

NCUA Clauses

On-Site Working Conditions (July 2013)

(a) NCUA facilities are smoking restricted workplaces. Due to the nature of the work, facilities, and requirements, contractor staff may only smoke outside or in designated smoking areas.

(b) Normal operating hours are 7:00am to 5:00pm, Monday through Friday. Meeting task objectives within specific timeframes may require the working of extended/overtime hours. Any extended hours must be authorized in advance, and certified as worked by the task Government Project Manager(s).

(c) Government personnel observe the following days as holidays:

New Year's Day	January 1 *
Martin Luther King's Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4*
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Day	December 25*

* If the date falls on a Saturday, the Government holiday is the preceding Friday. If the date falls on a Sunday, the Government holiday is the following Monday.

(d) In addition to the days designated as holidays, the Government observes the following days:

- Any other day designated by Federal Statute
- Any other day designated by Executive Order
- Presidential Inauguration Day
- Any other day designated by the President's Proclamation

(e) It is understood and agreed between the Government and the Contractor that observance of such days by Government personnel shall not otherwise be a reason for an additional period of performance, or entitlement of compensation except as set forth within the contract. In the event the Contractor's personnel work during the holiday, they may be reimbursed by the Contractor, however, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, other than their normal compensation for the time worked. This provision does not preclude reimbursement for authorized overtime work if applicable to this contract.

(f) When the Federal, State, Local or other Governmental entity grants excused absence to its employees, assigned Contractor personnel may also be dismissed. The Contractor agrees to continue to provide sufficient personnel to perform critical tasks already in operation or scheduled, and must be guided by the instructions issued by the Contracting Officer (CO) or the Contracting Officer's Representative (COR).

(g) If Government personnel are unavailable for any reason, the Contractor must contact the CO or the COR to receive direction. It is the Government's decision as to whether the contract price/cost will be affected. Generally, the following situations apply:

- (1) Contractor personnel who are able to continue contract performance (either on-site or at a site other than their normal workstation), must continue to work and the contract price shall not be reduced or increased.
- (2) Contractor personnel who are not able to continue contract performance (e.g., support functions) may be asked to cease their work effort. This may result in a reduction to the contract price.

Contractor Personnel Security Requirements (February 2015)

(a) The U.S. Office of Management and Budget (OMB) Memorandum M-05-24, Personal Identity Verification of Contractor Personnel, is available on-line at <http://www.whitehouse.gov/omb/memoranda/fy2005/m05-24.pdf> and provides guidance in accordance with Homeland Security Presidential Directive – 12 (HSPD-12) and Federal Information Processing Standards Publication Number 201 (FIPS 201). The National Institutes of Standards and Technology (NIST) guidance is available at <http://nist.gov/it/csd/ssa/piv.cfm> and the Office of Management and Budget (OMB) memorandum at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-11.pdf>.

(b) Contractors are required to have background investigations for fitness and suitability to work on all NCUA contracts. All contractor employees who require unescorted access in NCUA facilities must undergo at a minimum a fingerprint check and name trace (NACLC or equivalent investigation). If the contractor personnel occupy positions of public trust (e.g., systems administration, security guards, or auditors), they may be required to undergo additional background investigation screening even if they do NOT have access to classified information. Contractors are required to ensure that their employees are appropriately cleared for suitability in accordance with HSPD-12 requirements prior to commencing work on the contract.

(c) The Government may require security clearances for performance of a contract. The Contractor agrees to comply with this requirement and must obtain these clearances for their employees prior to beginning work on the contract. NCUA will not allow Contractor employees without a clearance in any of its secure facilities. The Contractor must obtain these clearances by using the eQIP system. If satisfactory background investigations and clearances cannot be verified, security arrangements cannot be made with the Contractor, and the required services must be obtained from other sources.

(c) The level of classified access required will be indicated on DD-254 or other appropriate form incorporated into each request requiring access to classified information. Contractors are required to have background investigations for suitability if they occupy positions of trust (e.g., systems administration) even if they do NOT have access to classified information.

(d) Necessary facility and/or staff clearances must be in place prior to start of work on the contract. Contractor employees who are not properly cleared will not be allowed to commence work on the contract. The Contractor is responsible for incurring all costs associated with the initial vetting and clearance of their employees.

