

# USAC SOLICITATION FOR

## Secure Server Solution

### SOLICITATION INFORMATION:

**Method of Solicitation:** Request for Proposal (RFP)  
**Award Effective Date:** TBD  
**Contract Period of Performance:** TBD  
**Solicitation Number:** IT-17-170  
**Solicitation Issue Date:** December 12, 2017  
**Offer Due Date:** January 17, 2018, by 11:00 AM ET

### CONTRACT TO BE ISSUED BY:

Universal Service Administrative Co.  
700 12<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005

### CONTACT INFORMATION

USAC CONTACT INFORMATION	OFFEROR CONTACT INFORMATION
Sparkle Mixon Procurement Specialist II P: 202-772-4534 E: rfp@usac.org	(complete) Name: _____ POC: _____ POC Title: _____ POC Phone: _____ POC Email: _____ Address: _____

### OFFEROR SIGNATURE

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

## **SECTION A:** ABOUT US AND THE WORK

### **I. OVERVIEW OF THE PROJECT**

The Universal Service Administrative Company (USAC) is the permanent administrator of the federal Universal Service Fund (USF) and the four universal service programs (High Cost, Lifeline, Schools and Libraries, and Rural Health Care). USAC is seeking to purchase a technical solution (Secure Server) that will allow USAC to ensure the privacy and protection of personally identifiable information (PII) and confidential information that it receives from participants from the four USF programs (High Cost, Lifeline, Schools and Libraries and Rural Health Care). In support of its role as the administrator of the USF programs, USAC receives and manages PII and confidential information as part of its normal business operations. This information is received from external entities and requires a means to share information of a highly sensitive nature.

### **II. ABOUT USAC**

Through its administration of the \$10 billion USF programs on behalf of the Federal Communication Commission (FCC or Commission), USAC works to promote the availability of quality services at just, reasonable and affordable rates and to increase access to advanced telecommunications services throughout the nation. Specifically, the USF programs provide funding for the expansion of telecommunications and broadband access to rural communities and health care facilities, schools and libraries across the country, and low income households. Through program administration, auditing, and outreach, USAC works with contributors, service providers, and program beneficiaries to achieve the program goals articulated by the FCC for each of these programs.

USAC administers the USF programs—High Cost, Lifeline, Rural Health Care, and Schools and Libraries. USAC strives to provide efficient, responsible stewardship of the programs, a key national asset in making important telecommunications and Internet services available to consumers, health care providers, schools, and libraries throughout the United States. The program divisions are supported by additional USAC personnel in Finance, General Counsel, Information Systems, Internal Audit, the Enterprise Program Management Office and Human Resources. Consistent with FCC rules, USAC does not make policy for or interpret unclear provisions of statutes or the FCC's rules.

Universal service is paid for by contributions from telecommunications carriers, including wireline and wireless companies, and interconnected Voice over Internet Protocol providers, including cable companies that provide voice service, based on an assessment of their interstate and international end-user revenues. These contributions are most typically passed through to consumers through a universal service fee line item on their telephone bills.

#### **High Cost Program**

The High Cost Program is dedicated to preserving and advancing voice and broadband service, both fixed and mobile, in rural areas of the United States. With approximately \$4.5 billion in annual funding, the High Cost Program ensures that rates for broadband and voice services are reasonably comparable in every region of the U.S. Like all USF programs, the administration of the High Cost Program has undergone significant modernization in the last several years to increase innovation and ensure beneficiaries have access to updated technology. USAC is leveraging the new High Cost Universal Broadband Portal (HUBB), which allows Carriers participating in modernized Connect America programs to file deployment data showing where they are building out mass-market, high-speed internet service by precise location. This information includes latitude and longitude coordinates for every location where service is available, and USAC will eventually display this information on a public-facing map to show the impact of Connect America funding on broadband expansion throughout rural America.

### **Lifeline Program**

The Lifeline Program provides a monthly discount on landline or wireless phone service to eligible low-income households. In 2016, support provided through the program totaled approximately \$1.5 billion. USAC works to ensure program integrity by making measurable and vital progress towards reducing program inefficiencies and waste while supporting the needs of Lifeline Program stakeholders through a detailed understanding of their challenges. To combat fraud, waste, and abuse, USAC reviews processes regularly to increase compliance, identify avenues for operational improvements, and refine program controls, such as audit processes. USAC has focused on data analytics to improve customer service and outreach approaches and increase the reach and effectiveness of the program to better serve service providers and subscribers. USAC is in the process of building the National Verifier, which will include the national Lifeline Eligibility Database to determine subscriber eligibility.

