completed form to Board-Vendors@frb.gov or fax to 877-852-6361. For inquiries, contact 202-452-2481.

# Supplier Information Form—Instructions

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**NOTE:** *Information with asterisks (\*) are mandatory*

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## Section I. General Information

A. If supplier's income is taxable, enter the name as it appears on supplier's tax form. See Section II-B.

B. This is the supplier's registered business or Doing-Business-As (DBA) name, if different from A. This only applies to suppliers with taxable income.

C. This is the supplier's U.S. taxpayer identification number. Some suppliers may also provide their Dun & Bradstreet (D&B) Data Universal Numbering System (DUNS) Number in addition to taxpayer identification number.

D. This is the supplier's remittance address which is also used as the check payment address.

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## Section II. Supplier Type

A. Non-taxable suppliers are suppliers whose income are not taxable.

B. Taxable suppliers are suppliers whose income are taxable.

Local suppliers must submit Internal Revenue Service (IRS) Form W-9 (<http://www.irs.gov/pub/irs-pdf/fw9.pdf>). If supplier is already in the system and had previously submitted the form, submission of another form is not required unless updating information.

Foreign individual suppliers must submit IRS Form W-8BEN and Form 8233 (<http://www.irs.gov/Forms-&-Pubs>). However, foreign individuals who provided personal services only (for example, speaker providing services) must only submit Form 8233.

Other foreign suppliers (not individuals) must submit appropriate IRS Form(s) (e.g., W-8BEN-E, W-8CE, W-8ECI, W-8EXP, W-8IMY, or others) (<http://www.irs.gov/Forms-&-Pubs>).

Foreign suppliers are required to submit tax form(s) every tax year. Without these forms, the Board is required to withhold 30% taxes from foreign suppliers compensation payments. It is the supplier's responsibility to review and complete these forms to determine whether or not a tax treaty exists between U.S. and the supplier's country and to determine whether or not the supplier is exempt from taxes.

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## Section III. Contact Information

A., B. Enter primary contact, and enter secondary if available.

C. Notice of payment is sent through e-mail so it is mandatory that the supplier provide an e-mail address either from A,B, or specified that is appropriate to send the notice.

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## Section IV. Supplier Classification

A. Indicate location of supplier's registered office, if it is local (within U.S.) or foreign (outside U.S.).

B. Indicate size of business. For details on Small Business Size Standards, go to <https://www.sba.gov/category/navigation-structure/contracting/contracting-officials/small-business-size-standards>

C. Indicate ownership of business, if it is minority-, service-disabled veteran-, veteran-, or women-owned.

D. Indicate how the supplier met the Board.

## Section V. Mode of Payment

► Electronic Funds Transfer (EFT) is the default mode of payment. Indicate the account type if it is savings or checking. Enter the ACH 9-digit routing or ABA number and account number.

► Wire payment is only applicable to foreign corporations. The foreign beneficiary bank used for wire payment must have a U.S. correspondent bank in order to process this. Enter the account number and International Bank Account Number (IBAN). Enter foreign beneficiary bank's Society for Worldwide Interbank Financial Telecommunication (SWIFT) and/or Bank Identifier Code (BIC), name, and address. Enter U.S. correspondent bank's ACH 9-digit routing/ABA number, name, and address.

► Check is only used if EFT is not available. The supplier must provide valid requirement on why check is requested. The request will be reviewed by the Board and check will be processed upon approval. Check will be mailed to the address provided in Section I-D. For foreign suppliers, check cashing fees with foreign banks will NOT be included in the payment unless negotiated per the contract.

---

## Section VI. Authorization

Sign the form (either wet or electronic), and enter name, title of signee and date of signature.

**E-mail the completed form to [Board-Vendors@frb.gov](mailto:Board-Vendors@frb.gov) or fax to 877-852-6361.**

**For inquiries, contact 202-452-2481.**

APPENDIX J

Sole Source

## **Sole Source Justification Template**

### **March 7, 2006**

Business need: Provide a description of the work function that this good/service will assist or facilitate.

Product description: Provide a description of the good/service's unique features that meet the business need.

Justification statement: State whether the good/service is available from only one vendor and no other good/service will satisfy the business requirements. Alternatively, state the on-going need for the good/service and explain how award to another vendor would result in substantial duplication of cost that would not be recovered through competition. If the service is on-going, note when the original contract was awarded and whether it was competed.

Proposal Summary: State the dollar amount and performance dates for the requested good/service.

Examples:

#### 1. Data services

Business need: BS&R continuously analyzes the financial condition of the top 25 bank holding companies. In doing so, it requires a variety of informational sources, including real-time market assessments of changing financial condition.

Product description: Vendor A data service provides a live electronic link from its market analysts to Board staff's desktops. It provides access to full-text equity research from a wide variety of brokers as well as investment research from over 700 investment banks, brokerages, and research firms. Significantly, Vendor A tracks the latest market trends that help staff stay up-to-date on their portfolio companies.

Justification: While other vendors provide portions of the data/analysis available from Vendor A, there are effectively only XX vendors that provide the information in a similar format, accessibility, and range. BS&R purchases comparable services from those vendors, and seeks to effect this acquisition to ensure comprehensive access to external market analysis. BS&R purchased this data originally in June of 2003 through a sole source acquisition.

Proposal summary: BS&R proposes to spend \$XX for Vendor A's good/service for DATE through DATE.

## 2. Training

Business need: The Management Division sponsors on-going management development training. A major focus of training is improving staff performance through timely and constructive feedback from management to staff.

Product description: Vendor B prepared the curriculum for a class on coaching and feedback, specifically designed to meet the Board's unique needs. In the process of designing the class, Vendor B reviewed Board surveys, management reports, and current management structure. Vendor B also refined the class based on participant feedback and senior management input.

Justification: The Management Division initially selected Vendor B through competition in March of 2003. Because of Vendor B's participation in the development and implementation of the class, there would be substantial duplication in cost that is unrecoverable through another competition if the Board were to replace Vendor B and conduct the class as already designed.

Proposal summary: The Management Division proposes to extend Vendor B's contract by \$XX for continued performance from DATE through DATE.

## 3. Software License Renewal

Business need: The Board uses (b)(7)(E) as its standard for email communication. The IT Division requires software licenses for the Board's use of (b)(7)(E).

Product description: (b)(7)(E) software licenses.

Justification: Vendor C is the sole provider of the software licenses. The IT Division selected (b)(7)(E) in January 2001 through a competitive procurement.

Proposal summary: IT proposes to renew the (b)(7)(E) software licenses with Vendor C for \$XX from DATE through DATE.

## 4. Maintenance Agreements

Business need: The IT Division requires 24x7 software maintenance support for the Board's (b)(7)(E) office products. Because of the extent to which the Board uses (b)(7)(E) products, timely response and problem resolution is imperative. Support may include more complex solutions such as code modification to fix bugs in the computer program.

Product description: Software maintenance support for the Board's (b)(7)(E) office products.



Justification: While software maintenance support may be available from other vendors, (b)(7)(E) is in the best position to provide support for its software. (b)(7)(E) provides responsiveness and service quality of the highest caliber, and has the unique ability to make code modifications. Purchasing software maintenance support from (b)(7)(E) is the most effective method of obtaining immediate resolution of (b)(7)(E) software problems and minimizing, if not preventing, system downtime. The IT Division selected (b)(7)(E) in 1998 through a competitive acquisition.