(e) Contractors are responsible for the security, integrity and appropriate authorized use of their systems interfacing with the Government and or used for the transaction of any and all Government business. The Government, through the Government's Contracting Officer, may require the use or modification of security and/or secure communications technologies related to Government systems access and use.

(f) The Government, at its discretion, may suspend or terminate the access and/or use of any or all Government access and systems for conducting business with any/or all Contractors when a security or other electronic access, use or misuse issue gives cause for such action. The suspension or termination may last until such time as the Government determines that the situation has been corrected or no longer exists.

Contractor's Key Personnel (July 2013)

(a) In order to ensure a smooth and orderly startup of work, it is essential that the key personnel specified in the Contractor's proposal be available on the effective date of the contract. If these personnel are not made available at that time, the Contractor must notify the Government Contracting Officer (CO) and show cause. If the Contractor does not show cause, the Contractor may be subject to default action.

(b) The Contractor shall not of its own will remove or replace any personnel designated as "key" personnel without the written concurrence of the cognizant CO. Prior to utilizing employees other than specified personnel, the Contractor shall notify the CO and the Contracting Officer's Representative. This notification must be no later than five (5) calendar days in advance of any proposed substitution and must include justification (including resume(s) of proposed substitution(s)) in sufficient detail to permit evaluation of the impact on contract performance.

(c) Substitute personnel qualifications must be equal to, or greater than, those of the personnel being substituted. If the Government Contracting Officer and the COR determine that the proposed substitute personnel is unacceptable, or that the reduction of effort would be so substantial as to impair the successful performance of the work under the contract, the Contractor may be subject to default action. If deemed necessary by the Government, substitute personnel must be given an orientation by Contractor personnel at no additional cost to the Government and with no change in the delivery schedule.

(d) In the event that the performance of assigned Contractor personnel or any substitute(s) is determined by the Government to be unsatisfactory at any time during the life of the Contract, the Government reserves the right to request and receive satisfactory personnel replacement within five (5) calendar days of receipt by the Contractor of written notification.

Notification will include the reason for requesting replacement personnel.

(e) The Contractor-supplied personnel are employees of the Contractor and under the administrative control and supervision of the Contractor. The Contractor, through its personnel, shall perform the tasks prescribed herein. The Contractor must select, supervise, and exercise control and direction over its employees (including subcontractors) under this Contract. The Government shall not exercise any supervision or control over the Contractor in its performance of contractual services under this contract. The Contractor is accountable to the Government for the action of its personnel.

(f) The Contractor is herewith notified that employee recruiting and employee retention practices shall be monitored on a regular basis.

Qualifications of Contractor's Employees (July 2013)

The Contracting Officer may require the contractor to remove contractor employees from working on this contract which he/she deems incompetent, careless, insubordinate, unsuitable or otherwise objectionable, or whose continued employment he/she deems contrary to the public interest or inconsistent with the best interest of national security. The Contractor must fill out, and cause each of its employees on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons. Upon request of the Contracting Officer, the Contractor's employees must be fingerprinted. Each employee of the Contractor who works on this contract shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form 1-151, or who presents other evidence from the Immigration and Naturalization Service that employment will not affect his/her immigration status.

NCUA Standards of Conduct (July 2013)

(a) Personnel assigned by the contractor to the performance of work under this order must be acceptable to the Government in terms of personal and professional conduct.

Contractor personnel shall conform to standards of conduct as follows:

(1) No contractor employees shall solicit new business while performing work under this order.

(2) The contractor and its employees shall not discuss with unauthorized persons any information obtained in the performance of work under this order.

(b) Should the continued assignment to work under this order of any person in the contractor's organization be deemed by the Contracting Officer to conflict with the interests of the Government, that person shall be removed immediately from assignment, and the reason for removal shall be fully documented in writing by the Contracting Officer. Employment and staffing difficulties shall not be justification for failure to meet established schedules, and if such difficulties impair performance, the contractor may be subject to default.

Organizational Conflicts of Interest (July 2013)

(a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest (OCI), Organizational and Consultants Conflicts of Interest, or that the Contractor has disclosed all such relevant information. An OCI occurs when because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

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

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

(d) The Contractor must include this clause in all subcontracts and in lower tier subcontracts unless a waiver is requested from, and granted by, the Contracting Officer.

