PART I – SCHEDULE

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H-1 SUBCONTRACTING RESTRICTION

(a) Except as specifically stated in this contract (Reference Section I page I-3, Clause titled Subcontracts [FAR 52.244-2 (Jun 2007)]) or approved in writing in advance by the Contracting Officer, the Contractor shall not subcontract any work under this contract. It is contemplated that approval will be given for subcontracting certain phases of the work when, in the opinion of the U.S. Marshals Service, such subcontracting will not adversely affect the quality of delivery of services nor the difficulty or cost of inspection and testing. All requests for approval to subcontract must be submitted in writing to the Contracting Officer for consideration and approval.

(b) Consistent with FAR requirements, this RFP requires the submission of a small business subcontracting plan that will be evaluated as part of the selection process. Applicable USMS subcontracting goals are provided in Section L, paragraph L-12 of this RFP. In establishing plans and setting goals, offerors shall consider the restrictions in this provision as the controlling requirement. Accordingly, subcontracting plans may identify needs other than CSO services (e.g., indirect corporate requirements) and appropriate strategies to acquire direct portions of CSO work requirements if and when authorized by the USMS Contracting Officer.

H-2 INDEMNIFICATION

(a) *Hold Harmless and Indemnification Agreement*: The Contractor shall save and hold harmless and indemnify the Government against any and all liability claims and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any Contractor property or property owned by a third party occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operation, or performance of work under the terms of this contract, resulting in whole or in part from the acts or omissions of the Contractor, any subcontractor, or any employee, agent, or representative of the Contractor or subcontractor.

(b) *Government's Right of Recovery*: Nothing in the above paragraphs shall be considered to preclude the Government from receiving the benefits of any insurance the Contractor may carry which provides for the indemnification of

any loss or destruction of, or damage to property in the custody and care of the Contractor, where such loss, destruction or damage is to Government property. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any loss, destruction of, or damage to Government property, and upon request of the Contracting Officer shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including assistance in the prosecution of suit and the execution of instructions of assignment in favor of the Government, in obtaining recovery.

H-3 REMOVAL OF CSOs AND OTHER CONTRACTOR PERSONNEL FOR VIOLATIONS OF THE CSO PERFORMANCE STANDARDS

(a) The Contractor shall be responsible for providing employees that meet the qualifications and requirements established under the Contract. Any employee provided by the Contractor that fails to meet the CSO performance standards set forth in Section C may be removed from performing services for the Government under this Contract upon written request of the Contracting Officer.

(b) The United States Marshals Service reserves the right at all times to determine the suitability of any Contractor employee to serve as a CSO. Decisions rendered under any dispute resolution process, including assisted settlement, negotiation, consultation, mediation, mini trials, arbitration or any other process available to the contractor and its employees shall not be binding upon the United States Marshals Service. Any decision to continue a Contractor employee in a CSO capacity will be made solely by the Office of Court Security on a case-by-case basis in accordance with the requirement to safeguard the federal judicial process, the Judiciary, citizens, and property as per policies and directives governing Office of Court Security operations.

(c) Any employee provided by the Contractor that the Contracting Officer asserts has failed to meet the performance requirements set forth in Section C, Description/Specifications/Statement of Work, may be removed from performing services under this contract. The United States Marshals Service reserves the right to temporarily remove a CSO under investigation for an alleged serious performance standard violation or criminal charge from performing under the contract. The individual's firearm and credential must be returned to the USMS until the alleged incident is resolved. A determination by the Contractor that an employee's performance can be corrected by discipline and/or other measures and still meet the terms of the contract shall be made in writing to the Contracting Officer. The Contracting

Officer and Office of Court Security shall make the final determination of suitability.

(d) If requested by the Contracting Officer or a designated representative, the Contractor shall provide a written explanation to the Contracting Officer, providing the facts and argument regarding the proposed removal of an individual. In the event that the Contracting Officer or designated representative has requested the removal, a written response from the individual subject to the removal, if any, and a written statement of the Contractor's position on the removal of an individual must be forwarded to the Office of Court Security, through the Contracting Officer, within 15 days of the initial removal notice for a final decision.