Proposal summary: The IT Division proposes to renew (b)(7)(E)'s software maintenance support contract for \$XX from DATE through DATE.

# APPENDIX K

## Statement of Work—Construction

## **SECTION C**

### **STATEMENT OF WORK**

#### **Construction Template**

##### **C.0 DOCUMENT STANDARDS**

Divisions should use this Construction Template for the statement of work (SOW) to ensure consistency and efficiency in preparing contract documentation. The format follows the Board's Writing Style Manual and the format used in the General Contract provisions. Users should delete Section C.0 before submitting the final SOW to Procurement. Standards include the following:

- 0.5 inch tabs ( (b)(7)(E) automatically sets)
- Times New Roman 12 font
- address abbreviations do not use periods: 20<sup>th</sup> and C Streets, NW, Washington DC. Time uses periods: For instance, the Board's hours of operations are 7:00 a.m. to 6:00 p.m.
- block style for paragraphs
- single line spacing with double spacing between paragraphs
- two spaces after the end of a sentence
- to continue a list for bullet numbering, go to the last bullet and hit enter/hard return. To stop using the list, backspace over the bullet number.
- capitalize consistently throughout the document. A contract document contains more capitalization than a standard Board memo especially for defined terms. For instance, the Contractor shall provide services to the Board; this Contract contains provisions; the Offeror represents, and so on.
- write in complete sentences and use the active voice. "The Contractor made mistakes" versus "mistakes were made".
- identify acronyms in parentheses without quotes. For instance, the contracting officer's technical representative (COTR) may not authorize work unless approved by the Contracting Officer.
- major paragraphs begin with a letter. The headings are all caps.

The numbering follows the standard government contract format: major headings use the contract section followed by the paragraph number. Subparagraphs use the primary paragraph number followed by the number of the paragraph and so on.

This template includes paragraphs that may be optional for your needs as designated by "YYY". You may search on "YYY" and modify the language for your needs or delete the paragraph if it does not apply. "ZZZ" denotes areas where you need to input information, especially for dates and names.

##### **C.1 BACKGROUND**

The Background section explains the rationale for the project. It summarizes information that is essential for understanding the project and should help Offerors prepare a sound technical proposal. It should be unambiguous and should not cite data or reports that are unavailable to the prospective Contractor.

## C.2 SCOPE OF WORK

The scope of work is a written specification that describes the work or services, including construction, to be performed. It may include the method for the Contractor to use. The scope of work describes the technical elements that relate directly to the product to be delivered or the service to be performed. Administrative elements are in later paragraphs and may include such work as quality assurance/control, system configuration management, shipping, contract administration, purchasing and subcontract management, documentation, and report preparation and delivery.

- 2.1 The scope of work should define the major tasks and the subtasks for each.
- 2.2 It should explain the interrelationship between tasks, and how the tasks are related to desired results and deliverables.
  - 2.2.1 The scope of work identifies constraints and limitations.
  - 2.2.2 It establishes a timetable for completing major milestones and/or tasks that the Contractor should complete.
    - 2.2.2.1 It provides necessary technical details.
    - 2.2.2.2 It provides sufficient technical information so the Contractor may develop a responsive technical proposal.
- 2.3
  - 2.3.1
  - 2.3.2
  - 2.3.3
    - 2.3.3.1
    - 2.3.3.2

## C.3 PERIOD AND PLACE OF PERFORMANCE

- 3.1 Place of Performance. The Contractor shall perform all work in the Board's Martin building ZZZ located at 20<sup>th</sup> and C Streets, NW, Washington, DC 20551.

- 3.2 Period of Performance. The Contractor shall commence work on or before DATE ZZZ and shall complete work no later than DATE ZZZ.
- 3.3 Unless the Board expressly authorizes in writing, the Contractor shall perform all work outside the Board's customary working hours, which are 7:00 a.m. through 6:00 p.m., Monday through Friday. The Contractor shall perform all work on the office floors outside of these hours. YYY
- 3.4 The Board observes the following holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. The Contractor may perform work on these days, subject to the COTR's prior notification and approval.

#### C.4 PROJECT MANAGEMENT

- 4.1 As part of its proposal the Contractor shall submit a work schedule based on the information contained in the solicitation.
- 4.2 Within ten (10) days ZZZ from Contract award, the Contractor shall submit a detailed project schedule prepared using the Critical Path Method (CPM). The Contractor shall not commence any on-site work until the Board approves this schedule.
- 4.3 The Contractor shall submit an updated version of the detailed project schedule to the COTR on a monthly basis, as part of the Monthly Progress Report, or at such times as the COTR deems necessary.

#### C.5 PHASING OF THE WORK YYY

- 5.1 The Board building ZZZ will remain occupied throughout the course of the project. Offices in which work is being performed will not be vacated. However, the Board may temporarily relocate office occupants on a selective basis, in cases where both the COTR and Contractor agree that relocation is necessary in order to perform the contracted work without disruption.

#### C.6 DIVISION OF RESPONSIBILITY YYY

- 6.1 The Board will provide or have others provide:
  - 6.1.1 Temporary relocation of Board employees, including all associated moving costs and suitable alternate facilities, as required to allow the Contractor access to offices or other areas of the Board's building. ZZZ Employee relocations shall be limited to selected offices that the COTR

and Contractor agree must be temporarily vacated in order to allow the Contractor to perform the work.

- 6.1.2 On-site utilities including electrical power (120-Volt, 60-Hz AC), and potable water.
- 6.1.3 Restroom facilities for the Contractor's personnel use. The Contractor shall maintain the cleanliness of restroom facilities used by its personnel.
- 6.1.4 An area, approximately ZZZ square feet in size, inside the Board's building ZZZ for storing tools and equipment. The Board assumes no responsibility for the security of materials, tools and equipment that the Contractor elects to store on-site.
- 6.1.5 A project office in the Board's building ZZZ, including a desk, telephone line, and desktop computer with an address on the Board's E-mail system.
- 6.1.6 Parking for the Contractor's personnel is available after 5:00 p.m. on weekdays and from 5:00 p.m. on Friday through 6:00 a.m. on Monday. This Contract does not provide for parking during customary working hours. The Contractor's personnel must remove their vehicles from the Board's parking garage spaces before 6:00 a.m. YYY

6.2 The Contractor shall supply the following:

- 6.2.1 All materials, tools, equipment, and labor (including supervision, skilled and unskilled labor, and support staff) required to carry out the Contractor's obligations under this Contract.
- 6.2.2 Any temporary storage and other facilities beyond those provided by the Board.
- 6.2.3 Copies of all reports, schedules, lists, supplier data, and other written materials or electronic files required under this Contract.
- 6.2.4 All permits required for the performance of the work under this Contract. These may include public space permits for the use of sidewalks or streets around the Board's building ZZZ.

C.7 MATERIALS AND METHODS

7.1

7.1.1

7.1.1.1 .

## C.8 PROJECT MEETINGS

- 8.1 Preconstruction Conference. The Contractor shall schedule and attend a preconstruction conference not later than fifteen (15) days ZZZ following design acceptance. Attendees shall include the Contractor's project manager and project superintendent, representatives of any major subcontractors, the Board's senior contract specialist, the COTR, and such other representatives that the Board deems necessary. The preconstruction conference will be held at the Board's offices.
- 8.2 Project Status Meetings. Beginning with the commencement of work and continuing for the duration of the work, the Contractor shall attend regular project status meetings held at the Board's offices. The COTR shall hold such meetings weekly or at such intervals as he/she otherwise directs. The Contractor's superintendent shall attend all such meetings, along with representatives of any Board-approved subcontractors performing work at the time that a particular meeting is held. The Contractor's project manager shall be present at such meetings if the COTR so requests.
- 8.3 Special Meetings. The Board reserves the right to schedule special meetings during the course of the work, as required, to address matters that cannot be satisfactorily resolved by other means. At a minimum, the Contractor's project manager shall attend such meetings, which will be held at the Board's offices.

