ATTACHMENT 2: ORGANIZATIONAL CONFLICT OF INTEREST

The United States Army Medical Research Materiel Command (MRMC) has categorized its services requirements into three broad categories, as defined below, for purposes of identifying, avoiding or militating against OCI in accordance with FAR Subpart 9.5. These categories are defined as follows:

Category 1: Program and/or Administrative Support: Where services which, by their very nature, give the Contractor access to non-public procurement sensitive data about the contract requirements, other contractors’ proprietary information, or put the contractor in a position to influence the award decision on a contract in which they are participating or otherwise affect their impartiality..

Services would be characterized as having access to Command Wide procurement sensitive information, or work that could likely have an influence over follow-on awards or contracts within subordinate directorates/Commands.

Mitigation strategies may include: avoidance (non-participation), firewalls between existing personnel and new requirement.

Category 2: Program and/or Administrative Support: Services which assist in planning and managing an organization’s activities and programs.

Services would be characterized as having access to only Directorate or Subordinate Command level procurement sensitive information or work that would have little influence on follow-on requirements or requirements of other directorates/Subordinate Commands .

Mitigation Strategies: Within the requirements office – avoidance or firewalls; in other Directorates/Subordinate Commands – acceptable mitigation plan or certification that no OCI (real or apparent) exists.

Category 3: Product Support. Services or end items required to meet the mission requirements of the organization’s activities and programs.

Services can be characterized as having little or no access to procurement sensitive information other than the immediate requirement and little chances of follow-on work that can be influenced by the immediate requirement.

Mitigation Strategies: Contractor can provide a mitigation plan or acceptable certification that no OCI exists.

Contractor’s participation in more than one of these areas may give rise to an unfair competitive advantage resulting from access to advance acquisition planning, source selection sensitive information or proprietary information. Furthermore, Contractor participation in more than one area may give rise to a real or apparent loss of Contractor impartiality and objectivity where its advisory or planning assistance in one area potentially affects its present or future participation in another area.

The purpose of this categorization is to accomplish the following three objectives: (1) to inform prospective Offerors that MRMC presumes that award of a contract or order in the subject category will give rise to real or apparent OCIs with respect to requirements in the other two categories; (2) to assist current Contractors and prospective Offerors in developing their own business strategies regarding participation in MRMC requirements and in identifying and, where possible, avoiding or mitigating against OCIs; and (3) to ensure that all current Contractors and prospective Offerors are afforded the maximum practicable opportunity to compete for all MRMC requirements consistent with the restrictions required under FAR Subpart 9.5 and sound business practices.

For purposes of identifying, avoiding and / or militating against OCIs, MRMC will examine all its services requirements and acquisitions regardless of the type of contract vehicle used.

The work called for under this contract / order has been determined by MRMC to fall within the following OCI category: Category 3: Product Support

3.3.1 OCI Administration and Submission

USAMRMC will administer this clause for purposes of award eligibility as follows:

3.3.1.1 The offeror shall provide a listing of all contracts performed for the USAMRMC and any subordinate Commands in the last three (3) years. A single-category Offeror/Contractor wishing to submit an offer in a different category, or any Offeror/Contractor which now provides or previously has provided support in more than one category, must include the following as part of its offer:

3.3.1.2 Perform a comparative analysis of the potential new work against *all* current and previous work performed in support of USAMRMC in *any category*. The comparative analysis must be included in the proposal for the new work, and must include a statement certifying whether the Contractor believes that its performance of the proposed new work would create a real or apparent OCI. If the Contractor believes that no real or perceived OCI will result from an award of the proposed work, no additional action by the Contractor is required, unless the Contracting Officer specifically requests an OCI mitigation Plan.

3.3.1.3 If the Offeror/Contractor believes that a real or apparent OCI may exist as a result of an award, the Contractor shall also submit an OCI Mitigation Plan with its proposal.

3.3.2 Page Limitation

Inclusion of the comparative analysis and OCI Mitigation Plan will not be counted against any offer page limitations otherwise stated in the solicitation.

