



## ADDENDUM V

SUBJECT: ANNUAL CONTRACT FOR ZOLL DEFIBRILLATOR “X-SERIES 12 LEAD ACCESSORIES”, (RFO 6100015684), Scheduled to Close: May 31, 2024; Date of Issue: March 20, 2024

FROM: Jennifer Johnson  
Procurement Administrator

DATE: May 24, 2024

### **THIS NOTICE SHALL SERVE AS ADDENDUM NO. V - TO THE ABOVE REFERENCED REQUEST FOR OFFER**

- 1. RFO 6100015684 closing date is hereby extended to July 12, 2024, 10:00AM CST.**
- 2. Section 005–Supplemental Terms & Conditions, Original Contract Term is hereby revised to;**

This contract shall begin upon the effective date of the ordinance awarding the contract, or January 1, 2025, whichever is later, or date specified in the award letter if this contract does not exceed \$50,000. This contract shall terminate on December 31, 2026.

- 3. Section 004–Specifications/Scope of Services, 4.6 Revision of Unit Prices is hereby revised to:**

Vendors will hold their submitted bid prices for one year after the RFO closing date. Vendors may submit revisions to unit pricing after one year from the RFO closing date. Notwithstanding anything contained herein to the contrary, the unit pricing stated on the Price Schedule may be superseded only if such price revisions are the result of a manufacturer price revision and approved by the City. A request for change in pricing must be submitted by the Vendor in writing to Finance Department, Procurement Division, along with an itemized list of the items for which Vendor is seeking a price change, with current price, revised price, dollar amount of increase and percentage increase of each item. This request must include documentation from the manufacturer showing the dollar price increase. Any price adjustments must be received by the Finance Department, Procurement Division within a minimum **sixty (60) days** prior to the requested date the price adjustment is to take effect to allow Procurement Division sufficient time to review vendor’s request. City, at its sole discretion and convenience, may approve an earlier effective date. Vendor shall receive written notice that either authorizes or rejects proposed price increase(s). If City rejects the proposed price increase, City shall delete the applicable line item from the contract. If no line items remain, the contract shall terminate as of the effective date of the requested price change, which shall not be less than **60 days** from City’s receipt of notice of the requested price change. Invoices containing revised pricing prior to or without City approval will not be paid. Vendor will be required to resubmit a new invoice to the City with the original pricing. No price increase will be effective until after written approval has been sent by the City. If a Vendor’s direct cost decreases at any time during the term of this contract, Vendor shall immediately pass the decrease onto the City.

- 4. Mandatory Federal Contract Provisions is hereby added to the RFO as Attachment G and posted as a separate document.**

## **QUESTIONS SUBMITTED IN ACCORDANCE WITH SECTION 003, PRE-SUBMITTAL CONFERENCE:**

On April 10, 2024, the City of San Antonio held a Pre-Submittal Conference to provide information and clarification for the Annual Contract for Zoll Defibrillator “X-Series 12 Lead Accessories” RFO. Below is a list of questions submitted prior to the Pre-Submittal Conference and were addressed preliminarily at the Pre-Submittal Conference. The City’s official response to these questions submitted is as follows:

**Question 1:** Pg 3 Line Item Offers - please confirm if the COSA plans to award based on each unit or line-item award based on low total line OR ANY OTHER COMBINATION

**Response:** In order to expand opportunities, the City’s intent is to award based on low line item, or combination of low total line items. Refer to Section 003 – Instructions for Bidders, Evaluation and Award of Contract; City reserves the right to make an award on the basis of City’s best interests. Award may also be made based on low line item, low total line items, or in any other combination that serves the best interest of City, unless City designates this solicitation as an “all or none” offer in the Supplemental Terms & Conditions. City reserves the right to delete items prior to the awarding of the contract, and purchase said items by other means. Additionally, this solicitation is not designated as an “all or none” award in Section 005 – Supplemental Terms & Conditions.

**Question 2:** All of None OFFERS - is COSA planning to contract ALL OR NOTHING?

**Response:** Refer to response to Question #1 above and refer to Section 003 – Instructions for Bidders, Evaluation and Award of Contract. Additionally, this solicitation is not designated as an “all or none” award in Section 005 – Supplemental Terms & Conditions.