(e) In the event that a requirement changes in such a way as to create a potential conflict of interest for the Contractor, the Contractor must:

- (1) Notify the Contracting Officer of a potential conflict, and;
- (2) Recommend to the Government an alternate approach which would avoid the potential conflict, or
- (3) Present for approval a conflict of interest mitigation plan that will:
 - (i) Describe in detail the changed requirement that creates the potential conflict of interest; and
 - (ii) Outline in detail the actions to be taken by the Contractor or the Government in the performance of the task to mitigate the conflict, division of subcontractor effort, and limited access to information, or other acceptable means.
- (4) The Contractor must not commence work on a changed requirement related to a potential conflict of interest until specifically notified by the Contracting Officer to proceed.
- (5) If the Contracting Officer determines that it is in the best interest of the Government to proceed with work, notwithstanding a conflict of interest, a request for waiver must be submitted to the Contracting Officer.

Reducing Text Messaging While Driving (July 2013)

(a) In accordance with Section 4 of Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", you are hereby encouraged to:

- (1) Adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or Government-owned, -leased or -rented vehicles, or while driving privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government; and
 - (2) Consider new company rules and programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for company employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the company's text messaging policy while off duty.
- (b) For purposes of complying with the Executive Order:
- (1) "Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

- (2) "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

Notice of Requirement for Certification of Nonsegregated Facilities (July 2013)

By signing this offer or contract, the contractor will be deemed to have signed and agreed to the provisions of non-segregated facilities. As used in this clause segregated facilities, mean any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes. The certification provides that the bidder or offeror does not maintain or provide for its employees, facilities which are segregated on a basis of race, color, religion, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder/offeror does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. This clause must be included in all subcontracts as well.

Special Requirements for Employing Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (July 2013)

(a) The Contractor shall not discriminate against any employee or applicant for employment because the individual is a disabled veteran, recently separated veteran, other protected veterans, or Armed Forces service medal veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a disabled veteran, recently separated veteran, Armed Forces service medal veteran, and other protected veterans in all employment practices. Your company must comply with the requirements of this clause, including the listing of employment opportunities with the local office of the state employment service system.

Environmentally Preferable Products and Services (July 2013)

(a) Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management, requires in agency acquisitions of goods and services

- (i) use of sustainable environmental practices, including acquisition of biobased, environmentally preferable, energy-efficient, water-efficient, and recycled-content products,
- (ii) use of paper of at least 30 percent post-consumer fiber content, and use of double-sided printing.

(b) Signing this offer or contract indicates the contractor's agreement that all goods and services provided under this contract will comply with the above requirements of Executive Order 13423 and Sections 3(i), 3(k) and 3(l) of 13693.

Freedom of Information Act Requests (July 2013)

Offerors are reminded that information furnished under this solicitation may be subject to disclosure under the Freedom of Information Act (FOIA). Therefore:

(a) All items that are confidential to business, or contain trade secrets, proprietary, or personnel information must be clearly marked in all documents submitted to the NCUA (The Government). Marking of items will not necessarily preclude disclosure when the NCUA FOIA Officer determines disclosure is warranted by FOIA. However, if such items are not marked, all information contained within the submitted documents will be deemed to be releasable.

(b) No later than five (5) business days after award of a contract, blanket purchase agreement (BPA), or order, the Contractor must provide NCUA a redacted copy of the contract/BPA/order in electronic format. The Contracting Officer will provide this copy, accompanied by a non-redacted copy of the contract/BPA/order, to NCUA's FOIA Officer if NCUA receives any requests for copies of the contract/BPA/order under the FOIA. If NCUA determines that any redacted information does not require protection from public release, NCUA's FOIA Officer will resolve the issue using the procedures set forth in §792.29 of NCUA's FOIA regulation.

Protecting Sensitive Information (July 2013)

(a) Protecting Sensitive Information. All contractor and subcontractor personnel shall protect the confidentiality, integrity, and availability of sensitive information, including personally identifiable information (PII), to which they have access.

(b) Controlling Sensitive Information. All sensitive information, electronic and paper copy remains the property of NCUA. If contractor or subcontractor personnel moves or copies sensitive information to Contractor's facilities or equipment, they must maintain and store it separately, both physically and logically, from all non-NCUA information. Upon completion or termination of the contract, or at any time the Contracting Office requests it in writing, contractor must return, erase, or destroy all sensitive information on any media under its control or in its possession, as NCUA directs.

