

Posting Date: March 26, 2025

Closing Date: April 5, 2025 11:30 a.m. ET

Reference Number: 25-018947

To: NCI Bid Board

From: Teferi Gebremariam
NCI CCR P-ARC
Teferi.Gebremariam@nih.gov

Subject: NCI Bid Board Posting – Service Agreement for Incucyte S3

The Urologic Oncology Branch conducts clinical and basic research designed to develop better methods for detecting, preventing, and treating patients with kidney cancer, prostate cancer and bladder cancer. We evaluate and manage patients with non-inherited as well as inherited forms of kidney cancer. The Branch also has an expanding prostate cancer program. Patients with known or suspected localized and locally advanced prostate cancer undergo advanced MRI imaging followed by fusion image-guided biopsy to diagnose and characterize the cancer. They may then be managed with robotic surgery or be followed with active surveillance and intermittent imaging. In addition, we have a growing program in genomics and targeted therapy for bladder cancer patients, including therapy that targets EGFR, FGFR3 and other mutated bladder cancer genes.

The primary objective is to purchase a service agreement to maintain and provide preventive maintenance for Incucyte S3 HD/2CLR (Serial #IC50989) instrument for a large variety of characterization and drug dosing experiments which allow, in a minimally invasive, microplate-based cytometry approach, cell counting and monitoring of tumorspheres, organoids and colonies, and offer valuable insights into cell proliferation, apoptosis, cytotoxicity, and morphology changes.

The National Cancer Institute plans to purchase service agreement for Incucyte S3 HD/2CLR (Serial #IC50989) from Sartorius Corporation. This is not a request for competitive quotation. However, if any interested party believes it can meet the attached requirements, it may submit a statement of capabilities. The capability statement must be in writing and must contain information and material in sufficient detail to allow NCI to determine if the party can fully meet this requirement. The capability statement must be received in the contracting office by 11:30 AM on April 5, 2025 ET. A determination by the Government not to compete this requirement based upon responses to this notice is solely within the discretion of the Government. Information received will be considered solely for the purpose of determining whether to conduct a competitive procurement.

Sole Source Justification:

Only Sartorius, the original equipment manufacturer (OEM) of the IncuCyte S3, can provide the support services because the equipment is proprietary to this company. As OEM-authorized service provider, Sartorius is the only source with direct access to OEM parts, propriety software, as well as factory trained technicians able to provide the services for the IncuCyte S3. Sartorius does not offer any parts or services to third party vendors, and Sartorius does not authorize any other vendors to perform services for their equipment. Our search for alternative vendors yielded no results, confirming that Sartorius as the exclusive provider of this specialized service to the Urologic Oncology Branch.

Attached Documents:

SF18

Statement of Work

FAR Clause 52.213-4 Simplified Acquisitions Terms and Conditions (AUG 2019) is applicable and available in full text upon request.