**Question 3:** How Does the COSA plan to ensure 15% subcontract? Will PRIMES sub by LINE ITEM or will sub TOTAL bid price for ALL Line ITEMS? If Prime subcontracts LINE ITEMS 1-5 but COSA issues and award for SAME to PRIME Line items 6-35 how will SUB Contracting work?

**Response:** Regardless of the line items awarded to a prime respondent, whether it’s all, one, or five line items, it is required that they subcontract 15% of total contractual payments received to a SBEDA eligible small, minority, and woman-owned business. Note that if a prime respondent is a SBEDA eligible small and minority and/or woman-owned business, they will be allowed to self-perform the 15% M/WBE goal.

**Question 4:** These 12 Lead Supplies are considered lifesaving supplies as they respond to 911 calls HOW DOES THE COSA PLAN TO ENSURE QUALITY OF SUBSTITUTIONS MEET CRITERIA since the window of product testing is short? Are line items listed for bid quality for substitution if so which ones?

**Response:** Vendors submitting offers for comparable items are responsible for submitting sufficiently detailed manufacturer specification sheet(s) for each proposed comparable item. This solicitation limits substitutions to solely two items, items 16 and 34. For Item 16: ECG Plain White Paper – 80mm, and Item 34: Ventilator Test Lung. SAFD Medical Director and EMS Administration will test and review the comparable items expeditiously. City shall be the sole judge of equality and suitability of comparable items.

**Question 5:** Will this solicitation include 5% local preference because the \$ value exceeds \$50K on which case local preference is 3%?

**Response:** The City will evaluate bids received by line item in accordance with City Local Preference Program Ordinance 2022-12-15-0981, Purchases of personal property. The City will apply and maximize Local Preference Program for all contract line items, where applicable, as this contract's total value is over \$50,000. The Local Preference Program allows the City to grant a preference to a business meeting the definition of City Business in the award of the type of contracts below, when selection is made based on price alone, Goods/Supplies: For this solicitation and in accordance with the City's Local Preference Program, the local bidder's price must be within 5% of the price of the lowest non-local bidder for contract line items under \$500,000; or within 3% of the price of the lowest non-local bidder for line items of \$500,000 or more.

**Question 6:** Pg 14 TEMPORARY CONTRACT PENDING AWARD OF CONTRACT by CITY COUNCIL WHY IS THE COSA NOT ISSUING PO's to the INCUMBENT WHO HAS THE CONTRACT why would the COSA issue PO's to a VENDOR NOT APPROVED BY CITY COUNCIL if contract NOT awarded BY December 2024.

**Response:** The City does not issue a Temporary Contract in situations where there is an existing contract under which the City can issue purchase orders (POs). The City will continue to issue POs to the current incumbent under the existing contract until the effective date of the ordinance awarding the new contract, or January 1, 2025, whichever is later.

**Question 7:** P13 is there a waiting period before requesting a price increase? Or vendor can request within 90 days with approved letter by Manufacturer indicating price increase? Are there any limitations to the price increase or can vendor request up to 50% if manufacturer shows proof?

**Response:** Vendors will hold their submitted bid prices for one year after the RFO closing date. Vendors may submit revisions to unit pricing after one year from the RFO closing date. Refer to amended Section 4.6 Revision of Unit Prices addressed in this addendum. Requests for any price adjustments require 60 days written notice and must be submitted in compliance with this section. This request must include documentation from the manufacturer showing the dollar price increase and it is subject to City approval.

### **QUESTIONS SUBMITTED IN ACCORDANCE WITH SECTION 003, RESTRICTIONS ON COMMUNICATION:**

**Below is a list of questions submitted in accordance with the Restrictions on Communications deadline, April 19, 2024. The City's official response to questions submitted is as follows:**

**Question 1:** In 2017 solicitation 6100008971 had a 1 year waiting period for price increases, however the current solicitation has a 90-day waiting period, why the change? If the contract is awarded to the lowest bidder but the awarded vendor in 90 days requests a price increase and the price increase is greater than the next lowest bidder will contract be re-negotiated with the next lowest bidder for the duration of the contract? Are there any limits to the amount of % increase requested at the end of 1st year? After all, saving taxpayer money is the reason for the lowest bid, right?