(c) Sensitive Information Defined. Sensitive information is any information the loss, misuse, or unauthorized access to or modification of which could adversely impact the interests of NCUA in carrying out its programs or the privacy to which individuals are entitled. It includes the following:

- (1) Information that is exempt from disclosure under the Freedom of Information Act, such as trade secrets and commercial or financial information, information compiled for law enforcement purposes, personnel information, information compiled for law enforcement purposes, personnel and medical files, and information contained in credit union examination reports.
- (2) Information under the control of NCUA contained in a Privacy Act system of records that is retrieved using an individual's name or by other criteria that identifies an individual.
- (3) PII about individuals maintained by NCUA that if released for unauthorized use may result in financial or personal damage to the individual to whom such information relates. Sensitive PII, a subset of PII, may be comprised of a single item of information (e.g., SSN) or a combination of two or more items (e.g., full name along with financial, medical, criminal, or employment information). Sensitive PII presents the highest risk of being misused for identity theft or fraud; and
- (4) Information about insurance assessments, liquidation and conservatorship activities, as well as enforcement, legal, and contracting activities.

(d) Non-Disclosure Agreement. The contractor, all key personnel, and at the discretion of NCUA, any designated non-key personnel working on the contract each must sign a non-disclosure agreement. When NCUA determines non-key personnel are required to sign non-disclosure agreements, the Contracting Officer's Representative will provide the contractor with a written notice of such and shall identify whether the requirement extends to all categories of non-key personnel or selected categories of non-key personnel. The company-level non-disclosure agreement must be signed by an authorized representative of the contractor and delivered to the Contracting Officer at the time of award, with the signed contract. Non-disclosure agreements for key personnel and designated non-key personnel must be delivered to NCUA no later than five (5) business days after starting performance and prior to receiving any sensitive information. The contractor must deliver the non-disclosure agreements signed by key personnel to the Contracting Officer and those signed by designated non-key personnel to the Contracting Officer's Representative. Key personnel and designated non-key personnel who do not sign a non-disclosure agreement will not be permitted to perform work on the contract.

(e) Subcontracts. Contractor must include this clause in all subcontracts to which the conditions and requirements describe in this clause would apply. Contractor also must require subcontractors (first tier) to include this clause in any of their subcontracts (second tier) to which the conditions and requirements of this clause would apply.

(f) Each officer or employee of the Contractor or any of its subcontractors to whom any Government record may be made available or disclosed must be notified in writing by the Contractor that information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. §641. That section provides, in pertinent part, that

whoever knowingly converts to their use or the use of another, or without authority, sells, conveys, or disposes of any record of the United States or whoever receives the same with intent to convert it to their use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine of up to \$10,000, or imprisoned up to ten years, or both.

Method of Payment (July 2013)

Invoices shall be submitted in accordance with the General Contract Provisions and delivered electronically or mailed to:

By U.S. Mail:

NCUA Accounts Payable Branch, AMZ-160

Invoices for services provided by outside vendors and billed collectively to the management company must be accompanied by the actual invoice for services or a copy of the general ledger spreadsheet highlighting NCUA's portion of charges. At calendar year-end, invoices must be cut off as of December 31, and e-mailed to NCUA-Approvals@faa.gov within four (4) business days following the calendar year-end. If this is not possible, then the supplier must provide a written estimate of the dollar amount of goods and services provided through December 31, and e-mail this information to the NCUA office of primary interest for accounting purposes.

Invoices shall contain the following information:

- (a) Contract and/or purchase order number
- (b) Item numbers
- (c) Description of supplies or services
- (d) Size
- (e) Quantities
- (f) Unit prices
- (g) Extended

Contractor Access to NCUA IT Systems (July 2013)

NCUA's Office of the Chief Information Officer and the CO has implemented policies to ensure the security and safety of NCUA's information systems. One policy is the ability to audit who has access to NCUA IT systems. For that reason the contractor must:

(a) Immediately following contract award, the contractor must provide to the distribution list an initial and complete list of employee's names that require access to OCIO's information systems.