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)			THIS RFQ <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE			PAGE 1 OF 1 PAGES	
1. REQUEST NUMBER		2. DATE ISSUED 03/26/2025		3. REQUISITION/PURCHASE REQUEST NUMBER		4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	
5a. ISSUED BY NIH/NCI-OA				6. DELIVER BY (Date) 05/01/2025			
5b. FOR INFORMATION CALL (NO COLLECT)				7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)			
NAME Teferi Gebremariam, Contract Specialist		TELEPHONE NUMBER AREA CODE NUMBER 240 760-6546		9. DESTINATION a. NAME OF CONSIGNEE YOUFENG YANG			
8. TO: a. NAME b. COMPANY SARTORIUS CORPORATION				b. STREET ADDRESS 9000 Rockville Pike Bldg 10 RM 1-5888			
c. STREET ADDRESS 545 Johnson AVE STE 1				c. CITY Bethesda			
d. CITY Bohemia		e. STATE NY		f. ZIP CODE 11716-2698		d. STATE MD	
						e. ZIP CODE 20892	
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS (Date) 4/05/2025		IMPORTANT: This is a request for information and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or service. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotation must be completed by the					
11. SCHEDULE (Include applicable Federal, State and local taxes)							
ITEM NUMBER (a)	SUPPLIES/SERVICES (b)			QUANTITY (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)
001	Product Code 84MJES3 Incucyte S3 Preventive Service Plan (Please include serial # IC50989 with a POP of 050125 through 043026) Incucyte S3 Preventive Service Plan - 12 Months Extended Service Plan for Instrument referenced above to be appended to the existing warranty/service agreement - Parts, labor, and travel expense for break fix vents included - Includes all base software upgrades, if applicable. - One annual preventative maintenance Notice of Intent: If submitting a capability statement, please e-mail only 1 copy of the technical capability statement to Teferi Gebremariam at Teferi.Gebremariam@nih.gov See attached statement of work. This will be awarded as a Firm-Fixed Price Contract				1	PC	
12. DISCOUNT FOR PROMPT PAYMENT				a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS (%)	c. 30 CALENDAR DAYS (%)	d. CALENDAR DAYS NUMBER PERCENTAGE
NOTE: Additional provisions and representations <input type="checkbox"/> are <input type="checkbox"/> are not attached.							
13. NAME AND ADDRESS OF QUOTER a. NAME OF QUOTER b. STREET ADDRESS c. COUNTY d. CITY				14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION	
				16. SIGNER a. NAME (Type or print)		b. TELEPHONE AREA CODE	
				c. TITLE (Type or print)		NUMBER	

STATEMENT OF WORK

1.0 SCOPE:

The Contractor shall provide all labor, material and equipment necessary to maintain and provide preventive maintenance for Incucyte S3 HD/2CLR (**Serial #IC50989**) instrument for a large variety of characterization and drug dosing experiments which allow, in a minimally invasive, microplate-based cytometry approach, cell counting and monitoring of tumorspheres, organoids and colonies, and offer valuable insights into cell proliferation, apoptosis, cytotoxicity, and morphology changes.

2.0 TYPE OF ORDER

This is a firm fixed-price purchase order.

3.0 SPECIAL ORDER REQUIREMENTS

3.1 PREVENTIVE MAINTENANCE:

The Contractor shall perform planned preventive maintenances during the contract period. All maintenance services shall be performed on-site in accordance with the Original Equipment Manufacturer (OEM) most current standard commercial maintenance practices. Onsite and emergency services shall be provided during standard business hours (defined as 8:00 am – 5:00 pm EST, Monday through Friday, excluding Federal Holidays found at www.opm.gov/policy-data-oversight/pay-leave/federal-holidays and extended hours (5:00 pm – 9:00pm EST, Monday through Friday) for any issues not able to be resolved remotely, or during normal business hours. Software updates/services may be provided remotely as applicable. All travel, labor, materials, and related charges shall be included in the purchase order price.

3.2 EMERGENCY SERVICE:

On-site, emergency repair service visit shall be provided during the term of this contract at no additional cost to the government. Emergency service shall be provided during normal working hours, Monday through Friday excluding Federal Holidays. Upon receipt of notice that any part of the equipment is not functioning properly the Contractor shall within provide a one (1) hour initial response with a four (4) hour on-site response a qualified factory-trained service representative to inspect the equipment and perform all repairs and adjustments necessary to restore the equipment to normal and efficient operating condition. Emergency service calls shall not replace the necessity for planned preventative maintenance. All labor and travel will be included.

3.3 REPLACEMENT PARTS:

The Contractor shall furnish all required replacement parts at no additional cost to the Government, with the exception of consumables. All parts shall meet original equipment manufacturer (OEM) specifications. Upon identification of required parts, they shall be delivered within 24 hours, or the following business day should the request fall on a Friday, or preceding a Federal Holiday.