## C.9 PROGRESS REPORTS

- 9.1 Daily Construction Reports. For each day of work on the project, the Contractor shall prepare and submit to the Board a Daily Construction Report, which shall include the following:
- A brief description of the work performed
  - The number and labor categories of workers on site
  - Location where work was performed
  - The total aggregate labor hours worked
  - Any meetings held and/or significant decisions made
  - Materials and equipment received on site
  - Any problems or items of special interest

The report may be delivered electronically via e-mail to the COTR.

- 9.1.1 Construction Photographs. The Contractor shall take photographs of any parts of work of particular interest, including but not limited to photographs of conditions existing before selective demolition (for instance old cabling and telecommunications closet configurations) or placement of new materials. The Contractor shall create a table that

matches each photo taken to the location that has been photographed. The Contractor is solely responsible for the accuracy and maintenance of this table. The Board will provide disposable cameras for the Contractor's use. The Contractor shall coordinate use of the camera with the COTR. The table shall include the following information:

- Project identification
- Project phase and location
- Date of photographs
- Subject of photograph
- Photograph identification number

9.1.1.1 The Board will have the film developed and printed. The Contractor shall make the required notations on the prints so they will directly map to the table of photos taken. The Contractor shall not remove the camera or any prints from the Board's premises.

9.2 Monthly Progress Report. At the end of each calendar month, the Contractor shall prepare and submit to the Board a Monthly Progress Report, which shall, at a minimum, include the following:

- A narrative of the progress of the work, including any problems or delays or other items of particular interest. The narrative shall indicate whether or not the work is on schedule, and include an explanation if it is behind schedule.
- An updated version of the project depicting both the planned and actual progress of the work.
- An updated version of the submittal schedule described in C.10, below.
- All photographs taken, as described in 9.1.1 above.

## C.10 SUBMITTALS

10.1 Submittal Schedule. Not later than ten (10) calendar days ZZZ following award of a contract the Contractor shall submit for the Board's review and approval a Submittal Schedule for the entire project. This schedule shall list all submittals, and indicate the scheduled date(s) when the Contractor shall deliver each submittal to the Board. The submittal schedule shall, at a minimum, include the following:

- Project schedule
- Daily construction reports
- Monthly progress reports
- Shop drawings
- Product list
- Product data sheets



- Samples
- Inspection reports
- Completion reports
- Record documents
- Equipment operation and maintenance manuals

10.1.1 The Contractor shall submit an updated version of the submittal schedule to the Board on a monthly basis, as part of the Monthly Progress Report.

## 10.2 Record Drawings

10.2.1 The Contractor shall:

- Maintain a clean, undamaged set of blue or black line white-prints of contract drawings and shop drawings. Mark the set to show the actual installation where the installation varies substantially from the work as originally shown. Mark which drawing is most capable of showing conditions fully and accurately.
- Create a cross-reference between shop drawings and prints to show where on contract drawings the shop drawings are used. Give particular attention to concealed elements that would be difficult to measure and record at a later date. Mark new information that is important to the Board but was not shown on contract drawings or shop drawings.
- Note related change-order numbers where applicable.
- Mark record sets with red erasable pencil. Use other colors to distinguish between variations in separate categories of the work.
- Provide access to record documents for the Board's reference during site working hours.
- Organize record drawing sheets into manageable sets. Bind sets with durable-paper cover sheets; print suitable titles, dates, and other identification on the cover of each set.

## 10.3 Record Specifications

10.3.1 The Contractor shall maintain one complete copy of the contract documents, including engineering change proposals (ECP), contract modifications, and any other information pertaining to the contract documents. The Contractor shall include with the contract documents one copy of other written construction documents, such as change orders and modifications issued in printed form during construction.

10.3.1.1 The Contractor shall mark these documents to show substantial variations in actual work performed in comparison with the text of the specifications and modifications.

10.3.1.2 The Contractor shall give particular attention to substitutions and selection of options and information on concealed construction that cannot otherwise be readily discerned later by direct observation and note related record drawing information and product data.

10.4 Upon completion of the work the Contractor shall submit record specifications to the COTR to retain for Board records.

#### 10.5 Record Product Data

The Contractor shall:

10.5.1 Maintain one copy of each product data submittal.

10.5.2 Mark these documents to show related change orders and markup of record drawings and specifications, and to show significant variations in actual work performed in comparison with information submitted. Include variations in products delivered to the site and from the manufacturer's installation instructions and recommendations.

10.5.3 Give particular attention to concealed products and portions of the work that cannot otherwise be readily discerned later by direct observation.

10.5.4 Submit a complete set of record product data to the Board for its records upon completion of the markup.

10.6 Nothing in this Subsection C.10 shall relieve the Contractor from its obligations to obtain the approvals required for substantial variations from the original drawings (see C.15) or substitutions (see C.16). Unless specifically stated otherwise elsewhere, the Board will respond in writing to the Contractor within ten (10) working days ZZZ regarding any submittal that requires the Board's review and approval.

### C.11 CONDUCT OF CONTRACTOR PERSONNEL

11.1 The Contractor's personnel are strictly forbidden from disturbing papers on desks, opening desk drawers or cabinets, or using telephone or office equipment, other than what is specifically provided to the Contractor for official business use, pursuant to C.6.1.5.

11.2 The Board reserves the right to deny entry or access to its premises to any Contractor whose presence, dress, or conduct the Board deems detrimental to the good order and productivity of its operations and staff. Such personnel shall be replaced by the Contractor immediately upon notification by the COTR, or his

designee, that a Contractor personnel problem exists. This replacement shall be made at no additional cost to the Board.

- 11.3 The Contractor is reminded that its personnel will be working on the premises of the central bank of the United States, and shall dress appropriately for work. Contractor personnel shall be required to dress neatly, commensurate with the task being performed. Contractor personnel shall wear uniforms consisting of shirts and trousers or coveralls. The uniform shall have the Contractor's name affixed thereon in a permanent or semi-permanent manner such as a monogram or badge that is readily identifiable and acceptable to the COTR. Any color or color combination may be used for uniforms.
- 11.4 In absence of uniforms, no individual shall report for work wearing clothing that is, in the Board's sole opinion, dirty, brief, form-fitting, or revealing. The wearing of spandex apparel, midriff or halter-tops, or any item of clothing made of a net-woven fabric is also forbidden on the Board's premises.