(e) Notwithstanding the requirements of Paragraph (b), above, any employee provided by the Contractor that engages in actions such as misuse of weapons or credential that have been provided, removal of assigned weapons or credential from the courthouse/site, improper activity related to a jury, or engages in criminal conduct, whether on or off-duty, or any other activity that affects the integrity of the judicial process or is likely to compromise the security of the courts, shall be removed from performing services for the Government under this contract, and shall not be reassigned to this contract without the concurrence of the Contracting Officer. The Contractor shall notify its employees of this requirement and shall post this requirement in a conspicuous location.

(f) The Contractor shall be required to submit with its proposal established procedures for disciplining employees who fail to comply with the terms of the contract. The Contractor's disciplinary procedures must provide, at a minimum, notice to the employee of any allegation(s) made concerning the employee's performance and an opportunity for the employee to respond.

(g) The Contracting Officer will forward copies of all correspondence pertaining to the removal of the contractor's employees to the COTR responsible for overseeing contractor performance in each district.

(h) The procedures of Section H-3 do not apply to situations where a CSO is removed for failure to meet the contract's medical and/or physical qualification standards and/or firearms qualifications.

H-4 INSURANCE COVERAGE

(a) The Contractor must acquire and maintain at its expense during the entire contract performance period adequate insurance. Insurance coverage must, at minimum, provide the following:

(1) $100,000 per incident minimum Workman's Compensation and Employee's Liability Insurance.

(2) General public liability insurance covering all duties, services, and work to be performed under this contract. The insurance provides limits of liability for bodily injury not less than $2,000,000 per person and $5,000,000 for each occurrence, and property damage limits of liability of not less than $200,000 for each accident. The general liability policy must name the "The United States of America, action by and through the Department of Justice," as an additional insured with respect to operations performed under this contract.

(3) Automobile Liability Insurance written on the comprehensive form of policy of $1,000,000 per person and $5,000,000 per occurrence for bodily injury, and $200,000 per occurrence for property damage.

(b) Each liability policy must include the following provision:

"It is a condition of this policy that the company shall furnish written notice to the Department of Justice, in care of the issuing office, 30 days in advance of any reduction in or cancellation of this policy."

(c) Insurance is to be effective throughout the term of the contract. Upon request, the Contractor shall furnish the Contracting Officer as evidence of requirement insurance, certified true copies of liability policies and manually countersigned endorsements of any changes thereto. Renewal policies must be furnished not less than five days prior to the expiration of current policies.

H-5 LICENSES

The Contractor shall secure and maintain in a current status all required licenses and permits applicable to the lawful functioning within the locations listed in Section B, Supplies or Services and Prices / Costs. In doing so, the Contractor shall furnish evidence to the Contracting Officer, of a company license (state and/or local) authorizing the company to provide guard service within that state and/or locality, or evidence of application for same, within 14 days after request by the Contracting Officer.

H-6 FACILITY SURVEY PRIOR TO ASSUMING/COMMENCING CONTRACT PERFORMANCE

After the award, but prior to performance, the Contractor shall coordinate a facility survey with the COTR for purposes of familiarizing each Contractor personnel with the CSO post assignment records and the Judicial Security Plan designed specifically for that facility. A facility survey must also be performed on the first day of duty for each Contractor personnel hired after implementation of the contract.

H-7 RECORDING PRESENCE

All Contractor personnel performing work at a USMS site must sign in when reporting for duty and sign out when leaving at the end of the work day on a "Record of Time of Arrival and Departure" form. This form will be provided and secured at an area designated by the COTR.

H-8 WAGE DETERMINATIONS

(a) Wage determinations, as reflected in Section J, *List of Attachments, Applicable Department of Labor Wage Determinations and Collective Bargaining Agreements*, are applicable to employees who will be employed in the performance of this contract. Contractor employees assigned to labor categories listed in the wage determination must be paid no less than the minimum monetary wage and furnished fringe benefits as indicated in the wage determination. The Contractor shall immediately pay these employees the minimum wages and fringe benefits upon receipt of the applicable wage determination. This determination was issued under the provisions of the

McNamara-O'Hara Service Contract Act (79 Stat. 1034), and in accordance with Part 4-3 of 29 CFR Part 4.

(b) Wage determinations, as reflected in Section J, *List of Attachments, Applicable Department of Labor Wage Determinations and Collective Bargaining Agreements*, are applicable to employees who will be employed as a CSO during the performance of this contract.