If parts will take longer than 24 hours to be delivered for any reason, the Contractor must provide the TPOC with a written notification stating the reason and estimated delivery timeframe immediately upon identification of delivery delay.

3.4 SOFTWARE UPDATES/SERVICE:

The Contractor shall provide Software Service and updates in accordance with the manufacturer's latest established service procedures, to include telephone access to technical support for use of program software and troubleshooting of the operating systems, at no additional cost to the Government. The contractor shall receive advance approval for the installation of all software updates and revisions from the Government. Defective software shall be replaced at no additional cost to the government.

The Contractor shall provide unlimited clinical technical telephone support (24hrs/day, 7 days/week) for trouble-shooting for the instrument and clinical application support (M-F 8am-9pm), excluding Federal holidays.

3.5 SERVICE EXCLUSIONS:

The Contractor shall not be responsible for any repairs necessitated by abuse, neglect, vandalism, Acts of God, fire or water. These repairs shall be the subject of a separate purchase order and shall not be performed under this contract.

3.6 PERIOD OF PERFORMANCE:

The base period of performance shall be for twelve (12) months. Period of Performance shall be from May 1, 2025 through April 30, 2026.

3.7 PERSONNEL QUALIFICATIONS:

Technically qualified factory-trained personnel shall perform service to the instrument and location of the equipment at CRC/10 Room 1W-5881, as covered by this contract. All primary service personnel shall have at least one backup support person with at least the same level of expertise on the equipment covered by this contract.

4.0 PLACE OF PERFORMANCE:

Onsite service shall be performed at the following location:

National Cancer Institute

10 Center Dr

Building 10, CRC, Room 1W-5881

5.0 PAYMENT

Payment shall be made quarterly in arrears. Payment authorization requires submission and approval of invoices to the COR and NIH OFM, in accordance with the payment provisions listed below:

The following clause is applicable to all Purchase Orders, Task or Delivery Orders, and Blanket Purchase Agreement (BPA) Calls: PROMPT PAYMENT (JUL 2013) FAR 52.232-25. Highlights of this clause and NIH implementation requirements follow:

I INVOICE REQUIREMENTS

- A. An invoice is the Contractor's bill or written request for payment under the contract for supplies delivered or services performed. A proper invoice is an "Original" which must include the items listed in subdivisions 1 through 12, below, in addition to the requirements of FAR 32.9. If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish, and 5 days for perishable agricultural commodities, dairy products, edible fats or oils) with a statement of the reasons why it is not a proper invoice. (See exceptions under II., below.) Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor.
 - 1. Vendor/Contractor: Name, Address, Point of Contact for the invoice (Name, title, telephone number, e-mail and mailing address of point of contact).
 - 2. Remit-to address (Name and complete mailing address to send payment).
 - 3. Remittance name must match exactly with name on original order/contract. If the Remittance name differs from the Legal Business Name, then both names must appear on the invoice.
 - 4. Invoice date.
 - 5. Unique invoice #s for all invoices per vendor regardless of site.
 - 6. NBS document number formats must be included for awards created in the NBS: Contract Number; Purchase Order Number; Task or Delivery Order Number and Source Award Number (e.g., Indefinite Delivery Contract number; General Services Administration number); or, BPA Call Number and BPA Parent Award Number.
 - 7. Data Universal Numbering System (DUNS) or DUNS + 4 as registered in the Central Contractor Registration (CCR).
 - 8. Federal Taxpayer Identification Number (TIN). In those exceptional cases where a contractor does not have a DUNS number or TIN, a Vendor Identification Number (VIN) must be referenced on the invoice. The VIN is the number that appears after the contractor's name on the face page of the award document.
 - 9. Identify that payment is to be made using a three-way match.
 - 10. Description of supplies/services that match the description on the award, by line billed.*
 - 11. Freight or delivery charge must be billed as shown on the award. If it is included in the item price do not bill it separately. If identified in the award as a separate line item, it must be billed separately.

