Request for Proposal (RFP) – Contract Services for Indirect Rate Calculation

This RFP is published in support of ongoing programs, directed by the National Fallen Firefighters Foundation (NFFF). All potential respondents to this RFP are urged to read the entire document for clarity and understanding of the request. All submissions received by the NFFF in reference to this request will be considered to have been tendered with full knowledge and understanding of the specifics of the RFP.

RFP#: **FO-17-IR-001**

Requirement: **Contract Services for Indirect Rate Calculation**

Date Issued: **November 1, 2017**

Submissions Due: **December 18, 2017**

Contract Start Date: **No later than January 5, 2018**

All submissions will be received at either jmarkel@firehero.org (electronic submission) or NFFF, P.O. Drawer 498, Emmitsburg, MD 21727, Attn: J. Markel. Any submissions received after 12/18/2017 will not be evaluated.

This solicitation adheres to all federal procurement procedures and protocols, as detailed in applicable funding instruments, including, but not necessarily limited to the OMB Circulars A-110, A-122 & A-133, and/or OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ("Uniform Guidance"), issued on December 26, 2013, and subsequently issued agency regulations implementing the Uniform Guidance. Accordingly, it is the Foundation intent to conduct this procurement under these federally mandated guidelines and requirements.

Scope of Services Sought and Evaluation Criteria

1. Project Narrative:

ABOUT THE NATIONAL FALLEN FIREFIGHTERS FOUNDATION

Congress created the National Fallen Firefighters Foundation (NFFF) to lead a nationwide effort to honor America's fallen firefighters. Since 1992, the non-profit Foundation has developed and expanded programs to fulfill that mandate. Our mission is to honor and remember America's fallen fire heroes, provide resources to assist their families in rebuilding their lives and work within the fire service community to reduce firefighter deaths and injuries.

PROJECT SCOPE

For one year, NFFF has established a federal indirect rate. NFFF would like assistances in establishing a more efficient and timely indirect cost proposal process that meets the federal guidelines and maximizes the amount of reimbursement of costs. This assistance is needed for year ended December 31, 2016. A copy of the December 31, 2016, audited financial statement can be found at https://www.firehero.org/wp-content/uploads/2014/07/NFFF2016AFSFinal.pdf

QUESTIONS REGARDING THIS PROPOSAL

Questions may be submitted to Charles Jaster (NFFF CFO) at cjaster@firehero.org by December 4, 2017.

SUBMISSION REQUIREMENTS

To be considered responsive to this request and aligned for a potential contract, all submitters must include the following in their returned information portfolios:

- All submittals should appear on company letterhead and include a signature page.
- The following items should be specifically addressed in the proposal submitted and must reference the item number:
  - 1. Company information
  - 1.1. Year organized
  - 1.2. Industry competence and specialization in not-for-profits
  - 1.3. Shall submit the name, and telephone number of the person with the authority to bind the firm, as well as to answer questions or provide clarification concerning the firm's proposal.
  - 2. The experience and qualifications of your firm and its ability to provide indirect rate calculation services.
  - 2.1. Qualifications of principals and professional staff (Please specify those individuals who will be directly responsible for this account).
  - 2.2. Number of year of experience.
  - 3. Proposed timing of engagement.
  - 3.1 Estimated number of firm hours by class of employee to complete engagement.
  - 3.2 The amount of work that will be done on site verses at your office.
  - 3.3 Estimated number of hours needed by NFFF employees for this project.
  - 3.4 Type of NFFF documents needed to complete project.
  - 4. Relevant experience with other similar not-for-profit organizations.
  - 4.1. Include a list of your not-for-profit clients, specifically similar to NFFF.
  - 4.2. Include three specific references that we may contact (Clients most similar to NFFF in type and size of business and similar services requested are recommended).
  - 5. Fees (for all services offered via this RFP).

- **Engagement Deliverables**
  - Confirm who the cognizant agency is.
  - Determine best (and acceptable) allocation method.
  - Prepare the 2016 Indirect Rate Cost Proposal from audited records.
  - Determine the indirect cost rate for 2016 under the Uniform Guidance.
  - Provide NFFF with templates that can be used in future years.
  - Provide NFFF with advice on any accounting procedures that should be changed to help with filing future proposals.
  - All deliverables and contract completed no later than March 2, 2018.