### **Rural Health Care (RHC) Program**

The Rural Health Care Program supports health care facilities in bringing medical care to rural areas through increased connectivity. With up to \$400 million in funding available annually, the Rural Health Care Program provides reduced rates for broadband and telecommunications services via the Healthcare Connect Fund Program and Telecommunications Program. These telecommunications and broadband services are necessary to support telemedicine and allow cutting edge solutions and treatments to be accessible to Americans residing in rural areas.

### **Schools and Libraries (E-rate) Program**

The Schools and Libraries program helps ensure that schools and libraries can obtain high-speed Internet access and telecommunications at affordable rates. Recent E-rate Modernization Reform efforts focused on broadband to and within schools and libraries to support a modern and dynamic learning environment for all students. In support of improved program outcomes, USAC is completing the E-rate Productivity Center (EPC) which enables electronic participation in the reformed Schools and Libraries Program. USAC estimates E-rate program demand for Funding Year 2017 is \$3.20 billion to help ensure connectivity for schools and libraries across the country. USAC is investing in new tools and data analytics capabilities to support the success of the program in alignment with the FCC's goals.

Additional information on USF programs can be found at:  
<http://www.usac.org/about/about/who-we-are/default.aspx>.

### III. CURRENT STATE

USAC currently utilizes an on-premise solution to facilitate the transfer of PII and confidential information between USAC users and external entities. This is done using a secured file transfer protocol (SFTP) server which USAC hosts. The server itself is accessed via open-source software that must be installed on a user's local computer. The current process to manage the users and data is a manual process for the information technology (IT) Administrator of the system. The use of the tool is not intuitive and is inefficient in satisfying the current business needs.

### IV. THE SOLUTION

The Secure Server solution will introduce a new platform for USAC to securely share sensitive documents and information with external entities. The standard business scenario is the transfer of documents and data between an external entity and USAC, where USAC is the initiator of the request. The type of information that is transmitted includes both PII and other confidential, non-public data. All transferred data must be protected and secured in accordance with the Federal Information System Management Act (FISMA) and National Institute of Standards and Technology (NIST) requirements.

There are four business scenarios in scope of this Secure Server project:

1. USAC originates a data request from an external entity, who in turn delivers the requested data.
2. USAC originates a data transfer to an external entity, which is unsolicited by the external entity.
3. External entity originates a data request to USAC, who in turn delivers the requested data.
4. External entity transfers data unsolicited to USAC.

A user of the Secure Server must be authorized to access the Secure Server and be given permission to view, add, or transfer data from the Secure Server to another location. This authorization will be granted by select USAC individuals, such as an administrator or supervisor. The files and data shared between a USAC user and an external entity will be through the notion of a 'Folder,' which is basically a repository created to secure and organize data saved on the Secure Server. The content of the 'Folder' will be secure and visible only to those users who are deemed authorized to view the data and files related to a specific business event.

The Secure Server will be controlled and managed through a predefined set of configuration attributes. Some will control data and user management at a global level; others will manage site content such as document retention and account duration based on individual business needs.

## V. COMPANY PROFILE

USAC is a not-for-profit Delaware corporation that was appointed as the permanent administrator of the federal USF and the universal service programs. USAC administers the USF under the oversight of the FCC. USAC is not a federal agency, a government corporation, a government controlled corporation or other establishment in the Executive Branch of the United States Government. USAC is not a contractor to the Federal Government. The Contract awarded as a result of the Request for Proposals (RFP) will not be a subcontract under a Federal prime contract. USAC does, however, conduct its procurements in accordance with the terms of a Memorandum of Understanding with the FCC, which requires USAC to adhere to the following provisions from the Code of Federal Regulations: 2 C.F.R. §§ 200.318-321; 200.323; 200.325-326 and App. II to C.F.R. Part 200 (collectively “Procurement Regulations”). In addition, USAC is required to comply with Federal Information Security and Management (FISMA) and National Institute of Standards and Technology (NIST) requirements. One of the primary goals of this project is to introduce a self-managed environment that introduces a high level of control to ensure the privacy and protection of PII and other confidential information.