**Response:** Vendors will hold their submitted bid prices for one year after the RFO closing date. Vendors may submit revisions to unit pricing after one year from the RFO closing date. Refer to amended Section 4.6 Revision of Unit Prices addressed in this addendum: Notwithstanding anything contained herein to the contrary, the unit pricing stated on the Price Schedule may be superseded only if such price revisions are the result of a manufacturer price revision and approved by the City.

**Question 2:** Since RFO 6100015684 is 3rd party low bid what is COSA criteria for requesting price increases due to some local SWMBE bidders not having relationships with original equipment manufacturers?

**Response:** Vendors will hold their submitted bid prices for one year after the RFO closing date. Vendors may submit revisions to unit pricing after one year from the RFO closing date. Refer to amended Section 4.6 Revision of Unit Prices addressed in this addendum: Notwithstanding anything contained herein to the contrary, the unit pricing stated on the Price Schedule may be superseded only if such price revisions are the result of a manufacturer price revision and approved by the City.

**Question 3:** Zoll model numbers are listed on every single line item to bid can they request price increase for every single line item?

**Response:** Vendors will hold their submitted bid prices for one year after the RFO closing date. Vendors may submit revisions to unit pricing after one year from the RFO closing date. Refer to amended Section 4.6 Revision of Unit Prices addressed in this addendum: Notwithstanding anything contained herein to the contrary, the unit pricing stated on the Price Schedule may be superseded only if such price revisions are the result of a manufacturer price revision and approved by the City.

**Question 4:** Is the COSA considering non inventory items to be handled as drop ships?

**Response:** See Section 006 - General Terms & Conditions, Delivery of Goods/Services states: Destination Contract. Vendor shall deliver all goods and materials F.O.B., City of San Antonio's designated facility, inside delivery, freight prepaid, to the address provided in this RFO or, if different, in the Purchase Order. Vendor shall bear the risk of loss until delivery. Freight charges will be paid only when expedited delivery is requested and approved in writing by City. Vendor shall be responsible for furnishing necessary personnel or equipment and/or making necessary arrangements to off load at City of San Antonio facility, unless otherwise noted herein.

**Question 5:** Did RFO 6100015684 go through the Goal Setting Committee? If no, why not? If yes, what were their recommendations?

**Response:** Yes, the solicitation was reviewed by the Goal Setting Committee on January 16, 2024. That Committee applied a 15% minority and/or woman-owned (race and gender conscious) contracting goal on the solicitation.

**Question 6:** The COSA has an option according to the existing SBEDA Ordinance to solicit using Best Value, Race Conscious Points, HUBZONE, and other methods to improve SWMBE Spend are any of these or other options offered in this solicitation?

**Response:** The solicitation method used for solicitation 6100015684 is a Request For Offer (RFO). The solicitation has a 15% minority and/or woman-owned (race and gender conscious) contracting goal. SBEDA forms and language can be found in Attachment E and Exhibit 1.

**Question 7:** Pg 60 of the 2016 SBEDA Ordinance references Minority Distributorship Development Program has the COSA abandoned this program in favor of 3rd Party Low Bid for RFO 6100015684?

**Response:** The SBEDA Goal Setting Committee applied a 15% minority and/or woman-owned (race and gender conscious) contracting goal.

**Question 8:** Why has there been a shift in the treatment of minority participation points between the 2017 solicitation for ZOLL Defibrillator "X-SERIES 12 Lead Accessories" and the recent RFO 6100015684, despite the absence of approval for COSA staff changes to the SBEDA Ordinance following the Disparity Study?

**Response:** The SBEDA Goal Setting Committee applied a 15% minority and/or woman-owned (race and gender conscious) contracting goal.

**Question 9:** Pg 52 of the 2016 SBEDA Ordinance refers to SBE PRIME CONTRACT PROGRAM was the program considered for this solicitation?

**Response:** The SBEDA Goal Setting Committee applied a 15% minority and/or woman-owned (race and gender conscious) contracting goal.

**Question 10:** What factors will COSA consider ensuring that sub-contracts are not merely pass throughs to the PRIME Contractors?

**Response:** All SBEDA tools applied to solicitations are monitored for compliance, including pass-through prohibitions, until the contract is complete.