#### C.12 DEMOLITION

- 12.1 The Contractor shall demolish existing construction only to the extent required by new construction and approved by COTR.
- 12.2 The Contractor shall implement all reasonable dust and noise control measures to minimize the impact of the work on adjoining areas.
- 12.3 The Contractor shall return all demolition areas and areas affected by demolition to their conditions existing before start of selective demolition operation, including the level of cleanliness that existed before the demolition work. This activity includes all necessary patching, painting, and replacement of damaged building components.
- 12.4 If the Contractor encounters any materials suspected to be asbestos, the Contractor shall immediately stop work near such materials and notify the COTR. The COTR will have such materials sampled and tested. If they are determined to be asbestos-containing materials, the Board will have them removed or encapsulated so that the Contractor may safely continue the work in affected areas. The Contractor shall not resume work that will affect suspect asbestos-containing materials until the COTR informs the Contractor that the materials are not asbestos-containing, or that the materials have been properly abated.
- 12.5 The Contractor shall dispose of all trash and debris generated on the site daily, and shall maintain all work areas in a neat and clean condition acceptable to the COTR. On-site storage or resale of removed items is prohibited. The Contractor shall transport demolished materials off-site and shall dispose such materials in compliance with all applicable laws and regulations.

- 12.6 The Contractor may find it necessary or desirable to locate a dumpster on the street. In such cases, the Contractor shall make all necessary arrangements with the government of the District of Columbia, including obtaining all necessary permits and paying all associated fees.

#### C.13 CODES AND STANDARDS

- 13.1 The Contractor shall ensure that the materials, equipment, and other work provided hereunder complies with the current versions of applicable building, electrical, and fire life safety codes and regulations.
- 13.2 For the purposes of this Contract the Contractor shall assume that the District of Columbia building, electrical, and fire codes apply to the Board's facilities.
- 13.3 Should there be apparent conflict between different codes and/or regulations, the Contractor shall notify the COTR, who shall determine which requirement(s) take precedence.
- 13.4 Nothing in this section shall relieve the Contractor of its obligation to perform all work in a skillful and workmanlike manner that is consistent with the normal standards of care of other contractors performing similar work in the Washington, DC area.

#### C.14 SYSTEM OUTAGES

- 14.1 The Contractor shall plan and schedule all work so as to not disrupt utility services during the Board's normal working hours. Where utility service outages are required, the Contractor shall notify the COTR and request the outage, in writing, at least five (5) working days ~~ZZZ~~ in advance. The Contractor shall schedule an outage of building security and/or fire and life safety systems prior to performing any work that may affect such systems. Such systems include, but are not necessarily limited to, intrusion alarms, duress alarms, fire alarms, and fire sprinklers. The Contractor shall request any such system outages at least five (5) working days in advance.
- 14.2 Should the Contractor trigger an alarm system, render it inoperative, or degrade its performance, the Contractor's cognizant personnel shall immediately report such occurrence to the Board's Security Control either by notifying a uniformed officer of that department personally, or via telephone at (202) 452-3221. Under no circumstances shall the Contractor attempt to repair any damage to these systems.

#### C.15 DIFFERING SITE CONDITIONS

- 15.1 During the course of work, the Contractor may encounter site conditions different from those that it encountered during its site survey and during any other

investigations that it performed in preparing its proposal for the work. In such a case, the Contractor shall present a written change proposal to the COTR that describes the conditions, how they differ from those represented in the Statement of Work, the affect that they will have on the progress of the work, and whether they will affect the cost of the work. If there will be a cost impact, then the change proposal shall include a cost proposal that quantifies such costs.

- 15.2 After notifying the COTR, the Contractor shall not proceed further with any work for which the cost will be affected by differing site conditions until expressly authorized to do so in writing by the Contracting Officer.

#### C.16 SUBSTITUTIONS

- 16.1 The Board will consider requests for substitutions only if the specified product or method of construction cannot be provided within the terms and conditions of this Contract (for instance, unacceptably long procurement lead times or unavailability of components), or if the requested substitution offers the Board a substantial advantage in cost, time, energy conservation, or other considerations.
- 16.2 The Board will consider a substitution valid only if the Contractor submitted a request for such substitution, in writing, and received written approval of the substitution from the Contracting Officer after the COTR's review. The Contractor shall submit a written request for substitution on a timely basis and fully document the request. The Board will not approve the request if the product or method cannot be provided as a result of the Contractor's failure to pursue the work promptly or to coordinate activities properly.
- 16.3 The Contractor's submittal and the COTR's acceptance of shop drawings, product data, or samples for construction activities not complying with the contract documents do not constitute an acceptable or valid request for substitution, nor do they constitute approval of a substitution.

#### C.17 CONTRACT CLOSEOUT

The Contractor shall perform the work in discrete phases and shall follow the Contract Closeout provisions of this section for each phase.

- 17.1 The Contractor shall submit a certification of completion of each phase and for the entire project to the COTR for acceptance and acknowledgement. If the certification does not accurately reflect the condition of a phase or the entire project, the COTR will reject it until the phase or project is complete. The COTR shall sign all certifications of completeness thereby accepting the completed work.
- 17.2 In order to obtain written certification of completion, the Contractor shall request an inspection for certification of completion. Before requesting such an

inspection, the Contractor shall complete the following tasks, as applicable:  
YYY/ZZZ

- 17.2.1 Show 100 percent completion for the phase of the work claimed as complete in the application for payment that coincides with, or first follows, the date completion is claimed.
- 17.2.2 Include supporting documentation for completion as indicated in these contract documents and a statement showing an accounting of any cost changes.
- 17.2.3 Submit record drawings, maintenance manuals, final project photographs, and similar final record information.
- 17.2.4 Deliver tools, spare parts, extra stock, and similar items.
- 17.2.5 Complete startup testing of systems and instruction of the Board's operation and maintenance personnel. Discontinue and remove temporary facilities from the site, along with mockups, construction tools, and similar elements.
- 17.2.6 Complete final cleanup requirements, including touchup painting. Touch up and otherwise repair and restore marred, exposed finishes.
  - 17.2.6.1 Clean each surface or unit to the condition expected in a normal, commercial building cleaning and maintenance program. Comply with manufacturer's instructions.
  - 17.2.6.2 Remove labels that are not permanent labels. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other substances that are noticeable vision-obscuring materials. Replace chipped or broken glass and other damaged transparent materials.
  - 17.2.6.3 Clean exposed exterior and interior hard-surfaced finishes to a dust-free condition, free of stains, films, and similar foreign substances. Restore reflective surfaces to their original condition. Leave concrete floors broom clean. Vacuum carpeted surfaces.
  - 17.2.6.4 Wipe surfaces of mechanical and electrical equipment. Remove excess lubrication and other substances.
  - 17.2.6.5 Remove temporary protection and facilities installed for protection of the Work during construction.

- 17.3 On receipt of a request for inspection, the COTR will either proceed with inspection or advise the Contractor of unfilled requirements. The COTR will advise the Contractor, in writing, of work that must be completed or corrected before the Board issues the certificate.
- 17.4 Final Acceptance. The Contractor shall request, in writing, that the COTR acknowledge final acceptance of a phase, or of the project as a whole, when all of the conditions for completion of the phase or project have been satisfied, and the Contractor has corrected any defects or omissions.
- 17.5 On receipt of a request for final acceptance, the COTR will either provide written certification of such acceptance or advise the Contractor of any unfilled requirements that must be met before a phase or the project can be considered complete and eligible for acceptance.

C.18 Operation and Maintenance Requirements YYY

- 18.1 The Contractor shall provide the COTR and other appropriate Board personnel with training in the operation and maintenance of equipment that requires scheduled periodic maintenance.
- 18.2 The Contractor shall provide the instruction by the manufacturer's representatives if installers are not experienced in operation and maintenance procedures.
- 18.3 The Contractor's review of operation and maintenance requirements shall include a detailed review of maintenance manuals, record documents required spare parts and materials, tools, lubricants, identification systems, control sequences, cleaning, warranties, and maintenance agreements and similar continuing commitments.