SUBMISSION INFORMATION

1) The expense for developing your response is entirely the responsibility of your firm and shall not be chargeable in any manner to NFFF.
2) NFFF is not obligated to purchase services from any firm, or to engage the firm submitting the least expensive proposal. NFFF expressly reserves the right to (a) accept or reject all and any response(s), (b) withdraw this solicitation for receiving, accepting and evaluating firm's responses, (c) consider quotations or modifications thereof received after the due dates should such action be in the interest of NFFF, and (d) accept or reject any and all quotations at its own discretion.
3) All information, except for such information that is publicly available, provided by each party in connection with this proposal shall be treated as confidential by the other party. The Foundation's main websites are www.FireHero.org and www.EveryOneGoesHome.com.
4) All proposals should be sent to Jim Markel at jmarkel@firehero.org by December 18, 2017. The final contractor will be selected by December 29, 2017.

2. Contract Type. All proposed pricing will include equipment and labor costs, personnel expenses, transportation of all materials and personnel and profit.

3. Project Reporting Parameters: Reporting will be determined as outlined in a finalized Scope of Work. However, reporting is customarily completed on a monthly basis.

4. Evaluation Criteria: The contract will be awarded to the responsible offeror that proposes the most advantageous proposal to the NFFF taking into account all offerors' experience, past performance, and overall pricing, which shall be determined by NFFF in its sole discretion.

5. Appendix A & C: As a recipient of federal grants, the NFFF retains records on all solicitations that may be reimbursed with these funds. All potential respondents are therefore required to fill out and submit Appendix A & C, together with your proposal or to certify that your firm has registered with the federal government at: www.SAM.gov .

6. W-9 Submission: All respondents **must submit an IRS W-9 with their response**.

   Additionally, unless otherwise disclosed in the proposal, by and through the submission of a proposal in response to this RFP, the offeror certifies that there exists no actual or potential organizational or consultant conflict of interest ("OCI") as described in Federal Acquisition Regulation Subpart 9.5.

The Client reserves the right to request additional information from all or a select number of offerors as necessary in determining the most advantageous proposal for the Foundation. Further, if the offeror discloses an actual or potential OCI, the Client may request more information from the offeror, including, but not limited to, a plan detailing how the actual or potential OCI will be mitigated and/or avoided.

5. Contract Terms: Please see the attached template (at Appendix B) of the contract under which the Foundation would intend to engage for the preceding highlighted services. Through the submission of an offer, the offeror warrants and certifies that it can comply with such terms and conditions. Further, upon acceptance of the proposal by the NFFF, this document will stand as the controlling contract document.

APPENDIX A

REPRESENTATIONS AND CERTIFICATIONS

Certain representations and certifications must be made by the Offeror and must be submitted as appropriate. The Offeror can provide a copy of its current Representations and Certifications from SAM.gov in lieu of filling out this Appendix.

52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS Complete all lines

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;

(D) Have ☐, have not ☐, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) *The tax liability is finally determined*. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) *The taxpayer is delinquent in making payment*. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) *Examples*.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to

further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has ☐ has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government and Strategic Technology Partners, Strategic Technology Partners may terminate the contract resulting from this solicitation for default.

52.215-6 <u>PLACE OF PERFORMANCE</u>

A. The Offeror, during the performance of any subcontract resulting from this solicitation, ☐ intends, ☐ does not intend, to use one or more plants or facilities located at a different address from the address of the Offeror as indicated in this proposal or quotation.

B. If the Offeror checked "intends" in paragraph (A) above, it shall complete the following information:

Place of Performance	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror
Street Address, City, County, State, Zip	**Solicitation/Purchase Order Number (if applicable)**

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS

(a) Representations.

- **If a Large Business, only answer items (a)(1) through (a)(3)**
- ***ALL OTHERS complete items (a)(1) through (a)(10)***

	Category	Is	Is Not
1	Small Business		
2a	Alaskan Native Corp or federally recognized Native American Tribe		
2b	Owned by an Alaskan Native Corp or a federally recognized North American Tribe		
3	Ability One organization		
4	Small Disadvantaged Business		
5	Veteran Owned Small Business		
6	Service Disable Veteran Owned Small Business		
7	Woman Owned Small Business		

Complete only if the offeror represented itself as a women-owned small business concern in item (a)(7) above

(8) Women-owned small business (WOSB) concern eligible under the WOSB Program.

The offeror represents as part of its offer that—

(i) It ☐ is, ☐ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It ☐ is, ☐ not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(7)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture.

The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: _____.

Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(9) Economically disadvantaged women-owned small business (EDWOSB) concern.

Complete only if the offeror represented itself as a women-owned small business concern eligible under the WOSB Program in (a)(8) above

The offeror represents as part of its offer that—

(i) It ☐ is, ☐ is not an EDWOSB concern eligible under the WOSB Program, has provided

all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture.