H-9 LIABILITY FOR START-UP COSTS

(a) *Liability for Background Investigations Costs During Contract Start-Up* - During the contract transition phase only, the Contractor shall be responsible for the costs of background investigations for all non-incumbent CSO applicants in the amount of $1,895.00, unless the Contractor can substantiate that an offer for employment was made to an incumbent CSO and that offer was rejected. The Government will assess the amount from the Contractor's invoice. The amount of $1,895.00 represents the additional costs of the Government performing background checks on a new applicant.

(b) *Start-Up Cost* - The Government will only be liable for actual start-up costs incurred by the Contractor. If the Contractor does not provide a complete uniform as stated in Section C to a CSO during a contract performance period, the Government will not be liable to reimburse the Contractor for uniform start-up costs.

The Government will not reimburse the Contractor for start-up costs associated with hiring individuals in excess of the number of personnel required for the CSO positions authorized in Section B, Supplies or Services and Prices / Costs, or subsequent positions authorized by the Contracting Officer. Additionally, the Government will not be liable for start-up costs caused by turnover of contractor employees or when previously approved CSOs fail either preliminary or background investigations, except those specific cases set forth in Section C-6, *Turnover*.

H-10 QUANTITIES FOR MINIMUM AND MAXIMUMS

(a) *Minimum Quantity* – The minimum quantity guaranteed to be ordered by the Government is 1908 labor hours per each Judicial Circuit.

(b) *Maximum Quantity* – The maximum quantity to be ordered by the Government is 110% of the Court Security Officer positions set forth in the Pricing and Specification Sheets for each Circuit.

(c) The minimum and maximum ordering amounts shall be established at award and each exercised option period.

H-11 DEPARTMENT OF JUSTICE DEADLY FORCE POLICY

The Contractor shall ensure that its employees fully comprehend and comply with Section J, *List of Attachments, Department of Justice Deadly Force Policy.*

H-12 NOTICE REGARDING FIREARM POSSESSION/DOMESTIC VIOLENCE

Title 18, Section 922(g)(9) of the United States Code makes it a federal felony for anyone previously convicted of a misdemeanor crime of domestic violence to possess a firearm or ammunition. "Misdemeanor crime of domestic violence" is generally defined as any offense whether or not explicitly described in a statute as a crime of domestic violence which has as its factual basis the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim's current or former domestic partner, parent or guardian. A person falls under the prohibition of the statute if he or she has ever been convicted of a misdemeanor crime of domestic violence. The term "convicted" is generally defined in the statute as excluding anyone, whose conviction has been expunged, set aside or has received a pardon.

H-13 NOTICE REGARDING BLOOD BORNE/AIR BORNE PATHOGENS EXPOSURE

(a) The Contractor is hereby provided notice that there is risk of occupational exposure to potentially infectious materials for their employees under this contract. It is the Contractor's responsibility to inform its employees of this risk.

(b) The Contractor shall formally document the acknowledgment of its employees that they have been made aware of the associated risks and that the Contractor is responsible for ensuring that they take self-protective measures whenever they are subject to such exposure.

(c) The Contractor shall ensure that its employees are made aware that they should not be handling prisoners or accessing cellblock areas on a routine basis as this is not a requirement of the contract and puts the employee at a high level of risk of infection.

(d) Any cost to the Contractor associated with their compliance to this portion of the contract is the responsibility of the Contractor.

H-14 KEY PERSONNEL

(a) "Key Personnel" for the purpose of this contract are Principals. "Principals" is defined as an officer, director, owner, partner, managing member or any person having a primary management role within the business entity.

(b) The United States Marshals Service (USMS) shall perform background investigations on all key personnel prior to award of the contract and prior to the exercise of any option period. Background investigations shall include but are not limited to credit checks and National Agency Check with Inquiries (NACI) – which includes a systems and fingerprint check. To be considered for award, resumes submitted for key personnel shall include a Social Security Number.