END OF TEXT ON THIS PAGE

# APPENDIX L

## Statement of Work—IT Consulting



## SECTION C

### STATEMENT OF WORK

#### Information Technology (IT) Consulting Services Template

##### C.0 DOCUMENT STANDARDS

Divisions should use this IT Consulting Services Template for the statement of work (SOW) to ensure consistency and efficiency in preparing contract documentation. The format follows the Board's Writing Style Manual and the format used in the General Contract provisions. Users should delete Section C.0 before submitting the final SOW to Procurement. Standards include the following:

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- Times New Roman 12 font
- address abbreviations do not use periods: 20<sup>th</sup> and C Streets, NW, Washington DC. Time uses periods: For instance, the Board's hours of operations are 7:00 a.m. to 6:00 p.m.
- block style for paragraphs
- single line spacing with double spacing between paragraphs
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- to continue a list for bullet numbering, go to the last bullet and hit enter/hard return. To stop using the list, backspace over the bullet number.
- capitalize consistently throughout the document. A contract document contains more capitalization than a standard Board memo especially for defined terms. For instance, the Contractor shall provide services to the Board; this Contract contains provisions; the Offeror represents, and so on.
- write in complete sentences and use the active voice. "The Contractor made mistakes" versus "mistakes were made".
- identify acronyms in parentheses without quotes. For instance, the contracting officer's technical representative (COTR) may not authorize work unless approved by the Contracting Officer.
- major paragraphs begin with a letter. The headings are all caps.

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This template includes paragraphs that may be optional for your needs as designated by "YYY". You may search on "YYY" and modify the language for your needs or delete the paragraph if it does not apply. "ZZZ" denotes areas where you need to input information, especially for dates and names.

- 0.1 The Background section explains the rationale for the project. It summarizes information that is essential for understanding the project and should help Offerors prepare a sound technical proposal. It should be unambiguous and should not cite data or reports that are unavailable to the prospective Contractor.
- 0.2 The scope of work is a written specification that describes the work or services to be performed. It may include the method for the Contractor to use. The scope of work describes the technical elements that relate directly to the product to be delivered or the service to be performed. Administrative elements are in later paragraphs and may include such work as quality assurance/control, system configuration management, shipping, contract administration, purchasing and subcontract management, documentation, and report preparation and delivery.
  - 0.2.1 The scope of work should define the major tasks and the subtasks for each.
  - 0.2.2 It should explain the interrelationship between tasks, and how the tasks are related to desired results and deliverables.
    - 0.2.2.1 The scope of work identifies constraints and limitations.
    - 0.2.2.2 It establishes a timetable for completing major milestones and/or tasks that the Contractor should complete.
    - 0.2.2.3 It provides necessary technical details.
    - 0.2.2.4 It provides sufficient technical information so the Contractor may develop a responsive technical proposal.

## C.1 BACKGROUND

The Board of Governors of the Federal Reserve System (Board) has an ongoing need for skilled computer personnel to assist with projects headed by the Board. Information technology services will be required for mainframe and distributed projects including positions for systems analysts, programmers, database administrators, computer operators, web developers, and communications analysts. Hardware and software products used at the Board are listed in Section C.2.3 below.

The Board intends to issue multiple awards to meet its requirements for these services.

## C.2 SCOPE OF WORK

The Contractor shall provide skilled computer personnel to assist with projects headed by the Board, on an as-needed basis. The Board requires personnel with the qualifications, knowledge, skills, and capabilities as described below.

## 2.1 Labor Category and Personnel Qualifications

### 2.1.1 Mainframe Support and Distributed Systems

#### 2.1.1.1 Senior Systems Analyst shall possess:

- at least five years of overall IT experience.
- at least two years of experience with specific language for assigned task.
- demonstrated strong analytical skills.
- demonstrated problem solving skills.

#### 2.1.1.2 Systems Analyst shall possess:

- at least three years of overall IT experience.
- at least 1.5 years of experience with specific language for assigned task.
- demonstrated strong analytical skills.
- demonstrated problem solving skills.

#### 2.1.1.3 Senior Programmer Analyst/Web Developer shall possess:

- at least three years of overall Programmer Analyst experience.
- at least two years of experience with specific language for the assigned task.
- demonstrated strong analytical skills.
- experience in analysis and design of systems.

#### 2.1.1.4 Programmer/Web Developer shall possess:

- at least two years of overall Programmer Analyst experience.
- at least one year of experience with specific language for the assigned task.

2.1.1.5

Database Administrator (DBA) shall possess:

- at least three years of overall DBA experience.
- at least two years of experience with project database management systems.
- experience with conducting design reviews.
- at least two years of experience with troubleshooting (restoring databases and resolving compatibility problems).

2.1.1.6

Senior Information Systems Analyst shall possess:

- at least three years of experience providing end-user support (including help desk, if required for assigned task) for a variety of software as listed in the Applications Development for Distributed Systems, Lotus Notes, Blackberry or Websphere Web Administration categories of Section C.2.2.
- at least three years of experience with PCs/laptops or other workstations and connecting them to LANs and WANs.
- at least three years of experience with troubleshooting (resolving problems with software and configurations).

2.1.1.7

Information Systems Analyst shall possess:

- at least one year of experience with providing end-user support (including help desk, if required for assigned task) for a variety of software as listed in the Applications Development for Distributed Systems, or Lotus Notes, or Blackberry or Websphere Web Administration category of Section C.2.2.
- at least one year of experience with PCs/laptops or other workstations and connecting them to LANs and WANs.

- at least one year of experience with troubleshooting (resolving problems with software and configurations).

2.1.1.8 Computer Operator shall possess:

- at least two years of overall IT experience.
- at least one year of experience with computer operations in a multiple virtual system (MVS) mainframe computing environment.
- at least one year of experience with tape operation and tape library management.

## 2.1.2 Systems and Telecommunications Support

2.1.2.1 Senior Communications Analyst shall possess:

- at least five years of experience with major distributed communications systems with emphasis on area(s) needed for assigned tasks.

2.1.2.2 Communications Analyst shall possess:

- three to five years of experience in major distributed communications systems with emphasis on area(s) needed for assigned tasks.

2.1.2.3 Senior Systems Programmer shall possess:

- at least five years of experience with operating systems architecture, performance evaluation, computer access control and security with emphasis on areas required for assigned tasks.

2.1.2.4 Systems Programmer shall possess:

- three to five years of experience in planning, configuring, installing, testing, and maintaining major software systems such as operating systems, utility subsystems, and vendor-supplied program products.

## 2.2 Knowledge and Skills (Mandatory Requirements)

### 2.2.1 Applications Development for Distributed Systems and Web-Based Systems

- 2.2.1.1
- 2.2.1.2
- 2.2.1.3
- 2.2.1.4
- 2.2.1.5
- 2.2.1.6
- 2.2.1.7
- 2.2.1.8

(b)(7)(E)

### 2.2.2 Applications Development for Mainframe-Based Systems

- 2.2.2.1
- 2.2.2.2
- 2.2.2.3
- 2.2.2.4
- 2.2.2.5

(b)(7)(E)

### 2.2.3 Data Base Administrator

- 2.2.3.1
- 2.2.3.2
- 2.2.3.3
- 2.2.3.4

(b)(7)(E)

### 2.2.4 Information Systems Analyst

- 2.2.4.1
- 2.2.4.2
- 2.2.4.3
- 2.2.4.4
- 2.2.4.5

(b)(7)(E)

### 2.2.5 Network Infrastructure

- 2.2.5.1
- 2.2.5.2
- 2.2.5.3
- 2.2.5.4
- 2.2.5.5
- 2.2.5.6

(b)(7)(E)

2.2.6 (b)(7)(E)

2.2.6.1  
2.2.6.2

(b)(7)(E)

2.2.7 (b)(7)(E)

2.2.7.1 MDS  
2.2.7.2 Development techniques  
2.2.7.3 Interaction with other wireless devices  
2.2.7.4 Security

2.2.8 Websphere Web Administration

2.2.8.1 Application deployment  
2.2.8.2 Security  
2.2.8.3 Websphere Portal  
2.2.8.4 WAI/WebSeal authentication (LDAP)

## 2.3 Hardware and Software

The Board uses the following hardware and software.