12. Quantity, Unit of Measure, Unit Price, Extended Price of supplies delivered or services performed, as applicable, and that match the line items specified in the award.*

* NOTE: If your invoice must differ from the line items on the award, please contact the Contracting Officer before submitting the invoice. A modification to the order or contract may be needed before the invoice can be submitted and paid.

B. Shipping costs will be reimbursed only if authorized by the Contract/Purchase Order. If authorized, shipping costs must be itemized. Where shipping costs exceed \$100, the invoice must be supported by a bill of lading or a paid carrier's receipt.

C. Mail an original and 1 copy of the itemized invoice to:

National Institutes of Health
Office of Financial Management, Commercial Accounts
2115 East Jefferson Street, Room 4B-432, MSC 8500
Bethesda, MD 20892-8500

For inquiries regarding payment call: (301) 496-6088

In order to facilitate the prompt payment of invoices, it is recommended that the vendor submit a photocopy of the invoice to the "Consignee" designated for the acquisition in blocks 6A – 6E of the face page of the Order/Award document.

II. INVOICE PAYMENT

A. Except as indicated in paragraph B., below, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

1. The 30th day after the designated billing office has received a proper invoice.
2. The 30th day after Government acceptance of supplies delivered or services performed.

B. The due date for making invoice payments for meat and meat food products, perishable agricultural commodities, dairy products, and edible fats or oils, shall be in accordance with the Prompt Payment Act, as amended.

III. INTEREST PENALTIES

A. An interest penalty shall be paid automatically, if payment is not made by the due date and the conditions listed below are met, if applicable.

1. A proper invoice was received by the designated billing office.
2. A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, or contractor compliance with a term or condition.
3. In the case of a final invoice for any balance of funds due the contractor for supplies delivered or services performed, the amount was not subject to further settlement actions between the Government and the Contractor.

- B. Determination of interest and penalties due will be made in accordance with the provisions of the Prompt Payment Act, as amended, the Contract Disputes Act, and regulations issued by the Office of Management and Budget.

IV. PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS
SUBCONTRACTORS, FAR 52.232-40 (DEC 2013)

- a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- b) The acceleration of payments under this clause does not provide any new rights under the prompt Payment Act.

Include the substance of this clause, include this paragraph c, in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

TERMS AND CONDITIONS – SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES)

Update per FAC 2023-05

Last updated: 9/2023

FAR 52.213-4 TERMS AND CONDITIONS – SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES) (SEP 2023).

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(ii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

(iii) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(iv) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328), unless the agency grants an exception - see paragraph (b) of 52.204-27.

(v) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

(vi) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

(vii) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O.11246).

(viii) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(ix) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) ([31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)).

(x) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C.3553](#)).

(xi) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub.L.108-77 and 108-78 ([19 U.S.C. 3805 note](#))).

(2) Listed below are additional clauses that apply:

(i) [52.232-1](#), Payments (APR 1984).

(ii) [52.232-8](#), Discounts for Prompt Payment (FEB 2002).

(iii) [52.232-11](#), Extras (APR 1984).

(iv) [52.232-25](#), Prompt Payment (JAN 2017).

(v) [52.232-39](#), Unenforceability of Unauthorized Obligations (JUN 2013).

(vi) [52.233-1](#), Disputes (MAY 2014).

(vii) [52.244-6](#), Subcontracts for Commercial Products and Commercial Services (SEP 2023).

(viii) [52.253-1](#), Computer Generated Forms (JAN 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020)(Pub. L. 109-282) ([31 U.S.C. 6101 note](#)) (Applies to contracts valued at or above the threshold specified in FAR [4.1403](#)(a) on the date of award of this contract).

(ii) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (DEC 2022) (E.O. 13126) (Applies to contracts for supplies exceeding the micro-purchase threshold, as defined in FAR [2.101](#) on the date of award of this contract).

