

SOLICITATION FOR SECOND CHANCE ACT SERVICES

Dear Vendor

1. This is a solicitation for proposals to enter in a Blanket Purchase Agreement (BPA) for Second Chance Act services for the District Court of the District of New Hampshire

2. The Court intends to award BPA(s) to one or more contractor found to meet the court's qualification requirements detailed in the attached statement of work. BPA(s) issued under this solicitation may have an ordering period up to one year.

3. The Court reserves the right not to make any awards as a result of this solicitation. Award of a BPA does not guarantee that the contractor will receive orders for any particular aggregate dollar value, or in fact any orders at all, for second chance act services.

4. Contractors responding to this solicitation should carefully review the statement of work, the minimum qualifications required and the BPA terms and conditions, all of which will be incorporated into any blanket purchase agreement and resulting call awarded under this solicitation.

5. Contractors wishing to be considered for award of a BPA must provide the following information in response to this solicitation including those requirements detailed in the statement of work below:

- a) Cover letter listing all enclosed documentation.
- b) A completed pricing schedule for services proposed.
- c) Respondents not registered in the System for Award Management (www.sam.gov) must provide a completed copy of Provision 3-5, Taxpayer Identification and Other Offeror Information (provided in Attachment 4 - Solicitation Provisions).

6. Any questions regarding this solicitation should be in writing, addressed to the undersigned by August 1, 2018. The completed solicitation packet should be submitted before 4:00 p.m. on August 17, 2018.

Sincerely,

Matthew DiCarlo
Contracting Officer

Attachments:

1. Solicitation Cover Page
2. Statement of Work
3. BPA Terms and Conditions
4. Solicitation Provisions
5. Pricing Schedule

SCA SERVICES BPA – Solicitation

A. BACKGROUND

On April 9, 2008, the Second Chance Act (SCA) of 2007, Pub. L. No. 110-199, was enacted. Section 253 of the Act amended 18 U.S.C. § 3672 to authorize the Director of the Administrative Office of the U.S. Courts (AO) to contract for “treatment, equipment and emergency housing, corrective and preventative guidance and training, and other rehabilitative services designed to protect the public and promote the successful reentry of the offender into the community.” In October of 2008, the Judicial Administration and Technical Amendments Act of 2008, Pub. L. No. 110-406 (October 13, 2008) (JATAA), significantly enhanced courts’ ability to provide interventions for defendants and offenders under 18 U.S.C. 3672 and 3154(4). This expanded the authority for a wide array of interventions with which probation and pretrial services officers might mitigate specific risks and responsivity factors related to their caseloads.

The statute authorizes “providing necessary services to offenders … in a manner that does not confer luxuries or privileges upon such offenders” (42 U.S.C. § 17501(a)(4)). Additionally, the Act shall not “be construed as creating a right or entitlement to assistance or services for any individual, program, or grant recipient” (42 U.S.C. § 17504). Congress intended the new authority to be exercised judiciously. Courts must be careful stewards of resources used under this authority.

B. PRICING SCHEDULE

This BPA is in effect for the period from October 1, 2018 through September 30, 2019, with an option to extend the life of the agreement for two additional years. Pricing applicable to work performed during each twelve-month period shall be as shown below.

Item No.	Description	Quantity	Unit	Unit Price	Extended Price
1	<i>3122-Cognitive Behavioral Treatment (MRT)</i>	80	<i>Monthly</i>	<i>(contractor will fill in)</i>	<i>(contractor will fill in)</i>
				TOTAL	<i>(contractor will fill in)</i>

Vendor's Name

Vendor's Phone Number/fax number/e-mail address

Vendor's Street Address

Vendor's City, State, and Zip Code

Signature of Person Authorized to Sign Quote

Date

DUNS number

Printed or Typed Name of Signator

Discount Terms or Net 30?

**NOTE: soliciting offers on the basis of a fixed hourly rate may require a one-time delegation of procurement authority from PMD. See the [Guide to Judiciary Policy, Vol. 14, § 410.40.30](#).*

C. STATEMENT OF WORK

4.11 Project Code 3122 - Cognitive Behavioral Treatment (CBT) - Unit: per 30 minute session

Local Need: The vendor must use the Moral Reconation Therapy program.

(a) Project Code Description

The goal of this intervention is to change the way offenders think, hence changing the way they behave. More specifically, CBT restructures an offender/defendant's thought patterns while simultaneously teaching pro-social skills. This type of intervention is effective in addressing criminogenic needs such as anti-social values and low self-control. This project code may also be used for the purchase of CBT manuals/training materials. It should NOT be used to conduct training to become a CBT facilitator. Officers must determine the defendant's or offender's primary underlying issue when deciding what project codes and BOC are appropriate. The district may specify which manualized CBT curriculum is to be used. Groups may be closed or have rolling admission.