## **SECTION B:**

### Requirements and Scope of Work

#### **I. OVERVIEW**

USAC is in need of a cloud-based software as a service (SaaS) Federal Risk and Authorization Management Program (FedRAMP) “Moderate” certified file transfer solution to perform secured file transfer of personally identifiable information (PII) and other confidential data between USAC and external entities.

#### **II. TYPE OF CONTRACT**

As used herein, “Contract” means the contract to be issued pursuant to this RFP, and “Contractor” means the selected offeror under this RFP. The Contract will be a firm fixed price single-award contract. The firm fixed price for the work (total project and all line items, including option years) shall be as set forth in Attachment 1. The firm fixed price includes all direct and indirect costs set forth in this Section B, including equipment, product support, implementation, training, supplies, general and administrative expenses, overhead, materials, travel, labor, taxes, shipping, and profit. USAC will not reimburse Contractor for any travel related expenses.

#### **III. CONTRACT TERM**

The period of performance for the Contract is one year, with two (2) one-year option periods, for a total possible term of three (3) years (Term). The option periods may be exercised only by USAC, in its sole discretion, by giving Contractor no less than thirty (30) days advance notice. The Term of the Contract shall commence on [TBD] and shall expire at the end of the then current one-year period, unless extended by USAC.

#### **IV. WHERE THE WORK TAKES PLACE**

All required Contract services must be performed within the United States. A Contract kick-off meeting will be held at USAC’s office (700 12th Street, Suite 900, Washington, DC 20008). Work on required services and deliverables will be completed at the Contractor’s facilities and at USAC’s office. Status update meetings and other meetings will be held virtually, except to the extent that USAC or the Contractor requires in-person presence. Visitors are asked to complete USAC’s Visitor Form and wear a badge while on premises.

#### **V. KEY CAPABILITIES**

The technical solution must satisfy each of the key capabilities included in the table below. If the Contractor’s product cannot satisfy a capability, the Contractor must indicate how it can be supported and if/when it will be included in a future version of the product.

<b>Capability</b>	<b>Description</b>
<b>Web Portal</b>	System access through a user interface customized to satisfy USAC presentation standards and guidelines.
<b>User Administration</b>	User registration, permissions, password management and account deactivation. The process and actions will vary based on the type of User.
<b>Permissions Management</b>	Permissions to control access and visibility to data and files. It is critical that views are secured and managed by role.
<b>Secure File Transfer</b>	File upload and download to/from a target location. The Sender will select files from a local location to transfer to the Receiver. The files will be saved on the Secure Server where they will be accessed by the Receiver and moved to a target resting location. <sup>1</sup>
<b>Data Management &amp; Security</b>	Data security based on role permissions, file expiration and data encryption. Capability to add and delete files dynamically.
<b>E-Mail Notifications</b>	System generated email notifications triggered by system events.
<b>Auditable Logs &amp; Reporting</b>	Activity and administrative logs.
<b>User Training</b>	Administrator User Training and Train the Trainer training for regular users
<b>Certificate Compliance</b>	The SaaS technical solution must be FedRAMP Moderate certified or be in the process of achieving FedRAMP Moderate certification.
<b>Vendor Implementation</b>	Execution Plan to implement a Secure Server Solution.

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<sup>1</sup> The following terms are further defined: The term “Sender” changes with context. When the files are uploaded the individual or company uploading those files is the Sender. When USAC sends files to the system for an external party to download it becomes the Sender and the external party is the Receiver. The term “Receiver” changes with context. When the files are uploaded to the system USAC is the Receiver. When USAC sends files to the system for an external party to download it is the Sender and the external party is the Receiver. Secure Server is the Fedramp compliant service that stores the uploaded data.

## VI. REQUIREMENTS

The Contractor will be responsible for meeting all requirements in this section.

