PART I – SCHEDULE

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H.1 SUBCONTRACTING RESTRICTION

(a) Except as specifically stated in this contract (Reference Section I, Clause titled Subcontracts [FAR 52.244-2 (Oct 2010) 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-8 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 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. The Contractor shall furnish evidence to the Contracting Officer of the required insurance, certified true copies of liability policies and manually countersigned endorsements of any changes thereto within 14 days of contract award and upon future requests. Renewal policies must be furnished not less than five days prior to the expiration of current policies.

H.4 NOTIFICATION OF ADVERSE AND POTENTIAL ADVERSE CLAIMS AGAINST COMPANY

In addition to the disclosures required in FAR 52.209-5(b), *Certification Regarding Responsibility Matters,* 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 (10) 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.5 SPECIAL STANDARDS OF RESPONSIBILITY REVIEWS

The Government will monitor the Contractor's Special Standards of Responsibility through quarterly reviews of updated information to be provided by the Contractor in accordance with this clause. The financial statements/personnel updates shall consist of the same information required under Section L, Special Standards of Responsibility and Section J - List of Attachments, J.9, and shall be provided as follows:

- Periodic Reviews, the Contractor shall provide to the CO updated financial statements at the end of each quarter, December 31st, June 30th and September 30th.
- Annual Option Period Review, prior to exercising contract option periods the Contractor shall provide to the CO current certified financial statements of its most recent fiscal year and updates to the key personnel no later than March 31st in each contract period.

H.6 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.7 DEADLY FORCE POLICIES

The Contractor shall ensure that its employees fully comprehend and comply with the following policies:

- Section J.4(A) *List of Attachments USMS Policy 2.1 Use of Force*
- Section J.4(B) *List of Attachments USMS Policy 2.1 Less-Than-Lethal Devices*
- Section J.4(D) *List of Attachments Department of Justice Deadly Force Policy*

H.8 FACILITY SURVEY PRIOR TO ASSUMING/COMMENCING CONTRACT PERFORMANCE

After the award, but prior to performance, the Contractor shall coordinate a facility survey with the COR 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.9 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, to include the District Supervisor (DS) and Contract Manager (CM), 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, DS, or CM. 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, SD, or CM capacity will be made solely by the USMS 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, DS, or CM 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 continue to 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 Contracting Officer will forward copies of all correspondence pertaining to the removal of the Contractor's employee(s) to the COR responsible for overseeing contractor performance in the district.

(g) These procedures 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.10 PROCEDURES FOR ADDRESSING COURT SECURITY OFFICER (CSO) MISCONDUCT OR FAILURE TO PERFORM

The Contractor shall report an alleged misconduct or failure to perform to the COR immediately. Failure to report performance violations to the Government may result in liquidated damages. Alleged misconduct and/or performance violations 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 in all cases, report the results of the initial investigation to the Contracting Officer within 14 calendar days (2 weeks, without regard for intervening weekends or holidays) after the request was sent to the Contractor by the USMS. 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. Any required re-consideration or re-investigation shall be submitted to the Contracting Officer by close of business on the seventh (7) calendar days (1 week, without regard for intervening weekends and holidays) after the request was sent to the Contractor by the USMS.

H.11 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.12 KEY PERSONNEL

(a) "Key Personnel" for the purpose of this contract are principals, supervisory personnel, and qualified training instructors and weapons qualification instructors.

- A principal is defined as an officer, director, owner, partner, managing member or any person having a primary management role within the business entity.

- Supervisory personnel are considered to be Contract Managers and District Supervisors.

- Qualified training and weapons qualifications instructors are required to meet minimum certification and experience requirements. These personnel are individually approved and as such are considered to be key personnel for the sole purpose of requiring written USMS approval and consent prior to making a diversion or substitution of these personnel (see paragraph (c) below).

(b) The Government shall request background investigations on all principals and supervisory personnel (other than proposed incumbent supervisory personnel) prior to award of the contract and prior to the exercise of any option period, at its discretion. 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. All required forms and information needed to initiate background investigations for Key Personnel shall be submitted to the Contracting Officer on request. Investigations will be initiated via the e-QIP portal and completed by the Office of Personnel Management.

(c) Following award 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.

- During the first 90 days of performance, no substitution of supervisory personnel 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 H.12(b) and the following paragraph. After the initial 90-day period, all proposed substitutions shall 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.

- All requests for substitutions certified Training and Weapons Qualification Instructors must provide a detailed explanation of the impact of this vacancy on immediate training requirements occurring during a vacancy and how those requirements will be met. The Contractor shall notify the TCB Chief or delegated POC immediately upon a vacancy and shall submit within 30 calendar days proposed substitutions that meet or exceed the contract requirements. The USMS will notify the Contractor within five (5) calendar days after receipt of all required information of the decision on substitutions.

H.13 LIABILITY FOR START-UP COSTS

(a) Start-Up Cost - The Government will only be liable for 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 reimburse the Contractor for uniform start-up costs.

(b) 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 CO.

(c) 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 the Statement of Work C.7, *Turnover*.

(d) Medical Qualification – This is only for the annual physical. The USMS does NOT reimburse the vendor for supplemental visits.