Referrals should include the client's relevant background information, including an offender's presentence report or a defendant's pretrial services report, and any other information deemed necessary for effective service delivery.

Vendor requirements include background statements, staff qualifications and restrictions (as detailed in the statement of work), co-payments, reporting of no shows, defendant/offender records, disclosure requirements, chronological records, case staffings, vendor reports, vendor testimony, and monitoring. Despite this service operating as a fixed curriculum, it is considered severable based on the fact that the defendant/offender is receiving a benefit from each session taught. The service should be invoiced monthly based on the number of sessions attended for that month. Units should be broken down according to the time involved for each session.

The probation form 45 / program plan should be attached to the contract document, e.g. purchase order, contract award or purchase card obligating document. The probation form 45 does not replace the obligating document. The program plan identifies vendor services to be provided to the client and billed to the government under the terms of this contract document. The plan may contain amendments. Including a client's educational and employment history in the referral is sufficient.

USPO/USPSO prepares the probation form 45 during or immediately after any case staffing conferences. The probation form 45 along with the contract document authorizes the vendor to provide services to the client. The USPO/USPSO shall modify the contract and amend the probation form 45 when changing the services the vendor is performing, including the frequency and co-payment amounts.

(f) Statement of Work

The CO should insert the following project code description, vendor requirements, SOW and deliverables for the respective project code - the portion of the description below that

is enclosed in quotation marks - in each solicitation and the resulting purchase order, BPA call or contract award.

"Statement of Work - The vendor shall provide manualized cognitive behavioral group led by a trained facilitator as defined below. The groups shall offer a structured approach to a specific component of an intervention plan and address the criminal thinking component of a client. Curriculum materials should: contain opportunities to practice newly learned behavior; include an articulated theory and evidence supporting its effectiveness with offenders; be consistent with underlying theory; should be supported by research or evidence of effectiveness; and should employ multiple strategies proven to be effective in teaching prosocial skills to offenders; and should be grounded in behavioral, social learning and cognitive approaches. Examples of this type of group are Moral Reconation Therapy and Thinking for a Change, Problem Solving Skills in Action, Choices and Changes, and The Change Companies. Groups may also include a structured contingency management system to encourage participation, reward timeliness etc. See Administrative Fee, Project Code 3501.

This service is provided by licensed/certified/credentialed individuals who possess the recognized credentials/qualifications of, and fulfills the standards of practice established by his/her professional regulatory body for the purpose of that field. The employer should have appropriate licenses and certifications so that staff qualifications may apply.

The vendor shall ensure:

- A trained facilitator successfully completes the training for the specific manualized CBT program being utilized. Vendors may secure certification in the curriculum post-award but before services commence. The completion of such training shall be documented. A trained facilitator shall not be required to have clinical oversight.
- Practitioners prepare treatment plans that include (1) short and long-term measurable goals and objectives the clients will be attempting to achieve; (2) type and frequency of services to be received; (3) specific criteria for program completion and the anticipated time-frame; and (4) no less than every 90 days documentation of treatment plan review (including client input) documenting continued need for treatment. The plan shall include information on family and significant other involvement (community support programs, etc.). Note: treatment plan shall be attached to the monthly progress report provided to the USPO/USPSO after every revision but at least every 90 days;
- Only face-to-face contacts between practitioner and clients (or family) are invoiced;
- A discharge summary shall be submitted to the USPO/USPSO within 15 business days of termination. That summary shall include a reason for discharge, prognosis and any recommendations for future care. In all cases, the discharge status (i.e. successful discharge, unsuccessful discharge, interruption of treatment, etc.) shall be clearly stated; and
- That the vendor contacts the USPO/USPSO within 24 hours if the client fails to report for appointments or fails to participate, and that any such conduct is documented in writing to the USPO/USPSO.

The client's signature is required before releasing any information regarding the client or the defendant's/offender's services and progress to the USPO/USPSO. The vendor shall obtain the client's and USPO/USPSO's signature prior to the client's first appointment with the service/treatment provider. The authorization to release confidential information shall be captured on the Probation Form 11G and/or PSA Form 6.

Below are the vendor's staff requirements and restrictions. Failure to comply with the terms and conditions below could result in termination of this contract.