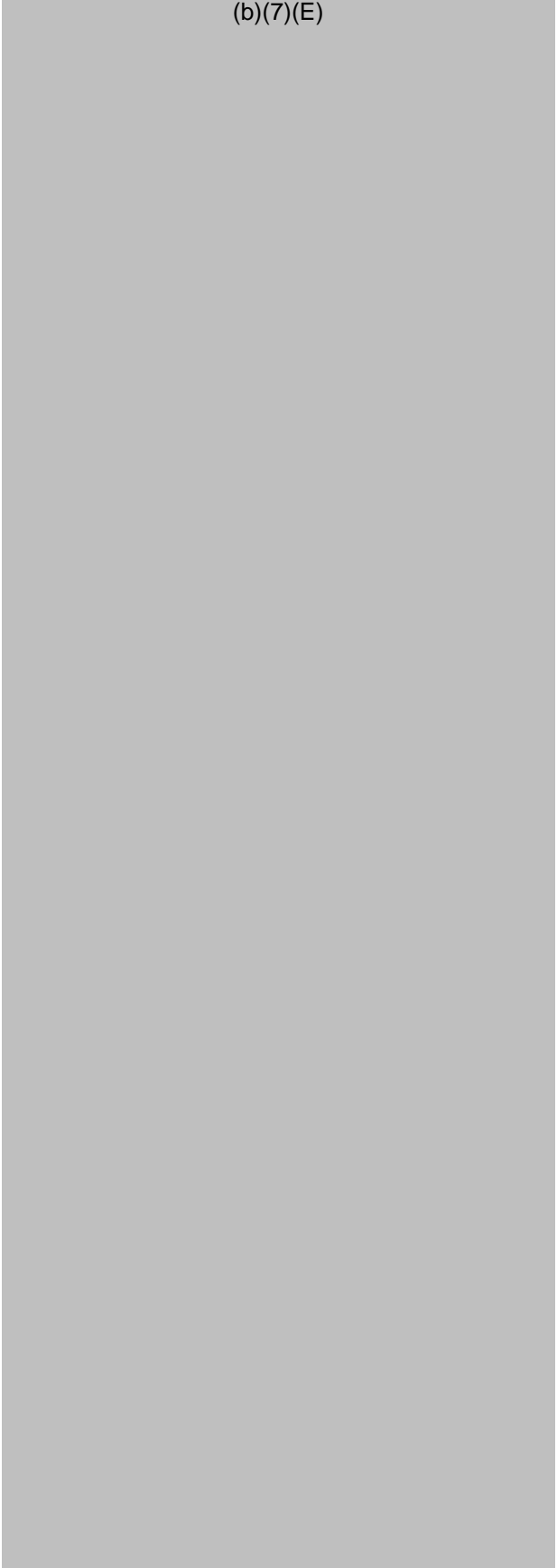
### 2.3.1 Mainframe Hardware Computer Configuration

<u>Type</u>	<u>Description</u>
(b)(7)(E)	

### 2.3.2 Mainframe Software Computer Configuration


<u>Product</u>
(b)(7)(E)

(b)(7)(E)





(b)(7)(E)



2.3.3 Distributed Network Configuration

2.3.3.1 Hardware

<u>Type/Model</u>	<u>Description</u>
(b)(7)(E)	

2.3.3.2 PC Software

<u>Type/Model</u>	<u>Description</u>
(b)(7)(E)	

(b)(7)(E)

2.3.3.3 (b)(7)(E) Software

<u>Type/Model</u>	<u>Description</u>
(b)(7)(E)	

C.3 PERIOD AND PLACE OF PERFORMANCE

- 3.1 Place of Performance. The Contractor shall perform all work in the Board's Martin building ZZZ located at 20<sup>th</sup> and C Streets, NW, Washington, DC 20551.
- 3.2 Period of Performance. The Contractor shall commence work on or before DATE ZZZ and shall complete work no later than DATE ZZZ.
- 3.3 Unless the Board expressly authorizes in writing, the Contractor shall perform all work during the Board's customary working hours, which are 7:00 a.m. through

6:00 p.m., Monday through Friday. (Contractors are required to work an eight-hour day during this time period.) During the course of the engagement there may be times when contractors will be required to work overtime, which may include working outside the normal working hours and/or working on Saturday and/or Sunday.

- 3.4 The Board will not provide garage parking for contractors. The Board has a cafeteria on-site.
- 3.5 The Board observes the following holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. The Contractor may perform work on these days, subject to the COTR's prior notification and approval.

#### C.4 TASK ORDER PROCEDURE/ADMINISTRATIVE REQUIREMENTS

When the Board determines a requirement for a certain type of personnel, all of the firms with a Basic Ordering Agreement (BOA) will be instructed to send resumes to the Board. The Board will review resumes and, if required, will conduct an interview with the candidate prior to making a final selection. Once the Board chooses a candidate, the Board will contact the firm, issue a Task Order signed by the Contracting Officer, and arrange a start date.

- 4.1 Contractor shall ensure that all personnel assigned to the Board undergo and pass a background investigation processed by the Board. Because the work may involve access to sensitive information, the Board prefers that such personnel be United States citizens or United States nationals or intending citizens.
- 4.2 Contractor shall ensure that all of its employees who have access to Board software or data abide by the procedures in the Board's Information Security Manual, sign a Board-prepared nondisclosure agreement, and sign forms relating to Internet access, the Board's automation system, and privacy policies.
- 4.3 Contractor personnel will use and facilitate the use of standard Board System Development Methodology, software security interfaces, and software development environments.
- 4.4 Contractor personnel will submit all work time sheets with the worker's signature for approval by the Board's project manager prior to submission to the worker's firm.
- 4.5 All workers are required to wear appropriate business attire while working at the Board.

- 4.6 The Board's annual requirements may vary; however, in the past, most successful applicants have remained under contract for an average of six (6) months.

#### C.5 DIVISION OF RESPONSIBILITY YYY

- 5.1 The Board will provide or have others provide:

- 5.1.1 Office space for Contractor personnel in the Board's Martin building ZZZ, including a desk, telephone line, desktop computer with an address on the Board's E-mail system, and other amenities necessary for performing the required services.

- 5.2 The Contractor shall supply the following YYY:

- 5.2.1

#### C.6 PROJECT MEETINGS

- 6.1 Special Meetings. The Board reserves the right to schedule special meetings during the course of the work, as required, to address matters that cannot be satisfactorily resolved by other means. Such meetings will be held at the Board's offices.