(b) The contractor must send a staffing change report (Attachment 6) by the fifth day of each month after contract award to the Contracting Officer's Representative, contract administrator and OCIO on a monthly basis. A template for the submission is attached. The

report must contain the listing of all staff members who left or were hired under this contract in the past 30 days. This form must be submitted even if no separation has occurred during this period. Failure to submit a 'Contractor Staffing Change Report' each month will result in the suspensions of all user ids associated with this contract.

(c) Each contractor employee is required to utilize individual identification and authorization to access NCUA systems. Using shared accounts to access NCUA systems is strictly prohibited. OCIO will disable accounts and access to NCUA's systems will be revoked and denied if carriers share accounts. Users of the systems will be subject to periodic auditing to ensure compliance to NCUA OCIO Security and Privacy Policies.

(d) The Government, at its discretion, may suspend or terminate the access and/or use of any or all Government access and systems for conducting business with any/or all Contractors when a security or other electronic access, use or misuse issue gives cause for such action. The suspension or termination may last until such time as the Government determines that the situation has been corrected or no longer exists.

(e) The contractor Contracting Officer's Technical Representative (COTR) and the OCIO Helpdesk must be notified at least 5 days prior to a contractor being removed from a contract. For unplanned terminations or removals of contractor employees from the contractor organization that occur with less than five days notice, the COTR and OCIO Helpdesk must be notified immediately. NCUA Personal Identification Verification (PIV) cards issued to contractors must be returned to the COTR prior to departure.

(f) The contractor must allow NCUA access to OCIO information including data schemas, meta data, and other associated data artifacts that are required to ensure OCIO can fully and appropriately retrieve OCIO information that can be stored, read, and processed.

Section 508 Standards (July 2013)

(a) All electronic and information technology (EIT) procured through this requirement must meet the applicable accessibility standards at 36 CFR 1194, unless an agency exception to this requirement exists. 36 CFR 1194 implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at <http://www.access-board.gov/sec508/508standards.htm>.

- (b) The following standards have been determined to be applicable to this RFQ:
- (1) 1194.21. Software applications and operating systems.
 - (2) 1194.22. Web-based intranet and Internet information and applications.
 - (3) 1194.23 Telecommunications products.
 - (4) 1194.24 Video and multimedia products.
 - (5) 1194.25 Self Contained, closed products
 - (6) 1194.26 Desktop and portable computers.
 - (7) 1194.31 Functional performance criteria.
 - (8) 1194.41 Information, documentation, and support

(c) The standards do not require the *installation* of specific accessibility-related software or the attachment of an assistive technology device, but merely require the EIT be compatible with such software and devices so that it can be made accessible if so required by the agency in the future

(d) NCUA is required by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), to offer access to electronic and information technology for disabled individuals within its employ, and for disabled members of the public seeking information and services. This access must be comparable to that which is offered to similar individuals who do not have disabilities. Standards for complying with this law are prescribed by the Architectural and Transportation Barriers Compliance Board ("The Access Board").

(e) The current deliverable(s) must incorporate these standards as well as any agency specific standards developed by NCUA. The attached technical description contains further information on how this is to be done. Your response to the solicitation should contain documentation of your compliance with these standards. However, the Contracting Officer may request additional technical documentation, if necessary to make this determination.

(f) The final work product must include documentation that the deliverable conforms with the Section 508 Standards promulgated by the US Access Board.

(g) In the event of a dispute between you and NCUA, then NCUA's assessment of the Section 508 compliance will control and you will need to make any additional changes needed to conform with NCUA's assessment, at no additional charge to NCUA.

IT Security and Privacy Awareness Training (July 2013)

All contractor personnel must complete mandatory security and privacy training prior to gaining access to NCUA information systems certified by the contractor manager. Contractor manager will provide completion information to the COTR.

Specialized IT Security Awareness Training for Security Staff (Federal/Contractor) (July 2013)

IT security contractor personnel are required to complete specialized IT security training based on the role-based requirements. NCUA will conduct specialized security training once a year to individuals with elevated access privilege.

HSPD-12 Compliance (July 2013)

The Contactor shall be subject to screening prior to authorizing access to information systems; and rescreening according to change in position risk designation, new position with higher risk designation, or other according to HSPD-12 requirements. **Please note that only U.S. citizens are eligible for employment on this contract.**

Contract Performance Information (July 2013)

(a) Dissemination of Contract Performance Information

The Contractor must not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to the performance of this contract, without the prior written consent of the Contracting Officer. Two copies of any material proposed to be published or distributed must be submitted to the Contracting Officer for approval.