The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: _____.

Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(10) The Offeror represents, as part of its offer, that—

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☐ is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(10)(i) of this provision is accurate for each HUBZone small business concern or concerns participating in the HUBZone joint venture. ***The Offeror shall enter the names of each HUBZone small business participating in the HUBZone joint venture: _____.***
Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(11) ***Complete if Offeror represented itself as disadvantaged in paragraph (b)(4) above***

The Offeror shall check the category in which its ownership falls:

	Black American
	Hispanic American
	Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)
	Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, 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

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

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business concern eligible under the WOSB Program.

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

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or,

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

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

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

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

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

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

(2) The management and daily business operations of which are controlled by one or more veterans.

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

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(d) Notice.

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

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a business concern that is small, HUBZone small, small disadvantaged, serviced disabled veteran-owned small, economically disadvantaged women–owned small or women-owned small eligible under the WOSB Program in order to obtain a contract to be awarded under the preference programs established pursuant to section 8, 9, or 15, 31 and 36 of the Small Business Act or any other provision of Federal law that specifically references section 10(d) for a definition of program eligibility, shall—

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

52.219-9 **<u>SMALL BUSINESS SUBCONTRACTING PLAN</u>**

☐ **This is to certify that the Offeror is a Small Business Concern and is therefore exempt from Part B below. Large business, complete para B. below**

A. For subcontracts with large business concerns **over** $650,000 ($1,500,000 for construction of any public facility) in value, the Offeror shall submit and negotiate a Subcontracting Plan which addresses separately, subcontracting with small business concerns (including ANCs and Indian tribes that are not

small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions and which shall be included and made a material part of any resulting subcontract. As a minimum, the Subcontracting Plan shall include all of the elements specified in FAR 52.219-9.

B. This is to certify that the Offeror ☐ has, ☐ has not established a Small/Small Business/HUBZone Small Business Concern Subcontracting Plan for any resultant subcontract **over** $650,000 in value in compliance with the requirements of PL 95-507, and will adhere to that plan. Compliance to the plan can be monitored by resident government agencies at the Offeror's facility. If the Offeror is now a small business and its status changes prior to any subcontract award, it agrees to submit a plan to Strategic Technology Partners Procurement Point of Contact.

52.222-21 PROHIBITION OF SEGREGATED FACILITIES

Exempt if work is to be performed outside U.S. by employees who were not recruited within the US.

By execution of this document the Offeror certifies that it is in full compliance with the provisions set forth in FAR 52.222-21.

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

Exempt if work is to be performed outside U.S. by employees who were not recruited within the US, otherwise Complete (a) and (b)

The Offeror represents that

(a) It ☐ has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It ☐ has, ☐ has not filed all required compliance reports; and **N/A**

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards and will be forwarded to the Strategic Technology Partners Procurement Point of Contact.

52.222-25 AFFIRMATIVE ACTION COMPLIANCE

Exempt if work is to be performed outside U.S. by employees who were not recruited within the US, otherwise Complete (a) or (b) – NOT BOTH

The Offeror represents that

(a) it ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary

of Labor (41 CFR 60-1 and 60-2) or

(b) it ☐ has not previously had contracts/subcontracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

52.222-35 EQUAL OPPORTUNITY FOR VETERANS

Exempt if work is to be performed outside U.S. by employees who were not recruited within the US.

By execution of this document the Offeror certifies that it is in full compliance with the provisions set forth in FAR 52.222-35.

52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES

Exempt if work is to be performed outside U.S. by employees who were not recruited within the US.

By execution of this document the Offeror certifies that it is in full compliance with the provisions set forth in FAR 52.222-36.

52.222-37 EMPLOYMENT REPORTS ON VETERANS

By execution of this document the Offeror certifies that it is in full compliance with the provisions set forth in FAR 52.222-37.

Vietnam Era Veterans' Readjustment Assistance Act

The Subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by subcontractor to employ and advance in employment qualified protected veterans.

Equal Opportunity for Workers with Disabilities

The Subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action subcontractor to employ and advance in employment qualified individuals with disabilities

52.223-6 CERTIFICATION REGARDING A DRUG-FREE WORKPLACE

By execution of this document the Offeror certifies that it is in full compliance with the provisions set forth in FAR 52.223-6.

52.225-2 BUY AMERICAN ACT CERTIFICATE

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act—Supplies."