#### C.7 CONDUCT OF CONTRACTOR PERSONNEL

- 7.1 The Board reserves the right to deny entry or access to its premises to any Contractor whose presence, dress, or conduct the Board deems detrimental to the good order and productivity of its operations and staff. Such personnel shall be replaced by the Contractor immediately upon notification by the COTR, or his designee, that a Contractor personnel problem exists. This replacement shall be made at no additional cost to the Board.
- 7.2 The Contractor is reminded that its personnel will be working on the premises of the central bank of the United States, and shall dress appropriately for work. Contractor personnel shall be required to dress neatly, commensurate with the task being performed.

END OF TEXT ON THIS PAGE

# APPENDIX M

## Statement of Work—Training Materials

## **SECTION C**

### **STATEMENT OF WORK**

#### **Training Materials Template**

##### **C.0 DOCUMENT STANDARDS**

Divisions should use this Training Materials Template for the statement of work (SOW) to ensure consistency and efficiency in preparing contract documentation. The format follows the Board's Writing Style Manual and the format used in the General Contract provisions. Users should delete Section C.0 before submitting the final SOW to Procurement. Standards include the following:

- 0.5 inch tabs ( (b)(7)(E) automatically sets)
- Times New Roman 12 font
- address abbreviations do not use periods: 20<sup>th</sup> and C Streets, NW, Washington DC. Time uses periods: For instance, the Board's hours of operations are 7:00 a.m. to 6:00 p.m.
- block style for paragraphs
- single line spacing with double spacing between paragraphs
- two spaces after the end of a sentence
- to continue a list for bullet numbering, go to the last bullet and hit enter/hard return. To stop using the list, backspace over the bullet number.
- capitalize consistently throughout the document. A contract document contains more capitalization than a standard Board memo especially for defined terms. For instance, the Contractor shall provide services to the Board; this Contract contains provisions; the Offeror represents, and so on.
- write in complete sentences and use the active voice. "The Contractor made mistakes" versus "mistakes were made".
- identify acronyms in parentheses without quotes. For instance, the contracting officer's technical representative (COTR) may not authorize work unless approved by the Contracting Officer.
- major paragraphs begin with a letter. The headings are all caps.

The numbering follows the standard government contract format: major headings use the contract section followed by the paragraph number. Subparagraphs use the primary paragraph number followed by the number of the paragraph and so on.

This template includes paragraphs that may be optional for your needs as designated by "YYY". You may search on "YYY" and modify the language for your needs or delete the paragraph if it does not apply. "ZZZ" denotes areas where you need to input information, especially for dates and names.



- 0.1 The Background section explains the rationale for the project. It summarizes information that is essential for understanding the project and should help Offerors prepare a sound technical proposal. It should be unambiguous and should not cite data or reports that are unavailable to the prospective Contractor.
- 0.2 The scope of work is a written specification that describes the work or services to be performed. It may include the method for the Contractor to use. The scope of work describes the technical elements that relate directly to the product to be delivered or the service to be performed. Administrative elements are in later paragraphs and may include such work as quality assurance/control, system configuration management, shipping, contract administration, purchasing and subcontract management, documentation, and report preparation and delivery.
  - 0.2.1 The scope of work should define the major tasks and the subtasks for each.
  - 0.2.2 It should explain the interrelationship between tasks, and how the tasks are related to desired results and deliverables.
    - 0.2.2.1 The scope of work identifies constraints and limitations.
    - 0.2.2.2 It establishes a timetable for completing major milestones and/or tasks that the Contractor should complete.
    - 0.2.2.3 It provides necessary technical details.
    - 0.2.2.4 It provides sufficient technical information so the Contractor may develop a responsive technical proposal.

## C.1 BACKGROUND

The System includes twelve Reserve Banks (Banks), a Board of Governors (Board) and a central provider of infrastructure IT services called the Federal Reserve Information Technology (FRIT). There is a committee called the Automation Resource Managers (ARM) that consists of the chief information officer at each of the Banks, the Board and FRIT along with several chief technology officers from lines of business within the System. ARM initiated a series of IT leadership initiatives in 2004 and assigned a team of ARM members to each initiative. In October 2004 the Application and Data Services Leadership Team formed an IT Project Management Leadership Workgroup to develop a best-practices based framework for project management. A separate group, the Software Development Methodology Leadership Workgroup, whose focus was to develop a best -practices based framework for software development, was established in early 2005. These two groups combined in April 2005, after recognizing major overlaps in their missions and deliverables.

When representatives from the Boston, New York, Chicago, Dallas and San Francisco Banks and Board IT met in November 2004, they discovered that a number of the Banks and the Board had very similar IT project management methodologies which were based on the Project

Management Institute's *Project Management Body of Knowledge* (PMBOK). The representatives concurred that the current methodologies and supporting tools are flexible enough to be applied to all IT application development projects, large and small, using off-the-shelf or custom-built software and regardless of degree of associated project risk.

The representatives also agreed that the benefits of using a standard project management methodology include better communication, greater customer satisfaction with completed projects, and more timely project delivery. Following a standard allowed for better communications among project team members, especially when some members worked for someone other than the project manager. Communications also improved between implementers and customers. A standard project management methodology is designed to work with a variety of application development methodologies, including agile development, SCRUM and others. It also complements quality initiatives such as the Software Engineering Institute's capability maturity model (CMM), the Committee of Sponsoring Organizations, and Sarbanes-Oxley regulations.

The group wrote a flexible application development project management standard, which is currently working its way through the FRIT standards process, along with a set of artifacts – a risk assessment model, checklists, templates and a glossary. The standard is being piloted on a number of projects. The System requires training to complement this effort. Because the trainer of the standard will also serve as a reference person who will answer questions about application development project management, the System wants an employee to teach that class. Thus, the work to be performed is to design the classes and create the materials, but only teach the first of the two classes.

## C.2 SCOPE OF WORK

2.1 There are three major tasks, outlined below.

2.1.1 Design a detailed syllabus, PowerPoint slides and hands-on exercises or a case study for a two-day classroom class on application development project management basics, using PMBOK project management principles as they relate to IT.

2.1.1.1 Take into account the skill set of the class attendees (novice, or intermediate project management skills, but lack of familiarity with the PMBOK).

2.1.1.2 Teach this class twice, once during the week of March 13 – 17, 2006 in Dallas, Texas and once during the week of April 24 – 28, 2006.

2.1.2 Design a detailed syllabus, PowerPoint slides and hands-on exercises or a case study for a one and a half-day classroom class to inform application development project managers and senior analysts, as appropriate, that a

new standard exists and how it must be followed. The training should include practice using the artifacts, especially the templates.

- 2.1.2.1 Focus on the particulars of the standard.
- 2.1.2.2 Highlight the fact that the process may be used in conjunction with an individual Bank's current application development project management methodology.
- 2.1.2.3 Explain that the standard will improve the likelihood that application development projects will be completed on time, within budget, and according to established requirements.
- 2.1.2.4 Explain that the purpose of the standard is to minimize and manage project risk.
- 2.1.2.5 Explain that the standard provides a flexible methodology that accommodates varying project size and scope, different application development methodologies and the diverse set of operating environments and procedures utilized by FRIT, the Banks, and the Board.
- 2.1.2.6 Explain that the standard materially improves the System's IT environment without introducing unnecessarily burdensome administrative processes.
- 2.1.2.7 Show that the tools that are convenient to use, genuinely beneficial, readily learned, relatively easy to maintain, and have a positive near term payback.
- 2.1.2.8 Explain that the standard improves the effectiveness of project communications with business areas and other stakeholders.
- 2.1.2.9 Teach project managers how to develop meaningful quantitative and qualitative metrics in the methodology so that efforts and results are measured and used for continuous improvement.
- 2.1.2.10 Explain how the standard supports achievement of higher levels of the Capability Maturity Model (CMM/CMMI).