(iii) [52.222-20](#), Contracts for Materials, Supplies, Articles, and Equipment., Contracts for Materials, Supplies, Articles, and Equipment (JUN 2020) ([41 U.S.C.chapter 65](#)) (Applies to supply contracts over the threshold specified in FAR 22.602 on the date of award of this contract, in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iv) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ([38 U.S.C. 4212](#)) (Applies to contracts valued at or above the threshold specified in FAR [22.1303](#)(a) on the date of award of this contract).

(v) [52.222-36](#), Equal Employment for Workers with Disabilities (JUN 2020) ([29 U.S.C. 793](#)) (Applies to contracts over the threshold specified in FAR [22.1408](#)(a) on the date of

award of this contract, unless the work is to be performed outside the United States by employees recruited outside the United States). (For purposes of this clause, "United States" includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(vi) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ([38 U.S.C. 4212](#)) (Applies to contracts valued at or above the threshold specified in FAR [22.1303](#)(a) on the date of award of this contract).

(vii) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ([41 U.S.C. chapter 67](#)) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

(viii) (A) [52.222-50](#), Combating Trafficking in Persons (Nov 2021)([22 U.S.C. chapter 78](#) and E.O. 13627) (Applies to all solicitations and contracts).

(B) Alternate I (MAR 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).

(ix) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Jan 2022) (Applies when [52.222-6](#) or [52.222-41](#) are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*))).

(x) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2022)) (E.O. 13706) (Applies when [52.222-6](#) or [52.222-41](#) are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia.))

(xi) [52.223-5](#), Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

(xii) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693)(applies to contracts for products as prescribed at FAR [23.804](#)(a)(1)).

(xiii) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).

(xiv) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (MAY 2020) ([42 U.S.C. 8259b](#)) (Unless exempt pursuant to [23.204](#), applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)) will be-

(A) Delivered;

(B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(C) Furnished by the Contractor for use by the Government; or

(D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance).

(xv) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or contracts for maintenance or repair of electronic or mechanical devices).

(xvi) [52.223-21](#), Foams (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or contracts for construction of buildings or facilities.

(xvii) (A) [52.225-1](#), Buy American-Supplies (Oct 2022) ([41 U.S.C. chapter 67](#)) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold, as defined in FAR [2.101](#) on the date of award of this contract, and the acquisition-

(1) Is set aside for small business concerns; or

(2) Cannot be set aside for small business concerns (see [19.502-2](#)), and does not exceed \$50,000).

(B) *Alternate I* (OCT 2022) (Applies if the Contracting Officer has filled in the domestic content threshold below, which will apply to the entire contract period of performance. Substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic end product* in paragraph (a) of [52.225-1](#): (A) The cost of its components mined, produced, or manufactured in the United States exceeds __ percent of the cost of all its components. [*Contracting officer to insert the percentage per instructions at [13.302-5\(d\)\(4\)](#).*])

(xviii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations., Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) ([42 U.S.C. 1792](#))

(Applies to contracts greater than the threshold specified in FAR [26.404](#) on the date of award of this contract, that provide for the provision, the service, or the sale of food in the United States).

(xix) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT 2013)(Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) as its source of EFT information).

(xx) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (JUL 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information).

(xxi) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](#)) (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at [47.504](#)(d)).

(2) Listed below are additional clauses that may apply:

(i) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (Nov 2021) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.

(ii) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Nov 2021) (Applies to contracts over the threshold specified in FAR [9.405-2](#)(b) on the date of award of this contract).

(iii) [52.211-17](#), Delivery of Excess Quantities (Sept 1989) (Applies to fixed-price supplies).

(iv) [52.247-29](#), F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

(v) [52.247-34](#), F.o.b. Destination (NOV 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) *FAR 52.252-2, Clauses Incorporated by Reference (Feb 1998)*. This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

[Insert one or more Internet addresses]

(d) *Inspection/Acceptance.* The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post acceptance rights-

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of clause).