Option to Extend Services (May 2015)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months.

Option to Extend the Term of the Contract (May 2015)

The Government may extend the term of this contract by notice to the Contractor; provided that the Government gives the Contractor a preliminary notice of its intent to extend before the contract expires. If the Government exercises this option, the extended contract shall be considered to include this option clause. The preliminary notice DOES NOT commit the Government to exercise the Option nor does it in any manner obligate Government funds against the subject contract, and is subject to the availability of applicable Budget Year funding.

If the Option is exercised by the government, it will be accomplished via a unilateral modification. The modification will specifically identify the Option period of performance and contract amount referenced above.

Continuity of Services (June 2015)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to—

- (1) Furnish phase-in training;
- (2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor; and
- (3) Highlight risks and issues to NCUA during the transition period with mitigation approaches.

(b) The Contractor shall, upon the Contracting Officer's notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

Termination for Convenience (May 2015)

Termination for convenience most often is done when complete performance by the contractor may not be needed, or when NCUA requirements have changed to such an extent that continued performance is not in the interest of NCUA. When a contract is terminated for the convenience of NCUA, the CO will negotiate a settlement which compensates the contractor for actual work performed, and reimburses the contractor's reasonable termination expenses incurred prior to the effective date of the termination or stoppage of work, whichever is earlier.

Termination for Default (May 2015)

NCUA has the right to terminate the contract completely or partially for default, if the contractor fails to:

- Deliver the goods or perform the services within the time specified in the contract or any extension;
- make progress, so as to endanger performance of the contract; perform any of the other provisions of the contract; or
- Resolve a conflict of interest or other ethics violations.

After a contract has been terminated for default, NCUA may assess the contractor any excess cost incurred in re-procurement of the contract items or services from another source.

Any termination for default requires the written concurrence of the head of the Program Office and OGC. If the termination involves a minority and woman-owned business or small-disadvantaged business, the CO notifies the Office of Minority and Women Inclusion (OMWI) prior to the termination.

Availability of Funds (June 2015)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

NCUA Unauthorized Obligations (June 2015)

(1) Except as stated in paragraph (2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any

other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

Order of precedence (June 2015)

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

(1) NCUA Purchase Order

(2) NCUA Clauses

(3) Request for Quotation/Request for Proposal

(4) Attachments to this solicitation or contract, including any license agreements for computer software

(5) Statement of Work/Statement of Objectives/Performance Work Statement

NCUA Time-and-Material or Labor-Hour Contract (June 2015)

(a) Inspection/Acceptance.

(1) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. The cost of replacement or correction shall be the “hourly rate” for labor hours incurred in the replacement or correction reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified in the contract, the portion of the “hourly rate” attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(2)(i) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may:

(A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause (default).

(3) Notwithstanding paragraphs (a)(1) and (2) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to:

(i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(ii) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(4) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(b) Payment.

The Government will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer's Representative (COR).

(a) Hourly rate.

(1) Hourly rate means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are:

(i) Performed by the Contractor;

(ii) Performed by the Subcontractors; or

(iii) Transferred between divisions, subsidiaries, or affiliated of the Contractor under a common control.

(2) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed.

(3) The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(4) The hourly rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis.

(b) Materials.

(1) For the purposes of this clause:

(i) Direct materials means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) Materials means:

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.); and

(D) Applicable indirect costs.

(2) If the Contractor furnishes its own materials the price to be paid for such materials shall not exceed the Contractor's established catalog or market price.

(3) Except as provided for in paragraph (b)(2) of this clause, the Government will reimburse the Contractor for allowable cost of materials provided the Contractor:

(i) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(ii) Ordinarily makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(4) The Contractor may include allocable indirect costs and other direct costs to the extent they are:

(i) Comprised only of costs that are clearly excluded from the hourly rate;

(ii) Allocated in accordance with the Contractor's written or established accounting practices; and

(iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.

(6) To the extent able, the Contractor shall:

(i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. The Contractor shall give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The Contractor shall not deduct from gross costs the benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government.

(7) The Government will not pay profit or fee to the prime Contractor on materials.

(c) Total cost.

It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. *If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation.* If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(d) Ceiling price.

The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.