- The vendor shall advise of any current staff member currently under pretrial services, probation, parole, mandatory release, or supervised release (federal, state, tribal or local) and the nature of the offense to the USPO/USPSO.
- The vendor and its employees shall:
- Avoid compromising relationships with defendants/offenders;
- Report any such improprieties or the appearance thereof immediately to the USPO/USPSO or designee; and
- Report to the USPO/USPSO or designee any investigations, pending charges, arrests and/or convictions related to a criminal offense by staff performing services under this contract within 48 hours of obtaining such knowledge.
- The vendor shall notify the USPO/USPSO in writing of any staff changes and provide documentation of any required licensing, certification, experience, and education requirements.

Concerning the defendant/offender files, records and conferences, the vendor shall:

- Maintain a secure filing system of information on all defendants/offenders to whom the vendor provides services under this contract. If information is maintained electronically, the vendor shall make a hard copy of all files available for review immediately upon request of the USPO/USPSO or designee.
- Segregate client files from other vendor records. This will facilitate monitoring and promote client confidentiality.
- Keep a separate file for each client.
- Create a separate file when a client on pretrial services supervision is sentenced to probation supervision, but continued in services with the vendor. The vendor may copy any information relevant from the pretrial services file and transfer it into the probation file, except for information covered under the Pretrial Services Confidentiality Regulations. The vendor and its subcontractors are authorized to access criminal history information available in pretrial services or probation records that have been provided by the USPO/USPSO. This information is provided solely for the purpose of providing services under this contract. Any unauthorized re-disclosure of this information may result in termination of this contract.

- Keep all client records for three years after the final payment is received for Government inspection and review, except for the following:
 - Appeals under subsection 4. Disputes, in Section I, or
 - Litigation or settlement of claims arising out of the performance of this contract, until final disposition of such appeals, litigation, or claims.
- o At the expiration of the performance period of this contract, the vendor shall provide the USPO/USPSO or designee a copy of all client records that have not been previously furnished, including copies of chronological notes. Chronological notes should:
 - Record all contacts (e.g., face-to-face, telephone) with the client including collateral contacts with employers, USPO/USPSO and others. Records shall document all notifications of absences and any violation behavior.
 - Be current and available for review by the USPO/USPSO or designee and by the Probation and Pretrial Services Office (PPSO) at the Administrative Office.
 - Chronological notes shall be legible and up-to-date

To meet the disclosure requirements for this project code, the vendor shall disclose client records upon request of the USPO/USPSO as well as make its staff available to the USPO/USPSO to discuss issues of a client. The government agrees to provide any necessary consent forms that the federal government or federal, state or local law requires for information the probation or pretrial services officer would seek from the vendor (e.g., Probation Form 11G and/or PSA Form 6). The vendor shall ensure that all persons having access to or custody of client records follow the disclosure and confidentiality requirements of this contract and all applicable state and federal law. The vendor shall notify USPO/USPSO immediately upon receipt of legal process requiring disclosure of client records.

The vendor shall not disclose “pretrial services information” concerning pretrial services clients. “Pretrial services information,” as defined by the “Pretrial Services Confidentiality Regulations,” is “any information, whether recorded or not, that is obtained or developed by a pretrial services officer (or a probation officer performing pretrial services duties) in the course of performing pretrial services.” Pretrial Services Confidentiality Regulations, §2A.

Generally, any information developed by an officer performing pretrial services that is shared with the vendor will be confidential pretrial services information. Only a judicial officer or a Chief USPO/USPSO may authorize disclosure of pretrial services information to a third party pursuant to the Pretrial Services Confidentiality Regulations. Any doubts about whether a potential disclosure concerns pretrial services information must be resolved by consultation with the USPO/USPSO.

The vendor and its subcontractors are authorized to access criminal history information available in pretrial services or probation records that have been provided by the USPO/USPSO. This information is provided solely for the purpose of providing services

under this contract. Any unauthorized re-disclosure of this information may result in the termination of this contract.

The price of case staffing conferences and consultations are included in the unit prices listed in each project code description. Upon USPO/USPSO referral of a client to the vendor, the vendor shall consult and meet as requested by the USPO/USPSO.

Vendor reports shall include specific/measurable goals and objectives with target completion dates that are periodically reviewed. The reports should provide a written recommendation as to whether or not a client's vocational services shall be continued or terminated. If the vendor recommends service termination, the vendor shall provide a reason for this recommendation in the written report (i.e., whether the client responded to vocational treatment/service and is no longer in need of services, or whether the client failed to respond to program interventions).