(b) Foreign End Products:

LINE ITEM NR	COUNTRY OF ORIGIN

(c) Strategic Technology Partners will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

52.225-4 BUY AMERICAN ACT-FREE TRADE AGREEMENTS-Israeli Trade Act Certificate

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian, Moroccan, Omani, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and" "United States" are defined in the clause of this solicitation entitled "Buy American Act–Free Trade Agreements–Israeli Trade Act."

(b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, or Peruvian End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

(c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

OTHER FOREIGN END PRODUCTS:

LINE ITEM NO.	COUNTRY OF ORIGIN

(d) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

Alternate I As prescribed in 25.1101(b)(2)(ii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act—Balance of Payments Program":

CANADIAN END PRODUCTS:

LINE ITEM NO.	COUNTRY OF ORIGIN

Alternate II As prescribed in 25.1101(b)(2)(iii), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act—Balance of Payments Program":

CANADIAN OR ISRAELI END PRODUCTS:

LINE ITEM NO.	COUNTRY OF ORIGIN

52.225-6 TRADE AGREEMENTS CERTIFICATE

(a) The Offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(b) The Offeror shall list as other end products those supplies that are not U.S.-made or designated country end products.

OTHER END PRODUCTS:

LINE ITEM NR	COUNTRY OF ORIGIN

(c) Strategic Technology Partners will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items covered by the WTO GPA, Strategic Technology Partners will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. Strategic Technology Partners will consider for award only offers of U.S.-made or designated country end products unless Strategic Technology Partners determines that there are no offers for such products or that the offers for those products are insufficient to fulfill the requirements of this solicitation.

252.225-7020 Trade Agreements Certificate

(a) Definitions. "Designated country end product," "non-designated country end product," "qualifying country end product," and "U.S.-made end product" have the meanings given in the Trade Agreements clause of this solicitation.

(b) Evaluation. The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, or designated country end products unless—

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government's requirements; or

(iii) A national interest waiver has been granted.

(c) Certification and identification of country of origin.

(1) For all line items subject to the Trade Agreements clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, or designated country end product.

(2) The following supplies are other non-designated country end products:

LINE ITEM NR	COUNTRY OF ORIGIN

252.225-7000 Buy American Statute--Balance of Payments Program Certificate

(a) *Definitions.* "Commercially available off-the-shelf (COTS) item," "component," "domestic end product," "foreign end product," "qualifying country," "qualifying country end product," and "United States" have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program clause of this solicitation, the offeror certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

LINE ITEM NUMBER	COUNTRY OF ORIGIN

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of "domestic end product":

LINE ITEM NUMBER	COUNTRY OF ORIGIN (IF KNOWN)

252.225-7022 Trade Agreements Certificate – Inclusion of Iraqi End Products

(a) *Definitions.* "Designated country end product," "Iraqi end product," "non-designated country end product," "qualifying country end product," and "U.S.-made end product" have the meanings given in the Trade Agreements clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, Iraqi, or designated country end products unless—

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government's requirements; or

(iii) A national interest waiver has been granted.

(c) *Certification and identification of country of origin.*

(1) For all line items subject to the Trade Agreements clause of this solicitation, the offeror certifies that each end product to be delivered under a contract resulting from this solicitation, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, Iraqi, or designated country end product.

(2) The following supplies are other non-designated country end products:

LINE ITEM NR	COUNTRY OF ORIGIN

252.225-7035 <u>Buy American--Free Trade Agreements--Balance of Payments</u>

(a) *Definitions.* "Bahrainian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "foreign end product," "Moroccan end product," "Panamanian end product," "Peruvian end product," "qualifying country end product," and "United States," as used in this provision, have the meanings given in the Buy American—Free Trade Agreements—Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to Free Trade Agreements, will evaluate offers of qualifying country end products or Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products without regard to the restrictions of the Buy American or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American—Free Trade Agreements—Balance of Payments Program clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) end products:

LINE ITEM NR	COUNTRY OF ORIGIN

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products, Moroccan end products, Panamanian end products, or Peruvian end products:

LINE ITEM NR	COUNTRY OF ORIGIN

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of "domestic end product":

LINE ITEM NR	COUNTRY OF ORIGIN

52.226-2 HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND MINORITY INSTITUTION REPRESENTATION

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

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k), including a Hispanic-serving institution of higher education, as defined in Section 502(a) of the Act (20 U.S.C. 1101a).

(b) *Representation*. The Offeror represents that it-

☐ is ☐ is not a historically black college or university;

☐ is ☐ is not a minority institution.