### BUSINESS REQUIREMENTS

- A. Secure Server files and data shall be accessible through a web portal.
- B. Secure Server shall not require the installation of software to access the files and data.
- C. Secure server shall support role-based permissions customizable by business need.
- D. Secure Server shall support file and folder permissions by role and individual.
- E. Secure Server shall support self-registration of external user accounts.
  - 1) External users can only register on the Secure Server site by invitation only.
- F. Secure Server shall support, at a minimum, the following use cases:
  - 1) USAC originates a data request to an external entity, who in turn delivers the requested data.
  - 2) USAC originates a data transfer to an external entity which is unsolicited by the external entity.
  - 3) External entity originates a data request to USAC who in turn delivers the requested data.
  - 4) External entity transfers data unsolicited to USAC.
- G. Secure Server shall have global settings that manage, at a minimum, the following:
  - 1) User account retention rules;
  - 2) Folder retention rules; and
  - 3) File retention rules.
- H. Secure Server shall support automatic deletion of user accounts, folders and expired files.
- I. Secure Server shall support, at a minimum, email notifications based on the following events:
  - 1) External User access granted;
  - 2) USAC User access granted;
  - 3) File/Folder shared with internal or external user;
  - 4) File accessed by internal or external user;
  - 5) File about to expire;
  - 6) User access about to expire; and
  - 7) Account Deactivation.
- J. Secure Server shall support customization of email notifications. At a minimum, the wording of all email events must be customizable.



- K. Secure Server shall support a customizable user interface to represent USAC branding (logo, styles, URL, and colors).
- L. Secure Server shall create auditable logs and reporting, at a minimum, for the following activities:
  - 1) User login and use activity;
  - 2) File upload and download activity;
  - 3) File accessed by internal or external user;
  - 4) File expiration and deletion;
  - 5) User administration; and
  - 6) Folder creation and deletion.
- M. Secure Server shall support end user access to logs and reports.

## TECHNICAL REQUIREMENTS

- A. Secure Server solution must be a cloud-based SaaS.
  - 1) A cloud based solution must be FedRAMP certified or FedRAMP in process for moderate systems for the SaaS layer.
  - 2) A cloud based solution must be FedRAMP certified for FedRAMP in process for moderate systems for the Data Storage layer.
- B. Secure Server must encrypt PII and Confidential Information at rest.
- C. Secure Server must encrypt PII and Confidential Information in transit.
- D. Secure Server must support Single Sign-On (SSO) capability, whereas USAC employees authenticated to this site via active directory (AD) and SSO, OKTA compatibility.
- E. Secure Server must support multi-factor authentication.
- F. Secure Server must support account expiration rules and automatically revoke account access.

## VII. DELIVERABLES

Contractor shall provide the Secure Server in accordance with the terms, conditions, specifications and timeframes of this RFP and consistent with industry-best practices for similarly situated companies performing similar services and providing similar deliverables.

- A. An instance of the FedRAMP Moderate compliant configured service that meets all configuration requirements as listed in Section B.VI.

- B. An implementation plan which lists key milestone dates to configure an instance<sup>2</sup> of the service as well as support for USAC to configure an instance.
- C. A support plan in compliance with Section B.VIII.D below.
- D. Training materials and instruction as proposed.

## VIII. KEY PERSONNEL AND MEETINGS/MANAGEMENT

### A. *Key Personnel*

Offeror shall identify the Key Personnel who will be assigned to the implementation and ongoing support of the Contract. The offeror shall provide a resume (one (1) page maximum per person) that includes job experience and skills to support key personnel's qualifications to perform the Implementation.

Contractor shall assign, as Key Personnel, (1) a *Project Manager*; (2) *Lead Technical Engineer* and (3) such other Key Personnel as identified in the Offeror's response to the RFP. The primary duties of such Key Personnel will be the implementation and oversight of the project. The *Project Manager* shall act as the primary point of contact for Contract administration issues which include but are not limited to addressing billing and reporting issues and assisting the Contractor and USAC in the event of any planned or unplanned outages. The *Project Manager* shall participate in weekly, quarterly, and yearly teleconference status meetings with USAC to review verifications and discuss any new or outstanding issues. The *Lead Technical Engineer* shall act as the primary point of contact for technical issues and questions which include but are not limited to working with the Contractor's Project Manager and USAC to resolve any technical issues. Both the *Project Manager and Lead Technical Engineer* shall provide USAC with any other support necessary for performance of the contract requirements.

### B. *Project Kick-off Meeting*

Contractor shall schedule and coordinate a project kick-off meeting to be held at USAC's offices within five (5) days after the Contract effective date. The project kick-off meeting is intended to serve as an introduction between the Contractor personnel who will perform the services set forth herein, and USAC personnel who will be involved with the project. The meeting shall provide the forum to discuss technical or business questions, project roles and responsibilities of the respective parties, and any project communications. Attendees at this meeting shall include at a minimum, Contractor's

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<sup>2</sup> An instance is an occurrence or installation of a specified software or service (any object) that behaves and/or provides services as defined in the service contract.