The vendor, its staff, employees and/or subcontractors shall provide vendor testimony by:

- Appearin or testifying in legal proceedings convened by the federal court or Parole Commission only upon order of the federal court with jurisdiction, and a request by the United States Probation and Pretrial Services Offices, United States Attorney's Offices, or United States Parole Commission, or in response to a subpoena.
- Providing testimony including but not limited to a client's: attendance record; general adjustment to program rules; type and frequency of services; and response to services;

The vendor shall receive reimbursement for subpoenaed testimony through the Department of Justice based on its witness fee and expense schedule. The vendor must receive the necessary consent/release forms required under federal, state or local law from the Government.

The vendor shall not create, prepare, offer, or provide any opinions or reports, whether written or verbal that are not required by this statement of work unless such action is approved in writing by the Chief US Probation Officer or Chief US Pretrial Services Officer.

Regarding co-payments, if ordered, the vendor shall:

- Collect any co-payment authorized on the program plan /probation form 45 and deduct any collected co-payment from the next invoice to be submitted to the government;
- Provide bills and receipts for co-payments to clients. The vendor shall keep an individualized record of co-payment collection, make it available for USPO/USPSO review, and have systems in place to both follow-up on collection of outstanding amounts and to resolve any discrepancies in amount owed;
- Document within the monthly progress report any co-payment received or whether the expected co-payment was not provided, as well as the amount of any outstanding balance;
- Inform the USPO/USPSO within 3 business days of a client's failure to make a total of 3 consecutive scheduled co-payments.

- Reimburse the Government in the event a vendor has received a co-payment and not credited it as an offset to a bill for services sent to the government (e.g., a defendant or offender provides a co-payment after the service was rendered or after the account has been closed).

Deliverable(s):

- A discharge summary shall be submitted to the USPO/USPSO within 15 business days of termination. That summary shall include a reason for discharge, prognosis and any recommendations for future care. In all cases, the discharge status (i.e. successful discharge, unsuccessful discharge, interruption of treatment) shall be clearly stated.
- Monthly Progress Treatment Report, (Probation Form 46R – Attachment 2). The monthly treatment progress reports shall be typed reports submitted along with the monthly invoice and any other required supporting documents for the month for which the vendor is invoicing. The report shall:
 - Summarize client's activities during the month, lists attendance dates, and accompanies the monthly invoice.
 - Document client progress (e.g., adjustment, responsiveness, significant problems, employment).
 - Reflect any changes in the contract and probation form 45/program plan;
 - Report any co-payment received or whether the expected co-payment was not provided, as well as the amount of any outstanding balance.”

D. BPA TERMS AND CONDITIONS

1. **Extent of Obligation.** The Court is obligated under this BPA only to the extent of the call(s) placed by authorized individuals against this agreement. The Contractor is cautioned that accepting BPA calls from anyone other than those authorized by the BPA may result in delay or denial of payment for that unauthorized call.
2. **Individuals Authorized to Place Calls/Orders and Dollar Limitations.** The individuals authorized to place calls/orders under this Agreement are the Level 2 COCP Contracting Officer(s) listed below.
 - Matthew DiCarlo
 - Daniel Whitmoyer
3. **Clause B-5, Clauses Incorporated by Reference (SEP 2010)**
This BPA incorporates the following clauses by reference, with the same force and effect as if it were given in full text. Upon request, the contracting officer will make the full text

available. The full text of the referenced clauses may be accessed electronically at the following web address: <http://www.uscourts.gov/procurement.aspx>.

(end)

4. The following judiciary clauses, that the Contracting Officer has indicated are applicable, are incorporated in this contract by reference:

- Clause 2-50 Continuity of Services (JAN 2003)
- Clause 2-60 Stop-Work Order (JAN 2010)
- Clause 3-3 Provisions, Clauses, Terms and Conditions - Small Purchases (JUN 2014)
- Clause 3-175 Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (JUN 2012)
- Clause 6-20 Insurance – Work on or Within a Judiciary Facility (APR 2011)
- Clause 7-55 Contractor Use of Judiciary Networks (JUN 2014)
- Clause 7-65 Protection of Judiciary Buildings, Equipment and Vegetation (APR 2013)
- Clause 7-115 Availability of Funds (JAN 2003)

5. The following full text clauses are incorporated if the Contracting Officer has marked them as applicable (X):

- Clause 2-90C Option to Extend Services (APR 2013)
The judiciary may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The contracting officer may exercise the option by written notice to the contractor no later than _____ calendar days prior to the contract's current expiration date [*insert the period of time within which the contracting officer may exercise the option*].