3.104 PROCUREMENT INTEGRITY

According to FAR 3.104-3(d), a former official acting on behalf of a federal agency may not accept compensation from a contractor as a consultant, employee, officer, or director for a period of one year after:

- Serving as the procuring contracting officer, source selection authority, a member of a source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which that contractor was awarded a contract in excess of $10 million
- Serving as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of $10 million awarded to that contractor
- Making a decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of $10 million to that contractor
- Making a decision to establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of $10 million
- Making a decision to approve a contract payment/payments in excess of $10 million to that contractor
- Making a decision to pay or settle a claim in excess of $10 million with that contractor.

As defined by FAR 3.104-1, participating "personally and substantially" in a federal agency procurement

means active and significant involvement in any of the following activities directly related to that procurement:

- Drafting, reviewing, or approving the specification or statement of work for the procurement
- Preparing or developing the solicitation
- Evaluating bids or proposals, or selecting a source
- Negotiating price or terms and conditions of the contract
- Reviewing and approving the award of the contract.

52.203-13 CONTRACTOR CODE OF ETHICS AND CONDUCT

NO SUBCONTRACT OR PURCHASE ORDER WILL BE ISSUED FOR SUBCONTRACTS GREATER THAN $5,000,000 FOR NON-COMMERCIAL ITEMS IF OFFEROR DOES NOT MAINTAIN A CODE OF BUSINESS ETHICS AND CONDUCT.

Pursuant to FAR 52.203-13:

(a) The Offeror has a written code of business ethics and conduct and has made a copy of the code available to each applicable employee.

☐ Yes

☐ No Planned Implementation Date: _____

(b) The Offeror has established ongoing business ethics awareness and compliance program and an internal control system.

Not Applicable to Small Business or for the acquisition of a commercial item as defined in FAR 2.101

☐ Yes

☐ No Planned Implementation Date: _____

52.203-14 DISPLAY OF HOTLINE POSTER(S)

NO SUBCONTRACT OR PURCHASE ORDER WILL BE ISSUED FOR SUBCONTRACTS GREATER THAN $5,000,000 FOR NON-COMMERCIAL ITEMS IF OFFEROR DOES NOT DISPLAY A GOVERNMENT ISSUED HOTLINE POSTER

Not Applicable for subcontracts:

- **the acquisition of a commercial item and/or**
- **performed entirely outside the United States**

Is the Subcontract for the acquisition of a Commercial Item? ☐ Yes ☐ No

Is the Subcontract being performed entirely outside the U.S.? ☐ Yes ☐ No

Pursuant to FAR 52.203-14, the Offeror displays a Government-Issued Hotline Poster from any Agency or any appropriate Department of Homeland Security Fraud Hotline Poster.

☐ Yes

☐ No Planned Implementation Date: _____ **N/A**

APPENDIX B

1. Termination. Client may terminate this Agreement with or without cause upon ten (10) days' written notice to Consultant. Consultant may terminate this Agreement for Client's material breach of this Agreement that remains uncured thirty (30) days following Client's receipt of written notice of such breach. Upon termination of the Agreement, Client's obligation to pay the fees described in Paragraph 3 herein and to reimburse Consultant for the expenses described in Paragraph 6 herein shall cease, effective as of the date of termination; provided, however, that Client shall remain obligated to pay such fees and/or reimburse such expenses as have already been properly incurred prior to the date of termination. If Client terminates this Agreement for cause, it may acquire, under the terms and in the manner Client considers appropriate, services similar to those terminated, and Consultant will be liable to Client for any excess costs for those services.

2. Subcontractors. Consultant shall not use any subcontractors without the prior written consent of Client. In the event the Client approves the use of subcontractors by the Consultant, this Agreement shall apply in its entirety to any and all authorized subcontractors of Consultant, and Consultant shall remain responsible for its subcontractors' actions and omissions, including without limitation its subcontractors' failure to comply with this Agreement, as if such actions and omissions were those of Consultant.

3. Equipment and Materials, Expenses and Insurance. Consultant shall furnish all equipment, materials and labor used to perform the Consulting Services. Consultant shall pay all ordinary and necessary expenses arising from its performance of the Consulting Services. Client shall, however, upon the submission by Consultant of appropriate written substantiation as set forth below and pursuant to the following terms and conditions, reimburse Consultant for ordinary and necessary business expenses, including travel and communication costs (e.g., telephone, fax, computer, printer) and other materials and equipment costs, reasonably incurred by Consultant in connection with the provision of Consulting Services, as reasonably allocable to the provision of Consulting Services. As a precondition to reimbursement of any such expenses, Consultant shall provide Client with detailed documentation regarding such expenses, including receipts, itineraries, reasons for the expenses, and such other documentation as Client may require. Client shall not provide insurance coverage of any kind for Consultant or name Consultant as an additional insured on any of its insurance policies. Additionally, Consultant agrees to furnish Client with a Certificate of Insurance, for all issues of Workman's Compensation and Professional Liability in proportion to Maryland state minimum coverage and any other insurance requirements mandated by applicable law.