Project Manager and Lead Contact Person, as well as any other Key Personnel identified in herein or in Contractor's proposal. Attendance can be virtual or in-person.

*C. Checkpoint Meetings*

During performance of the Contract, Contractor personnel shall communicate on a regular basis with USAC staff, and, as requested by USAC's identified project manager (USAC PM) or the USAC PM's delegated person. Contractor personnel shall attend checkpoint meetings with USAC staff to discuss project status and communicate issues and resolution. Checkpoint meetings will be held on a scheduled basis via teleconference.

Contractor shall prepare a weekly status report and submit it to USAC. The weekly report must include the current status of project including percentage of completion and any issues relating to Contract performance or payment. The report must include an expected completion date and the circumstances surrounding any possible delays. The report shall be submitted by noon on Monday through the duration of the project.

*D. Communication*

Contractor shall be reasonably available and accessible via email or phone during the hours of 9:00 am to 6:00 pm ET, Monday through Friday, to discuss status and other matters of importance to USAC or Contractor. Contractor shall execute best efforts to provide email response to USAC within one (1) business day of Contractor's receipt of USAC emails and two (2) hour response to any telephone voicemail.

**SECTION C:**  
USAC Terms and Conditions

**I. DEFINITIONS**

“Data” means recorded information, regardless of form or the media on which it may be recorded, and includes, but is not limited to, technical data and Software.

"Deliverables" means the deliverables, goods, items, products, and material that are to be prepared by Contractor and delivered to USAC as described in Section B.

“Services” means the tasks, services, functions and responsibilities described in Section B and in the task orders issued hereunder.

“Software” means computer programs that allow or cause a computer to perform a specific operation or series of operations, together with all modifications to, or enhancements (derivative works) thereof.

**II. INSPECTION/ACCEPTANCE**

Contractor shall only tender for acceptance Services and Deliverables that conform to the requirements of the Contract. USAC will, following Contractor’s tender, inspect or test the Deliverables or Services and, within ten (10) business days:

- (a) accept the Services and Deliverables; or
- (b) reject the Services and Deliverables and advise Contractor of the reasons for the rejection.

In the absence of a response by USAC within ten (10) business days, the Deliverables or Services will be considered accepted. If rejected, Contractor must repair, correct or replace nonconforming Deliverables or re-perform nonconforming Services, at no increase in contract price. If repair, correction, replacement or re-performance by Contractor will not cure the defects or is not possible, USAC may terminate for cause under Section C.X below, and, in addition to any other remedies, may reduce the Contract price to deduct amounts for the defective work.

Unless specified elsewhere in the Contract, title to items furnished under the Contract shall pass to USAC upon acceptance, regardless of when or where USAC takes possession.

**III. ENTIRE CONTRACT/BINDING EFFECT**

The Contract, including the following contract documents listed in descending order of precedence: (1) Sections A-E, including the attachments identified in Section D; and (2) any other attachments – constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Section B and Section C have priority and shall take precedence over any other Contract document, including Contractor proposals that may be included

as attachments to the Contract. Any waiver of any provision of the Contract will be effective only if in writing and signed by the party granting the waiver. The Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assignees.

## IV. CHANGES

The terms of the Contract shall not be modified other than in writing signed by the parties. USAC may modify the Contract as necessary to fulfill its requirements.

## V. INVOICES

- A. *Where to Submit Invoices.* Contractor shall submit invoices electronically to [Accounting@USAC.org](mailto:Accounting@USAC.org). Additionally, Contractor shall submit an electronic invoice to the address designated in the Contract to receive invoices. Contractor shall also submit a copy of the invoice to: Universal Service Administrative Company, Attn: Accounts Payable, 700 12<sup>th</sup> St. NW, Suite 900 Washington, DC 20005.
- B. *Invoice Content.* Invoices must include:
1. Name and address of Contractor;
  2. Invoice date and invoice number;
  3. Contract Number;
  4. Purchase Order Number;
  5. Description, quantity and dates of the Deliverables accepted and the Services performed, including reference to one of the three Phases, as described in Section B;
  6. Name and address of official to whom payment is to be sent;
  7. Name, title, and phone number of person to notify in event of invoice or payment issues;
  8. Any other substantiating documentation or information as reasonably required by USAC; and
  9. Electronic funds transfer (ETF) banking information.
- C. *ETF Information.* Contractor shall include ETF banking information on the first invoice. USAC shall not be liable for uncompleted or erroneous transfers which occur as a result of Contractor providing incorrect or out of date ETF information.
- D. *Invoice Submittal Date.* Invoices shall be submitted by the 5<sup>th</sup> of each month.