(end)

- Clause 2-90D Option to Extend the Term of the Contract (APR 2013)

(a) The judiciary may extend the term of this contract by written notice to the contractor no later than 15 calendar days prior to the contract's current expiration date [**2 times**]; provided that the judiciary gives the contractor a preliminary written notice of its intent to extend at least _____ calendar days [60 days unless a different number of days is inserted] before the contract expires. The preliminary notice does not commit the judiciary to an extension.

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 3 years.

(end)

6. Incorporation of Department of Labor Wage Rate Determination

See Attached

7. Solicitation Provisions

The following judiciary provisions, that the Contracting Officer has indicated are applicable, are incorporated in this solicitation:

X Provision B-1, Solicitation Provisions Incorporated by Reference (SEP 2010)

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

<http://www.uscourts.gov/procurement.aspx>.

(end)

Solicitation Provisions Incorporated by Reference

- | | |
|--|--|
| <input type="checkbox"/> Provision 2-70 | Site Visit (JAN 2003) |
| <input type="checkbox"/> Provision 2-85A | Evaluation Inclusive of Options (JAN 2003) |
| <input type="checkbox"/> Provision 3-135 | Single or Multiple Awards (JAN 2003) |

Additional Solicitation Provisions

X Provision 4-1, Type of Contract (JAN 2003)

The judiciary plans to award a firm fixed price type of contract under this solicitation, and all offers shall be submitted on this basis. Alternate offers based on other contract types will not be considered.

(end)

NOTE: Offerors not registered in the System for Award Management (www.sam.gov) must complete and return the following information.

The prospective vendors referred to as offerors need to fill in the requested information below.

X Provision 3-5, Taxpayer Identification and Other Offeror Information (APR 2011)

(a) *Definitions.*

“Taxpayer Identification (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a social security number or an employer identification number.

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

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

(d) *Taxpayer Identification Number (TIN):* _____

[] TIN has been applied for.

[] TIN is not required, because:

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

[] Offeror is an agency or instrumentality of a foreign government;

[] Offeror is an agency or instrumentality of the federal government.

(e) *Type of organization:*

[] sole proprietorship;

[] partnership;

[] corporate entity (not tax-exempt);

[] corporate entity (tax-exempt);

[] government entity (federal, state or local);

[] foreign government;

[] international organization per 26 CFR 1.6049-4;

[] other _____.

(f) *Contractor representations.*

The offeror represents as part of its offer that it is [], is not, [] 51% owned and the management and daily operations are controlled by one or more members of the selected socio-economic group(s) below:

- [] Women Owned Business
- [] Minority Owned Business (if selected, then one sub-type is required)
- [] Black American
- [] Hispanic American
- [] Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)
- [] Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru)
- [] Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal)
- [] Individual/concern, other than one of the preceding.

(end)

____ Provision 3-195 Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Certification (APR 2011)

(a) The offeror shall check following certification:

CERTIFICATION

The offeror [] does [] does not certify that –

- (1) the items of equipment to be serviced under this contract are used regularly for other than government purposes, and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontractor) in substantial quantities to the general public in the course of normal business operations;
- (2) the services will be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.
 - (i) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.
 - (ii) An "established market price" is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or contractor; and

- (3) the compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.
 - (b) Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision then [Clause 3-160, Service Contract Act of 1965](#), will not be included in any resultant contract to this offeror.
 - (c) If the offeror does not certify to the conditions in paragraph (a) of this provision –
 - (1) [Clause 3-215, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements](#), will not be included in any resultant contract awarded to this offeror; and
 - (2) the offeror shall notify the contracting officer as soon as possible, if the contracting officer did not attach a Service Contract Act wage determination to the solicitation.
 - (d) The contracting officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the contracting officer as required in paragraph (c) of this provision.
- (end)

_____ Provision 3-220 Exemption from Application of the Service Contract Act to Contracts for Certain Services – Certification (APR 2011)

- (a) The offeror shall check following certification:

CERTIFICATION

The offeror [] does [] does not certify that –

- (1) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;
- (2) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An “established market price” is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror;

- (3) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and
 - (4) The offeror uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the offeror uses for these employees and for equivalent employees servicing commercial customers.
- (b) Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the offeror certifies to the conditions in paragraph (a) of this provision then [Clause 3-160, Service Contract Act of 1965](#), as amended, will not be included in any resultant contract to this offeror.
- (c) If the offeror does not certify to the conditions in paragraph (a) of this provision—
- (1) [Clause 3-225, Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements](#), will not be included in any resultant contract to this offeror; and
 - (2) The offeror shall notify the contracting officer as soon as possible if the contracting officer did not attach a Service Contract Act wage determination to the solicitation.
- (d) The contracting officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the Contracting Officer as required in paragraph (c) of this provision.

(end)