4. Independent Contractor Status. The Parties agree and acknowledge that Consultant is an independent contractor. Nothing herein shall be construed to create any partnership, joint venture or agency relationship of any kind between the parties. Client shall not be responsible to Consultant or to any governmental authority, for the payment or withholding of any federal, state or local income, unemployment or other employment-related taxes in connection with the performance of the Consulting Services. It is understood that Client shall not withhold from Consultant's compensation any amount that would normally be withheld from an employee's pay and Consultant warrants and agrees to pay all federal, state and local taxes incurred and chargeable to it in connection with the performance of the Consulting Services. Consultant further warrants and agrees to file all required forms and make all federal, state or local tax payments appropriate and necessary to the status of Consultant as an independent contractor and shall not claim any other status. Consultant further warrants and agrees to file all other required forms, registrations, reports, and other filings, and to pay all corresponding fees or other charges, as may be required of Consultant, at the federal, state and/or local levels, as a consequence of activities being conducted by Consultant for or on behalf of Client.

5. Indemnification. Consultant agrees to indemnify, save and hold harmless Client from and against any and all losses, expenses (including, but not limited to, payroll and income taxes and attorneys' fees), damages, claims, suits, demands, judgments, and causes of action of any nature arising from or as a result of (i) the performance of Consultant's obligations under this Agreement, (ii) the failure of Consultant to comply with any term or condition of this Agreement, (iii) the breach of any representation or warranty given or made by Consultant, and/or (iv) the reclassification of Consultant as an employee of Client.

6. Property of Client. During the course of performing the Consulting Services, Consultant may, independently or in conjunction with Client, develop information, produce work product, or achieve other results for Client in connection with the Consulting Services it performs for Client. Consultant agrees that such information, work product, and other results, systems and information developed by Consultant and/or Client in connection with such Consulting Services (hereinafter referred to collectively as the "Work Product") shall, to the extent permitted by law, be a "work made for hire" within the definition of Section 101 of the Copyright Act (17 U.S.C. § 101), and shall remain the sole and exclusive property of Client. To the extent any Work Product is not deemed to be a work made for hire within the definition of the Copyright Act, Consultant with effect from creation of any and all Work Product, hereby assigns, and agrees to assign, to Client all right, title and interest in and to such Work Product, including but not limited to copyright, all rights subsumed there under, and all other intellectual property rights, including all extensions and renewals thereof. Consultant further agrees to provide all assistance reasonably requested by Client, both during and subsequent to the Term of this Agreement, in the establishment, preservation and enforcement of Client's rights in the Work Product. Upon the termination of this Agreement, Consultant agrees to deliver promptly to Client all printed, electronic, audio-visual, and other tangible manifestations of the Work Product, including all originals and copies thereof. Consultant also agrees to waive any and all moral rights relating to the Work Product, including but not limited to, any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use, and subsequent modifications.

7. Reporting. During the Term of this Agreement, Consultant shall report in writing to Client with whatever frequency and regarding whatever subject matter Client shall hereinafter require of Consultant in order for Client to stay apprised of Consultant's activities under this Agreement.

8. Records and Inspection. Consultant shall retain all financial records, supporting documents, statistical records, and all other records relating to the subject matter of this Agreement for a period of at least three (3) years from the date this Agreement terminates for any reason. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Furthermore, during the Term of this Agreement, upon reasonable notice and during regular business hours, Client shall have the right to inspect all books and records of Consultant relating to the subject matter of this Agreement.

9. Conflict of Interest. Consultant represents and warrants that it has no business, professional, personal, or other interest, including but not limited to the representation of other clients, that would conflict in any manner or degree with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises during the Term of this Agreement, Consultant shall immediately inform Client in writing of such conflict. If, in the reasonable judgment of Client, such conflict poses a material conflict to and with the performance of Consultant's obligations under this Agreement, then Client may terminate the Agreement immediately upon written notice to Consultant; such termination of the Agreement shall be effective upon the receipt of such notice by Consultant. Nothing herein shall preclude Consultant from engaging in other business activities, so long as such other activities do not

violate or are not inconsistent with the terms and conditions of this Agreement, or do not otherwise pose a conflict of interest with Consultant's obligations under this Agreement.