(c) The Contractor shall notify the USMS Contracting Officer of all Key Personnel for the contract and any change to the Key Personnel during the performance of the contract. The Contractor shall not make a diversion or substitution of these personnel without the written consent of the Contracting Officer. The following shall be completed at time of award:

(d) During the first 90 days of performance, no substitution of Key Personnel or Supervisory (Contract Manager and Site Supervisors) will be allowed unless the substitution is necessitated by illness, death or termination of employment. In any of these events, the Contractor shall notify the USMS Contracting Officer within 72 hours of knowledge by the Contractor and provide the information required in the following paragraph. After the initial 90-day period, all proposed substitutions must be submitted in writing within 72 hours to the USMS Contracting Officer for approval.

All requests for substitutions of "supervisory" personnel must provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the USMS Contracting Officer. The

qualifications of any proposed substitutes must meet or exceed the contract requirements. The USMS Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions.

(e) Changes in Key Personnel shall also require a notification to the USMS Contracting Officer within 72 hours of knowledge by the Contractor. The Contractor shall furnish sufficient information on the succeeding "Principal" to allow the USMS to perform the background investigation set forth in paragraph (b) above.

H-15 RELEASE OF RESIDUAL FUNDS

(a) **RELEASE OF RESIDUAL FUNDS ($100 OR LESS):** The Contractor is advised when submitting the final invoice under this contract to submit an information copy of the invoice to the Contracting Officer. The invoice must be marked "Information Copy – Final Invoice." If residual funds on the contract total $100 or less, the Government will automatically deobligate the residual funds without further communication with the vendor. Upon receipt and payment of the final invoice, it is understood and agreed that all outstanding obligations incurred on the above referenced contract have been satisfied. Therefore, it is further understood and agreed that the Government will not be liable for the payment of any future invoices that may be submitted under the above referenced contract. (Applies to all contracts)

(b) **RELEASE OF RESIDUAL FUNDS (GREATER THAN $100):** If funds greater than $100 remain on this contract after the final invoice, the Contracting Officer will issue a bilateral modification to authorize release of those funds. The contractor's signature on the modification will constitute understanding and agreement that all outstanding obligations incurred on this contract have been satisfied. The Government will not be held liable for the payment of any further invoices submitted under this contract. The contractor will have up to 30 calendar days after issuance of the modification to sign and return it. Further, failure to sign and return the modification within the stated time period shall be considered acceptance of the Government's intent to deobligate the residual funds; and releases the Government from any future liability stemming from or related to this contract. (Applies to all contracts.)

H-16 PROCEDURES FOR ADDRESSING COURT SECURITY OFFICER (CSO) MISCONDUCT OR FAILURE TO PERFORM

Report of an alleged misconduct or failure to perform will be processed as follows:

(a) Upon receipt of notification of an alleged misconduct and/or performance violation, the Contracting Officer will request the Contractor to investigate the alleged action. The Contractor shall investigate the alleged action and report the results of the investigation to the Contracting Officer within five (5) business days of notification. The results of the investigation shall include all investigative supporting documents, and the Contractor's recommendation for disciplinary action.

(b) Based on a thorough review of the data provided by the Contractor's investigation and the information provided by USMS, if the Government does not agree with the proposed disciplinary action the Government may request the Contractor to reconsider its proposed remedy and submit its response to the Contracting Officer within two (2) business days of the date of the notification letter.

H-17 NOTIFICATION OF ADVERSE AND POTENTIAL ADVERSE CLAIMS AGAINST COMPANY

In addition to the disclosures required in FAR 52.209-5(b), which requires notification in the event the Contractor or any Principal is debarred, or is indicted or convicted of certain crimes, or is delinquent in payment of taxes, the Contractor shall also be required, during the term of the contract, to notify the USMS Contracting Officer of any potential claim or the commencement of any proceeding against the Contractor that could have a material adverse effect on the business of the Contractor or the Contractor's ability to perform under this contract. Notice shall be given in writing within ten days after the Contractor obtains knowledge of such potential claim or proceeding. Such claims and proceedings requiring notification shall include, but are not limited to, those under any applicable labor law, bankruptcy law, state and federal tax law, and for breach of contract, fraud, embezzlement, defalcation, intentional tort, or default on any financial obligation. Contractor shall also be required to give notice of any threatened cancellation of any required insurance policy. Notification of such claims and proceedings shall not be the sole basis for contract termination, but may be considered in determining responsibility of the Contractor.

H-18 FAR 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of twelve (one for each judicial circuit) indefinite-delivery, indefinite-quantity, time-and-material type contracts, resulting from this solicitation.