3.3.3 OCI Review

Review of a potential OCI is a stand-alone review and is not considered to be part of an Offeror’s technical proposal.

The Contracting Officer (and when applicable the appropriate program office, acquisition manager, and legal counsel) will review the comparative analysis and, if provided, the Mitigation Plan, in accordance with the requirements of FAR Subpart 9.5 (Organizational Conflict of Interest) to determine whether award to that Offeror would be consistent with those requirements. If it is unilaterally determined by the Contracting Officer that no OCI would arise or that the OCI Mitigation Plan adequately protects the interests of the government in the event of award to that Offeror, the Offeror will be determined, for purposes of this clause, to be eligible for award. If the Contracting Officer reasonably determines that a Contractor has not provided either a comparative analysis or Mitigation Plan, or both, or that the analyses or plan provided is inadequate, sanctions including elimination from the award process, or termination of the related contract effort already awarded, as well as other appropriate sanctions will be considered.

If the Offeror/Contractor knows of no OCI in accepting performance under this contract, it shall certify its OCI status and submit the certification at the end of this clause with its proposal. The Contractor shall also obtain a similar certification of OCI status from all subcontractors, teaming partners or consultants proposed for performance in accordance with this solicitation. The Contractor shall appropriately modify and include this clause, including this paragraph, in all consulting agreements and subcontracts of any tier to preserve the rights of the Government.

For breach of any of the above restrictions or for nondisclosure or misrepresentation of any relevant facts required to be disclosed concerning this solicitation and the potential resulting contract, the Government may terminate the contract, disqualify the Contractor from subsequent related contractual efforts, and pursue any remedies as may be permitted by law or the contract.

Prior to a contract modification involving a change to the Statement of Work, or an increase in the level of effort or extension of the term of the contract, the Contractor shall submit any applicable organizational conflict of interest disclosure or an update of the previously submitted disclosure or representation.

3.3.4 Considerations

The Offeror/Contractor should review the considerations below in determining whether or not a conflict of interest exists.

3.3.4.1 Does the Offeror or any intended subcontractors, teaming partners, proposed employees, or affiliates have Unequal Access to Information? Would award to the Offeror result in the Offeror having the opportunity to access nonpublic information that may give the Offeror a competitive advantage in a later competition for a government contract?

Specifically, will the Offeror/Contractor have access to any of the following information:

* Budget(s), or Budget Information?
* Acquisition Sensitive Information related to the procurement process to include, but not limited to Acquisition Plans, Requirements, Statements of Work, or Evaluation Criteria?
* Does the Offeror or any intended subcontractors, teaming partners, proposed employees, or affiliates have “*impaired objectivity*” because the Offeror’s ability to render impartial judgments may be compromised because of its conflicting role(s) on this effort and other government contracts?
* Do “*biased ground rules*” exist? Most commonly, this would include a situation where the Offeror has, as a government Contractor, written specifications or a statement of work for this effort, which could skew competition in favor of itself.
* Is the Offeror aware of any other information relating to this proposed contract/order, which could reasonably be construed as creating an OCI?

3.3.5 Offeror Certification

The Offeror/Contractor hereby certifies to the best of its knowledge its OCI status below:

*(Offeror: Choose one of the following two statements. Indicate which one applies by placing an X in the box to the left of the statement.)*

□ No real or perceived OCI, as defined in FAR 2.1 and discussed in FAR 9.5, will result from an award of the proposed performance (there are no ‘Yes’ responses to the questions above).

□ A real or apparent OCI may exist as a result of an award and therefore an appropriate OCI Mitigation Plan is attached (Offeror shall include an appropriate OCI Mitigation Plan, as required by this clause, with its quote to the Contracting Officer).

Upon award the Contractor agrees that it will provide timely OCI training to all employees and subcontractor employees working on this effort, which will include emphasis on how work performed by Contractor employees (either prime Contractor, subcontractor, or other teaming partners) under one USAMRMC OCI category can exclude the Contractor as well as its teaming partners from performing related tasks under a different OCI category of work.

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Printed Name)

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