10. Nondisclosure of Confidential and Proprietary Information.

a. Through its performance of the Consulting Services, Consultant may have access to certain confidential and proprietary information concerning Client's organization, employees, members, and otherwise, including but not limited to, information concerning Client's organization and structure, business and marketing plans, financial data, the identity of present and prospective members of Client, Client's current and prospective contracts, and policies, standards, procedures, and practices of Client (hereinafter referred to collectively as "Confidential Information"). Confidential Information shall not include information that is or becomes public through no breach of any obligation of confidentiality. The use of Confidential Information for the benefit of any person or entity other than Client and the disclosure of such information to any person outside of Client would cause severe competitive and financial damage to Client.

b. Unless expressly authorized by Client, both during and after the Term of this Agreement, Consultant shall not use Confidential Information for its own benefit or for the benefit of anyone other than Client, or disclose such information to anyone outside of Client, except in the proper course of Client's business. Consultant shall use all reasonable efforts to keep this information confidential. This provision shall survive termination of this Agreement.

c. Upon the termination of this Agreement, or at any time upon the request of Client, Consultant shall return to Client all printed, audio-visual and electronic documents, data and other materials, including all originals, copies and extracts thereof, containing or referencing any Confidential Information or otherwise relating to Client's organization or operations, and all other property of Client then in its possession.

11. Suspension and Debarment. Consultant represents and warrants that he/she/it is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal contracting or grant activities. Consultant represents and warrants that he/she is not listed on the government-wide exclusions in the System for Award Management ("SAM"), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

12. Miscellaneous.

a. This Agreement contains the entire understanding between the parties and supersedes any prior written or oral agreements between them. This Agreement shall not be modified or waived except by written instrument signed by both parties.

b. In the event that any part of this Agreement shall be declared unenforceable or invalid, the remaining parts shall continue to be valid and enforceable.

c. This Agreement shall inure to the benefit of and be binding upon the parties and their respective executors, administrators, personal representatives, heirs, assigns, and successors in interest.

d. This Agreement may not be assigned by Consultant or the rights granted to or obligations imposed upon Consultant transferred or sublicensed by Consultant, without the express prior written consent of Client.

e. Either party's waiver of, or failure to exercise, any right provided for herein shall not be deemed a waiver of any further or future right under this Agreement.

f. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one (1) and the same instrument.

g. Consultant covenants, warrants and represents that it shall comply with all laws and regulations applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement.

h. Consultant shall comply with any applicable federal and state laws governing solicitations and individual privacy information, including but not limited to, the federal Controlling the Assault of Non-Solicited Pornography and Marketing Act, the federal Telephone Consumer Protection Act, and the California Online Privacy Protection Act, and all rules and regulations there under, in promoting Consultant's products and services and in otherwise carrying out Consultant's obligations under this Agreement. Consultant shall indemnify and hold harmless Client, its officers, directors, affiliates, agents, and employees from and against any third-party claims arising out of any alleged or actual violations of such laws, rules and regulations, including but not limited to damages, liabilities, losses, judgments, settlements, costs, and attorneys' fees and expenses.

i. All notices and demands of any kind or nature which either party may be required or desire to serve upon the other in connection with this Agreement shall be in writing and may be served personally, by fax, by certified mail, or by commercial overnight delivery (e.g., Federal Express), with constructive receipt deemed to have occurred one (1) calendar day after the mailing, sending or transmitting of such notice, to the following addresses or fax numbers:

If to Client: National Fallen Firefighters Foundation

16825 South Seton Avenue, P.O. Drawer 498

Emmitsburg, MD 21727

Attn.: Jim Markel

Fax:(310) 447-1645

If to Consultant: _____

_____

_____

_____

_____

j. Consultant acknowledges that this Agreement shall be governed and enforced in accordance with the laws of the State of Maryland without effect to its conflict of law provisions. Consultant acknowledges that the state and federal courts located in the State of Maryland shall be the exclusive forums for the resolution of any disputes concerning this Agreement or Consultant's provision of Consulting Services to Client, and Consultant agrees to submit to the jurisdiction of such courts.

k. Consultant acknowledges that, if it breaches any provision of this Agreement, Client would be irreparably harmed, that monetary damages alone may not be sufficient to adequately protect Client from or compensate Client for such breach, and that, in addition to any other remedy, Client shall be entitled to recover all expenses incurred in enforcing these provisions, including but not limited to attorneys' fees and expenses, court costs, and to a preliminary and permanent injunction enjoining such breach.

l. The individual executing this Agreement on behalf of Consultant hereby represents and warrants to Client that he or she is duly authorized to bind Consultant to the terms and conditions of this Agreement.

m. Both parties have read the foregoing Agreement in its entirety and voluntarily agree to each of its terms with full knowledge thereof.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused duplicate originals of this Agreement to be executed by their respective duly authorized representatives as of the date and year first above written.