## VI. PAYMENT/RATES

Contractor shall be paid for Services accepted by USAC in accordance with Section C.II above, on a fixed-price schedule set forth in **Attachment 1**. (*Please submit a breakdown of your pricing in a separate quote or price proposal.*) USAC will pay invoices submitted in accordance with Section C.V, above, within thirty (30) calendar days of receipt of invoice, provided the Services and/or Deliverables have been delivered and accepted by USAC. The labor rates are firm and shall remain firm unless agreed to in writing by the parties, or unless Contractor provides a rate reduction or

discount thereto. All labor rates specified herein are fully loaded and include all direct and indirect costs and expenses, including applicable federal, state, or local sales, use, or excise taxes, and profit.

## VII. PATENT INDEMNITY

Contractor shall indemnify, hold harmless and defend USAC and its directors, officers, employees and agents against any and all claims and liability, including attorney's fees and other costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, or misappropriation of, any patent, trademark or copyright, arising out of or related to Contractor's performance of the Contract.

## VIII. ASSIGNMENT/SUBCONTRACTING

Contractor shall not assign or subcontract all or any portion of the Contract without obtaining USAC's prior written consent. Consent must be obtained at least thirty (30) days prior to the proposed assignment or subcontracting. USAC may require information and assurances that the proposed assignee or subcontractor has the skills, capacity, qualifications and financial strength to meet all of the obligations under the Contract. An assignment or subcontract shall not release the Contractor of the obligations under the Contract, and the assignee or subcontractor shall be jointly and severally liable with the Contractor. Contractor shall not enter into any subcontract with a company or entity that is debarred, suspended, or proposed for debarment or suspension by any federal executive agency unless there is a compelling reason to do so. Contractor shall review the System for Award Management (SAM) for suspension or debarment status of proposed subcontractors. See <https://www.sam.gov>.

## IX. TERMINATION FOR CONVENIENCE

USAC may terminate the Contract for any reason or no reason upon one (1) day prior written notice to the Contractor. Subject to the terms of the Contract, Contractor shall be paid for all time actually spent performing the Services required by the Contract up to date of termination, plus reasonable charges Contractor can demonstrate to the satisfaction of USAC have resulted directly from the termination.

## X. TERMINATION FOR CAUSE

Upon the expiration of a ten (10) day cure period (during which the defaulting party did not provide a sufficient cure), the non-defaulting party may terminate the Contract or any task order issued hereunder, in whole or in part, *for cause* in the event of the defaulting party's failure to comply with any material term or condition of the Contract or task order, as applicable, or if either party fails to provide the other party, upon request, with adequate assurances of future performance. In the event of termination for cause, the non-defaulting party shall be entitled to any and all rights and remedies provided by law or equity. If it is determined that USAC improperly terminated the Contract for cause, such termination shall be deemed a termination for convenience. In the event of partial termination, the defaulting party shall continue to perform the portion of the Services not

terminated.

## **XI. STOP WORK**

USAC may, in its sole discretion, issue a stop work order at any time during the Contract Term. Upon receipt of a stop work notice, or upon receipt of a notice of termination (for cause or convenience), unless otherwise directed by USAC, Contractor shall, on the stop work date identified in the stop work or termination notice: (a) stop work, and cause its, subcontractors, consultants or agents to stop work, to the extent specified in said notice; and (b) subject to the prior written approval of USAC, transfer title and/or applicable licenses to use, as appropriate, to USAC and deliver to USAC, or as directed by USAC, all materials, Data, work in process, completed work and other USAC Information or material produced in connection with, or acquired for, the work terminated. In the event of a stop work order, all deadlines in the Contract shall be extended on a day for day basis from such date, plus a reasonable additional time, as agreed upon between the parties, acting in good faith, to allow Contractor to reconstitute its staff and resume the work.