52.203-17 Contractor Employee Whistleblower Rights.

As prescribed in [3.906](#) , insert the following clause:

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS (NOV 2023)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies established at [41 U.S.C. 4712](#) and Federal Acquisition Regulation (FAR) [3.900](#) through [3.905](#).

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under [41 U.S.C. 4712](#), as described in FAR [3.900](#) through [3.905](#).

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts.

(End of clause)

52.222-50 Combating Trafficking in Persons.

As prescribed in [22.1705\(a\)\(1\)](#), insert the following clause:

Combating Trafficking in Persons (Nov 2021)

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

Agent means any individual, including a director, an officer, an *employee*, or an independent contractor, authorized to act on behalf of the organization.

Coercion means-

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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

(1) Means any item of supply (including *construction* material) that is—

(i) A *commercial product* (as defined in paragraph (1) of the definition of “*commercial product*” at Federal Acquisition Regulation (FAR) [2.101](#);

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

(iii) Offered to the Government, under a contract or *subcontract* at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural *products* and petroleum *products*.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an *employee* of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Forced Labor means knowingly providing or obtaining the labor or services of a person-

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious

harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

Involuntary servitude includes a condition of servitude induced by means of-

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

Recruitment fees means fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee.

(1) *Recruitment fees* include, but are not limited to, the following fees (when they are associated with the recruiting process) for-

(i) Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending, or placing *employees* or potential *employees*;

(ii) Advertising

(iii) Obtaining permanent or temporary labor certification, including any associated fees;

(iv) Processing applications and petitions;

(v) Acquiring visas, including any associated fees;

(vi) Acquiring photographs and identity or immigration documents, such as passports, including any associated fees;

(vii) Accessing the job opportunity, including required medical examinations and immunizations; background, reference, and security clearance checks and examinations; and additional certifications;

(viii) An employer's recruiters, *agents* or attorneys, or other notary or legal fees;

(ix) Language interpretation or translation, arranging for or accompanying on travel, or providing other advice to *employees* or potential *employees*;

(x) Government-mandated fees, such as border crossing fees, levies, or worker welfare funds;

(xi) Transportation and subsistence costs-

(A) While in transit, including, but not limited to, airfare or costs of other modes of transportation, terminal fees, and travel taxes associated with travel from the country of origin to the country of performance and the return journey upon the end of employment; and

(B) From the airport or disembarkation point to the worksite;

(xii) Security deposits, bonds, and *insurance*; and

(xiii) Equipment charges.

(2) A recruitment fee, as described in the introductory text of this definition, is a recruitment fee, regardless of whether the payment is-

(i) Paid in property or money;

(ii) Deducted from wages;

(iii) Paid back in wage or benefit concessions;

(iv) Paid back as a kickback, bribe, in-kind payment, free labor, tip, or tribute; or

(v) Collected by an employer or a third party, whether licensed or unlicensed, including, but not limited to-

(A) *Agents*;

(B) Labor brokers;

(C) Recruiters;

(D) Staffing firms (including private employment and placement firms);

(E) Subsidiaries/*affiliates* of the employer;

(F) Any *agent* or *employee* of such entities; and

(G) *Subcontractors* at all tiers.

Severe forms of trafficking in persons means-

(1) Sex trafficking in which a *commercial sex act* is induced by force, fraud, or *coercion*, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or *coercion* for the purpose of subjection to *involuntary servitude*, peonage, *debt bondage*, or slavery.

"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a *commercial sex act*.

Subcontract means any contract entered into by a *subcontractor* to furnish *supplies* or services for performance of a prime contract or a *subcontract*.

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

United States means the 50 States, the District of Columbia, and *outlying areas*.