- 2.1.2.11 Explain that the standard supports application compliance with applicable industry best practices and corporate and government regulations, such as Sarbanes-Oxley, the Federal Information Security Management Act and section 508 of the Americans with Disabilities Act.
- 2.1.3 Convert the one and one-half day class (task two, outlined above in 2.1.2) to an online course that can be taken using a web browser. (Note: The Board may not exercise this task.)
- 2.2 The materials for the two classroom courses must be ready for use by February 28, 2006. The online training must be available by June 30, 2006.
  - 2.2.1 Major milestones are as follows.
    - 2.2.1.1 Meet with members of the project management work group to answer questions and discuss the training in more detail – one week after contract award.
    - 2.2.1.2 Draft syllabus – January 15, 2006.
    - 2.2.1.3 Draft materials – January 31, 2006.
    - 2.2.1.4 Revisions during February, 2006.
    - 2.2.1.5 Outline for online course – April 30, 2006.
    - 2.2.1.6 Draft online course – May 30, 2006.
    - 2.2.1.7 Revisions to online course during June, 2006.

### C.3 PERIOD AND PLACE OF PERFORMANCE

- 3.1 Place of Performance. The Contractor shall perform most of the work in its offices ZZZ, except for face-to-face meetings that will take place in the Martin Building of the Federal Reserve Board at 20<sup>th</sup> and C Streets, NW, Washington, DC 20551.
- 3.2 Period of Performance. The Contractor shall commence work on or before December 15, 2005 ZZZ and shall complete work no later than February 28, 2006 (June 30, 2006 for the online course) ZZZ, except for teaching the two classes.
- 3.3 The normal working hours at the Board are from 7:00 a.m. until 6:00 p.m., Monday through Friday.

- 3.4 The Board observes the following holidays: New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. The Contractor may perform work on these days, subject to the COTR's prior notification and approval.

#### C.4 PROJECT MANAGEMENT

- 4.1 As part of its proposal the Contractor shall submit a work schedule based on the information contained in the solicitation.
- 4.2 Within ten (10) days ZZZ from Contract award, the Contractor shall submit a detailed project schedule prepared using the Critical Path Method (CPM).
- 4.3 The Contractor shall submit an updated version of the detailed project schedule to the COTR on a monthly basis, as part of the Monthly Progress Report, or at such times as the COTR deems necessary.

#### C.5 PROJECT MEETINGS

- 5.1 Initial meeting. The Contractor shall schedule and attend a meeting not later than ten (10) days ZZZ following contract award. Attendees shall include the Contractor's project manager, the Board's senior contract specialist, the COTR, and such other representatives that the Board deems necessary. The meeting will be held at the Board's offices.
- 5.2 Project Status Meetings. Beginning with the commencement of work and continuing for the duration of the work, the Contractor shall participate in weekly project status meetings held at the Board's offices or by telephone. The Contractor's project manager shall participate in all such meetings.
- 5.3 Special Meetings. The Board reserves the right to schedule special meetings during the course of the work, as required, to address matters that cannot be satisfactorily resolved by other means. At a minimum, the Contractor's project manager shall attend such meetings, which will be held at the Board's offices.

#### C.6 PROGRESS REPORTS

- 6.1 Monthly Progress Report. At the end of each calendar month, the Contractor shall prepare and submit to the Board a Monthly Progress Report, which shall, at a minimum, include the following:
  - 6.1.1 Bullet points on the progress of the work, including any problems or delays or other items of particular interest. The narrative shall indicate whether or not the work is on schedule, and shall include an explanation if it is behind schedule.

C.7 CONDUCT OF CONTRACTOR PERSONNEL

- 7.1 The Contractor is reminded that its personnel will be working on the premises of the central bank of the United States, and shall dress appropriately for meetings.

END OF TEXT ON THIS PAGE

# APPENDIX N

## Common Law Employee Questionnaire



## Determination of Common Law Employee (CLE) Status

Please describe in three to five sentences the type of work the individual will perform under the contract and the length of the contract.

	Indicate	
	Yes	No
1. Has the Board retained the right to assign additional work, other than that described above, to the individual? .	<input type="checkbox"/>	<input type="checkbox"/>
2. Did this person previously perform work for the Board? .....	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the Board have the right (whether it exercises it or not) to control and direct the individual who performs the services, as to the result and the means by which the result is accomplished? .....	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the individual perform services that are an integral, or regular, part of the Board's day-to-day operations? ..	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the contract have a set term? .....	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the contract name the individual who must perform the services (whether or not that person is the contracting party)? .....	<input type="checkbox"/>	<input type="checkbox"/>
7. Is payment under the contract based on the amount of time worked or by the job? (check one) <input type="checkbox"/> Hours/Days Worked <input type="checkbox"/> By Job <input type="checkbox"/> Fixed Minimum Payment (regardless of hours worked)		
8. Will the individual routinely (e.g., once a week on average) perform work on the Board's premises? .....	<input type="checkbox"/>	<input type="checkbox"/>
9. Is the Board contracting with a corporate entity or is the individual working for a corporate entity? .....	<input type="checkbox"/>	<input type="checkbox"/>
10. Does the contract require the individual, or another corporate organization, to withhold federal, state, and local income taxes and/or to pay his or her employment taxes, (e.g., social security taxes)? .....	<input type="checkbox"/>	<input type="checkbox"/>
11. Does the contract require the individual to carry his or her own worker's compensation insurance coverage? ..	<input type="checkbox"/>	<input type="checkbox"/>
12. If additional resources are needed to complete the work will the Board provide for and/or pay for the resources? ..	<input type="checkbox"/>	<input type="checkbox"/>
13. Do you expect the individual to perform work on an as-needed basis (i.e., the contractor will depend on the COTR to give direction on the level of effort expended rather than the contractor determining the level of effort to achieve a final goal or deliverable)? .....	<input type="checkbox"/>	<input type="checkbox"/>

### For Use By The Legal Division ONLY—Attorney Initials and Date Required

This consultant is deemed to be a: ☐ Common Law Employee    ☐ Independent Contractor

Attorney Initials \_\_\_\_\_ Date \_\_\_\_\_



## Determination of Common Law Employee Status Confirmation

---

**From:** Legal Division System Matters Attorney

**To:** Ethics Officer

Attached are the draft contract documents regarding procurement of consulting services for the

\_\_\_\_\_ for \_\_\_\_\_  
from \_\_\_\_\_ ("Contractor"). Legal has determined  
that the Contractor will be treated as a common law employee.

With regard to the review, for Ethics purposes, is the Contractor subject to the U.S. Government's ethics rules? 

	Indicate
	Yes      No
	<input type="checkbox"/> <input type="checkbox"/>

Reviewer Name \_\_\_\_\_ Date \_\_\_\_\_

**After review, please return all documents to the Procurement staff member  
at mail stop K-128.**

\_\_\_\_\_  
Name

### For use by Ethics Office

Name: \_\_\_\_\_ Division: \_\_\_\_\_ Position: \_\_\_\_\_ Number of Days: \_\_\_\_\_

This common law employee is \_\_\_\_\_

This common law employee should \_\_\_\_\_