CONSULTANT	**NATIONAL FALLEN FIREFIGHTERS FOUNDATION**
By: _____	By: _____
_____	Charles W. Jaster
Consultant	NFFF CFO
Dated: _____	Dated: _____

APPENDIX C

ADDITIONAL TERMS AND CONDITIONS

The below marked regulations apply to this Agreement and the associated Section in hereby incorporated into this Agreement:

- ☐ OMB Circular A-110 (*see* Section I below)
- ☐ Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200, as adopted by the granting agency) (*see* Section II below)
- ☐ Federal Acquisition Regulation (FAR) Flowdown Provisions (*see* Section III below)

I. OMB Circular A-110

If this Agreement is subject to OMB Circular A-110, the following additional terms and conditions apply.

1. **Equal Employment Opportunity**. Consultant shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)**. If this Agreement exceeds $2,000 and is for construction or repair, Consultant shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. Consultant shall report all suspected or reported violations to the Foundation.

3. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)**. If this Agreement exceeds $2,000 and is for construction, Consultant shall comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The Foundation's award of this Agreement to Consultant is conditioned upon Consultant's acceptance of the current prevailing wage determination provided by the Foundation in the solicitation pursuant to which this Agreement was awarded. Consultant shall report all suspected or reported violations to the Foundation.

4. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)**. If this Agreement (a) exceeds $2,000 and is for construction, or (b) exceeds $2,500 and involves the employment of mechanics or laborers, Consultant shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to

compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. **Rights to Inventions Made Under a Contract or Agreement**. If this Agreement is for the performance of experimental, developmental, or research work, the Federal Government and the Foundation shall have rights in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended**. If this Agreement exceeds $100,000, Consultant shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Consultant shall report all violations to the Foundation.

7. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**. If this Agreement is equal to or exceeds $100,000, Consultant certifies that he/she/it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant shall disclose to the Foundation any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Consultant shall require its subcontractors under this Agreement to comply with this provision.

II. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200, as adopted by the granting agency)

If this Agreement is subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200, as adopted by the granting agency), the following additional terms and conditions apply.

1. **Equal Employment Opportunity**. If this Agreement meets the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3, Consultant shall comply with the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

2. **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148)**. If this Agreement exceeds $2,000 and is a prime construction contract, Consultant shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part

5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Foundation’s award of this Agreement to Consultant is conditioned upon Consultant’s acceptance of the current prevailing wage determination provided by the Foundation in the solicitation pursuant to which this Agreement was awarded. Consultant shall report all suspected or reported violations to the Foundation. Additionally, Consultant shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. Consultant shall report all suspected or reported violations to the Foundation.

3. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**. If this Agreement exceeds $100,000 and involves the employment of mechanics or laborers, Consultant shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. **Rights to Inventions Made Under a Contract or Agreement**. If the Federal award that funds this Agreement meets the definition of “funding agreement” under 37 CFR § 401.2(a) and this Agreement is with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the parties shall comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

5. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**. If this Agreement exceeds $150,000, Consultant shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Consultant shall report all violations to the Foundation.

6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**. If this Agreement exceeds $100,000, Consultant certifies that he/she/it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award

covered by 31 U.S.C. 1352. Consultant shall disclose to the Foundation any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Consultant shall require its subcontractors under this Agreement to comply with this provision.

III. Federal Acquisition Regulation (FAR) Flowdown Provisions

If this Agreement is subject to Federal Acquisition Regulation (FAR) Flowdown Provisions, the following clauses are incorporated by reference, with the same force and effect as if they were given in full text. The clauses may be accessed electronically at http://acquisition.gov/far/ or http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html. Unless the intent of the clause is directed at the Foundation only, as used in the following clauses, “Contractor” shall mean Consultant, “Contract” shall mean this Agreement, and “Government” and “Contracting Officer” shall mean the Foundation and the Foundation’s representative set forth in the notices provision of this Agreement.