## **XII. LIMITATIONS OF DAMAGES**

Except in cases of gross negligence or willful misconduct, in no event shall either party be liable for any consequential, special, incidental, indirect or punitive damages arising under or relating to the performance of the Contract and in no event shall USAC's entire cumulative liability exceed the amounts paid to Contractor under the Contract. All exclusions or limitations of damages contained in the Contract, including, without limitation, the provisions of this Section C.XII, shall survive expiration or termination of the Contract.

## **XIII. CONFIDENTIAL INFORMATION**

A. *Confidential Information.* Confidential Information includes, but is not limited to, information, Data, material, or communications in any form or format, whether tangible or intangible, spoken or written (collectively referred to hereafter as "Information"), that contains, reflects, or is derived from or based upon, or is related to:

- (1) Management, business, procurement or financial Information of either party, the FCC or a USF stakeholder, including proprietary or commercial Information and trade secrets that have not previously been publicly disclosed;
- (2) Information regarding USAC's processes and procedures (including, but not limited to, program operational Information, Information regarding USAC's administration of its programs, and Information regarding USAC's processing of applications for program support);
- (3) Information concerning USAC's relationships with other vendors, the FCC, USF Stakeholders and financial institutions;
- (4) Information marked to indicate disclosure limitations such as "Confidential Information," "proprietary," "privileged," "not for public disclosure," "work product," etc.;

(5) Information compiled, prepared or developed by Contractor in the performance of the Contract;

(6) Any Information identified as confidential by the disclosing party; and

(7) Personally Identifiable Information (PII), as defined by NIST Special Publication 800-122.

- B. *Non-Disclosure/Use/Irreparable Harm.* It is anticipated that one of the Parties (“Disclosing Party”) may disclose, or has disclosed, Confidential Information to the other Party (“Recipient”). At all times during the term of the Contract and thereafter, the Recipient shall maintain the confidentiality of all Confidential Information and prevent its unauthorized disclosure, publication, dissemination, destruction, loss, or alteration. Recipient shall only use Confidential Information for an authorized business purpose of USAC and in the performance of the Contract. Recipient acknowledges that the misappropriation, unauthorized use, or disclosure of Confidential Information would cause irreparable harm to the Disclosing Party and could cause irreparable harm to the integrity of the USF Programs.
- C. *Employee Access to Confidential Information.* Recipient shall not disclose Confidential Information to partners, joint venturers, directors, employees, agents and subcontractors (“sub-Recipient”) unless absolutely necessary for Recipient’s or sub-Recipients performance of the Contract, and if necessary, shall only disclose the Confidential Information necessary for sub-Recipient’s performance of its duties. As a pre-condition to access to Confidential Information, Recipient shall require sub-Recipients, including its employees and subcontractors, and the employees of any subcontractor, to sign a non-disclosure or confidentiality agreement containing terms no less restrictive than those set forth herein. The Disclosing Party may enforce such agreements, if necessary, as a third-party beneficiary.
- D. *Contractor Enforcement of Confidentiality Agreement.* Contractor must report, and describe in detail, any breach or suspected breach of the non-disclosure requirements set forth above to the USAC General Counsel immediately upon becoming aware of the breach, including when and how the breach occurred, who was involved, and what has been done to recover the Information.
- E. *Exclusions.* If requested to disclose Confidential Information by an authorized governmental or judicial body, Recipient must promptly notify the Disclosing Party of the request and to the extent that it may legally do so, Recipient must refrain from disclosure of the Confidential Information until the Disclosing Party has had sufficient time to take any action as it deems appropriate to protect the Confidential Information. Neither Contractor nor its subcontractors shall issue any public statement relating to or in any way disclosing any aspect of the Contract without the prior written consent of USAC. Notwithstanding anything herein to the contrary, USAC may, without notice to Contractor, provide the Contract, including Contractor’s proposal information, and any information or Data delivered, prepared or developed by Contractor in the performance of the Contract to the FCC or other governmental or judicial body, and may publicly disclose basic information regarding the Contract, e.g., name of Contractor, price, basis for selection, description of Services or Deliverables and any provisions necessary for USAC to justify actions taken with respect to the Contract.



#### **XIV. RETURN OF USAC INFORMATION**

- A. “USAC Information” includes all written, electronically, magnetically, or optically stored information, including without limitation all information concerning USAC’s business and USF program administration; Information and Data provided by USAC to Contractor for use in the performance of the Contract; Data that is collected, developed or recorded by Contractor in the performance of the Contract, including without limitation, business and company personnel information, program procedures and program specific information; and Data that is created or derived from such Data. USAC Information is Confidential Information and subject to all requirements in Section C.XIII.
  