(b) *Policy*. The *United States* Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor *employees*, and their *agents* shall not-

(1) Engage in *severe forms of trafficking in persons* during the period of performance of the contract;

(2) Procure *commercial sex acts* during the period of performance of the contract;

(3) Use *forced labor* in the performance of the contract;

(4) Destroy, conceal, confiscate, or otherwise deny access by an *employee* to the *employee's* identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)

(i) Use misleading or fraudulent practices during the recruitment of *employees* or offering of employment, such as failing to disclose, in a format and language understood by the *employee* or potential *employee*, basic information or making material misrepresentations during the recruitment of *employees* regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or *agent* provided or arranged), any significant costs to be charged to the *employee* or potential *employee*, and, if applicable, the hazardous nature of the work;

(ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charge *employees* or potential *employees* *recruitment fees*;

(7)

(i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment-

(A) For an *employee* who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or *subcontract* (for portions of contracts performed outside the *United States*); or

(B) For an *employee* who is not a *United States* national and who was brought into the *United States* for the purpose of working on a U.S. Government contract or *subcontract*, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the *employee* (for portions of contracts performed inside the *United States*); except that-

(ii) The requirements of paragraphs (b)(7)(i) of this clause *shall* not apply to an *employee* who is-

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the *contracting* agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor *shall* provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor *shall* not only *offer* return transportation to a witness at a time when the witness is still needed to testify. This

paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document *in writing*. Such written work document *shall* be in a language the *employee* understands. If the *employee must* relocate to perform the work, the work document *shall* be provided to the *employee* at least five days prior to the *employee* relocating. The *employee's* work document *shall* include, but is not limited to, details about work description, wages, prohibition on charging *recruitment fees*, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Contractor requirements*. The Contractor *shall*-

(1) Notify its *employees* and *agents* of-

(i) The *United States* Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(ii) The actions that will be taken against *employees* or *agents* for violations of this policy. Such actions for *employees may* include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against *employees, agents, or subcontractors* that violate the policy in paragraph (b) of this clause.

(d) *Notification*.

(1) The Contractor *shall* inform the *Contracting Officer* and the agency Inspector General immediately of-

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor *employee, subcontractor, subcontractor employee, or their agent* has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the *solicitation* or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor *employee, subcontractor, subcontractor employee, or their agent* pursuant to this clause.

(2) If the allegation *may* be associated with more than one contract, the Contractor *shall* inform the *contracting officer* for the contract with the highest dollar value.

(e) *Remedies*. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause *may* result in-

(1) Requiring the Contractor to remove a Contractor *employee* or *employees* from the performance of the contract;

(2) Requiring the Contractor to terminate a *subcontract*;

- (3) *Suspension* of contract payments until the Contractor has taken appropriate remedial action;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
- (5) Declining to exercise available *options* under the contract;
- (6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (7) *Suspension* or *debarment*.

(f) *Mitigating and aggravating factors*. When determining remedies, the *Contracting Officer* may consider the following:

(1) *Mitigating factors*. The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that *may* include reparation to victims for such violations.

(2) *Aggravating factors*. The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the *Contracting Officer* to do so.

(g) *Full cooperation*.

(1) The Contractor *shall*, at a minimum-

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow *contracting* agencies and other responsible *Federal agencies* to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 ([22 U.S.C. chapter 78](#)), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the *procurement of commercial sex acts*, or the use of *forced labor*; and

(iv) Protect all *employees* suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the *employee* was recruited, and *shall* not prevent or hinder the ability of these *employees* from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not-

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, *employee*, or *agent* of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Contractor from-

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan.*

(1) This paragraph (h) applies to any portion of the contract that-

(i) Is for *supplies*, other than commercially available off-the-shelf items, acquired outside the *United States*, or services to be performed outside the *United States*; and

(ii) Has an estimated value that exceeds \$550,000.

(2) The Contractor *shall* maintain a compliance plan during the performance of the contract that is appropriate-

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-*United States* citizens expected to be employed and the risk that the contract or *subcontract* will involve services or *supplies* susceptible to trafficking in persons.