**Question 11:** In 2017 solicitation 6100008971 for ZOLL Defibrillator “X-SERIES 12 Lead Accessories” had race conscious points for minorities but in 2024 RFO 6100015684 does not refer to SBEDA policy or minority points has the COSA decided to go race neutral on this contract? In 2017 Attachment “C” included SBEDA ORDINANCE COMPLIANCE PROVISIONS is this same attachment included in the current RFO 6100015684?

**Response:** The solicitation has a 15% minority and/or woman-owned (race and gender conscious) contracting goal. SBEDA forms and language can be found in Attachment E and Exhibit 1.

**Question 12:** Are insurance requirements the same for prime bidders as sub-contractors?

**Response:**

Refer to Section 005 – Supplemental Terms and Conditions, Insurance; Contractor must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of Contractor and provide a certificate of insurance and endorsement that names Contractor and City as additional insureds.

**The following questions/comments were received for the Annual Contract for Zoll Defibrillator “X-Series 12 Lead Accessories, (RFO 6100015684). However, after careful review, it has been determined that the questions/comments submitted are not specifically relevant to the solicitation and will not directly contribute to assisting bidder in developing their submissions. As a result, responses to the following questions/comments will not be provided. We highly encourage potential bidders to review the solicitation documents, addendums and specifications provided, as they contain all pertinent information for bid preparation.**

**Question 13:** Why does this solicitation not qualify for BEST VALUE or HIGH PROFILE given the community benefit and exceeding \$1 million?

**Question 14:** Is there a concern that the current solicitation, by transitioning to a race-neutral approach without minority points and excluding SBEDA language, might inadvertently lead to reverse discrimination?

**Question 15:** Can a local small business compete and win 3rd part low bid? Can you provide evidence that our local SWMBE distributors can compete against manufacturers of the product and win on low bid?

**Question 16:** Does the COSA anticipate a fair and competitive bid process?

**Question 17:** Why does the COSA treat the 12 Lead X-SERIES Defibrillators with preferential treatment by awarding a 3-year emergency contract vs 3rd party low bid for the 12 Lead X-SERIES Supplies? X-SERIES Defibrillator won't work without the X-SERIES ZOLL supplies yet there is a vast difference in the procurement process. Due to Low Bid there is a risk of losing a \$1 circulating in an economic disadvantage zip code potentially losing economic value of \$5,500,000 for 3 years, with, 2, 1-year renewals, is COSA prepared for such loss?

**Question 18:** What factors led to the preferential treatment of the 12 Lead X-SERIES Defibrillators, evidenced by the awarding of a 3-year emergency contract, compared to the procurement process for the ZOLL X-SERIES Supplies, considering the essential nature of the supplies to the functioning of the defibrillator?

**Question 19:** How does the treatment of the incumbent vendor for the X-Series Supplies differ from that of the Defibrillator Incumbent, particularly considering the former is a Hispanic Woman Owned business operating in an economically distressed neighborhood in San Antonio and successfully fulfilled the contract during the challenges of the COVID-19 pandemic?

**Question 20:** With recent SA Report article (Simplifying public procurement could be a boon to local business (sanantonioreport.org) referencing that only \$2 million of the \$12 million in commodity spend are with minority owned businesses the COSA is risking reducing it by another million due to this 3rd party low bid, is the COSA prepared to continue discriminatory practices especially in commodities that are in disparity?

**Question 21:** Would you consider that this RFO 6100015684 is contrary to Supply SA efforts lead by Congressman Joaquin Castro to increase our local SWMBE spend?

*Regina Leal-Vandervort* for  
\_\_\_\_\_  
Jennifer Johnson  
Procurement Administrator  
Finance Department - Procurement Division

# ATTACHMENT G

## Mandatory Federal Contract Provisions

### I. Title VI Notice

The City of San Antonio in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

### II. General Civil Rights Provisions

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the contractor and sub tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

### III. Title VI Clauses Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the

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Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

### IV. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

### V. Federal Fair Labor Standards Act

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

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The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

### VI. Occupational Safety and Health Act of 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

### VII. DRUG-FREE WORKPLACE

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b) (1) of this clause;

(4) Notify such employees in writing in the statement required by paragraph (b) (1) of this clause that, as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b) (4) (ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

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- (i) Taking appropriate personnel action against such employee, up to and including termination; or
- (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b) (1) through (b) (6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR [23.506](#), render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.