(3) *Minimum requirements.* The compliance plan *must* include, at a minimum, the following:

(i) An awareness program to inform contractor *employees* about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the *employee* for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

(ii) A process for *employees* to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all *employees* the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at help@befree.org.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained *employees*, prohibits charging *recruitment fees* to the *employees* or potential *employees* and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or *subcontractor* intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent *agents* and *subcontractors* at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any *agents*, *subcontracts*, or *subcontractor employees* that have engaged in such activities.

(4) *Posting.*

(i) The Contractor *shall* post the relevant contents of the compliance plan, no later than the initiation

of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor *shall* provide the relevant contents of the compliance plan to each worker *in writing*.

(ii) The Contractor *shall* provide the compliance plan to the *Contracting Officer* upon request.

(5) *Certification*. Annually after receiving an award, the Contractor *shall* submit a certification to the *Contracting Officer* that-

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any *agent*, *subcontract* or *subcontractor employee* engaging in prohibited activities; and

(ii) After having conducted due diligence, either-

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its *agents*, *subcontractors*, or their *agents* is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or *subcontractor* has taken the appropriate remedial and referral actions.

(i) *Subcontracts*.

(1) The Contractor *shall* include the substance of this clause, including this paragraph (i), in all *subcontracts* and in all contracts with *agents*. The requirements in paragraph (h) of this clause apply only to any portion of the *subcontract* that-

(i) Is for *supplies*, other than commercially available off-the-shelf items, acquired outside the *United States*, or services to be performed outside the *United States*; and

(ii) Has an estimated value that exceeds \$550,000.

(2) If any *subcontractor* is required by this clause to submit a certification, the Contractor *shall* require submission prior to the award of the *subcontract* and annually thereafter. The certification *shall* cover the items in paragraph (h)(5) of this clause.

(End of clause)

Alternate I (Mar 2015). As prescribed in [22.1705](#) (a)(2), substitute the following paragraph in place of paragraph (c)(1)(i) of the basic clause:

(i)(A) The *United States* Government's policy prohibiting trafficking in persons described in paragraph (b) of this clause; and

(B) The following directive(s) or notice(s) applicable to *employees* performing work at the contract place(s) of performance as indicated below:

Document Title	Document <i>may</i> be obtained from:	Applies to performance in/at:
_____	_____	_____
_____	_____	_____

[Contracting Officer shall insert title of directive/notice; indicate the document is attached or provide source (such as website link) for obtaining document; and, indicate the contract performance location outside the United States. to which the document applies.]

Parent topic: [52.222 \[Reserved\]](#)

52.222-56 Certification Regarding Trafficking in Persons Compliance Plan.

As prescribed in [22.1705\(b\)](#), insert the following provision:

Certification Regarding Trafficking in Persons Compliance Plan (Oct 2020)

(a) The term "*commercially available off-the-shelf (COTS) item*," is defined in the clause of this solicitation entitled "Combating Trafficking in Persons" (FAR clause [52.222-50](#)).

(b) The apparent successful *Offeror shall* submit, prior to award, a certification, as specified in paragraph (c) of this provision, for the portion (if any) of the contract that-

(1) Is for *supplies*, other than commercially available off-the-shelf items, to be acquired outside the *United States*, or services to be performed outside the *United States*; and

(2) Has an estimated value that exceeds \$550,000.

(c) The certification *shall* state that-

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph

(b) of the clause at [52.222-50](#), Combating Trafficking in Persons, and to monitor, detect, and

terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph

(b) of the clause at [52.222-50](#), Combating Trafficking in Persons; and

(2) After having conducted due diligence, either-

(i) To the best of the *Offeror's* knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or

(ii) If abuses relating to any of the prohibited activities identified in [52.222-50\(b\)](#) have been found, the *Offeror* or proposed subcontractor has taken the appropriate remedial and referral actions.

(End of provision)

Parent topic: [52.222 \[Reserved\]](#)