- B. Promptly upon the expiration or termination of the Contract, or such earlier time as USAC may direct, Contractor shall, at the direction of USAC, and at no additional cost to USAC, return or destroy all USAC Information, including all copies thereof, in the possession or under the control of Contractor. Contractor shall not withhold any USAC Information as a means of resolving any dispute. To the extent that there is a dispute between Contractor and USAC, Contractor may make a copy of such USAC Information as is necessary and relevant to resolution of the dispute. Any such copies shall promptly be destroyed upon resolution of the dispute.
  
- C. USAC Information is provided to Contractor solely for the purpose of rendering the Services, and USAC Information or any part thereof shall not be sold, assigned, leased, or otherwise transferred to any third party by Contractor (except as required to perform the Services or as otherwise authorized in the Contract), commingled with non-USAC Information, or commercially exploited by or on behalf of Contractor, or its employees or agents. Promptly upon the expiration of the Contract term, or such earlier time as USAC may direct, Contractor shall, at the direction of USAC, and at no additional cost to USAC, return or destroy all copies of USAC Information in the possession or under the control of Contractor or its employees or any subcontractors or their employees. Contractor shall not withhold any USAC Information as a means of resolving any dispute. To the extent that there is a dispute between Contractor and USAC, Contractor may make a copy of such USAC Information as is necessary and relevant to resolution of the dispute. Any such copies shall promptly be destroyed upon resolution of the dispute.

#### **XV. INFORMATION/DATA SECURITY AND PRIVACY**

- A. The Contractor shall establish and maintain safeguards to protect the confidentiality, integrity, and restricted availability of Confidential Information, including any personally identifiable information (PII), in its possession according to industry best practice standards and in accordance to Federal Information Systems Management Act (FISMA) and National Institute of Standards and Technology (NIST) requirements. This includes all information that is sent to and received from USAC and USAC stakeholders. The Contractor and its subcontractors shall ensure that their respective local area networks, servers, and personal computers are secure from unauthorized access from within or outside their respective organizations. The

Contractor shall not store or otherwise maintain any USAC Confidential Information without first obtaining USAC's written consent.

- B. Contractor shall ensure that: (1) PII shall be protected in accordance with all federal and USAC requirements, including OMB Memoranda M-06-16 and M-17-12 and guidance from NIST, including NIST SP 800-53 Rev. 4 (Security and Privacy Controls for Federal Information Systems and Organizations), and NIST SP 800-122 (Guide to Protecting the Confidentiality of Personally Identifiable Information); and (2) all security-related incidents resulting in any interruption to system services including the disclosure of PII, shall be tracked in accordance with policy standards as outlined in the Incident Response (IR) controls documented in NIST SP 800-53 Rev. 4 (Security and Privacy Controls for Federal Information Systems and Organizations) and NIST SP 800-61 (Computer Security Incident Handling Guide) as well as in OMB Memoranda M-17-12. The Incident Response Plan (IRP) shall include reporting to USAC's Director of Privacy and to USAC's Director of Information Security within one hour of any breach or suspected breach of PII. Details of any breach or suspected breach must be disclosed promptly and in detail. Contractor shall ensure that all of its agents, employees, representatives, subcontractors, or other personnel performing services under the Contract will be bound by the same or substantially similar restrictions on collection, use, disclosure, and retention of PII. Contractor shall be responsible for any breach of data security and privacy-related obligations and shall fully indemnify USAC for any damages incurred as a result of any breach.
- C. PII must be encrypted at all times in accordance with Federal Information Processing Standards (FIPS) 140-2 standards. This encryption requirement includes both Data at Rest (i.e., stored on a hard drive, CD, DCD, thumb drive, etc.) and Data in Transit (i.e., via email or other secured electronic means). Any PII that is retained in documents or other physical formats must be stored in a secured location and with limited access. The standard for disposal of PII requires practices that are reasonable to protect against unauthorized access or use of the PII (e.g., shred papers containing PII or erase electronic files and other media containing PII).
- D. "PII" means any information about an individual that can be used to distinguish or trace an individual's identity either alone or when combined with other information that is linked or linkable to a specific individual. Examples of PII include name, address, telephone number, social security number (including truncated social security numbers), driver's license number or Identification Card number, date and place of birth, mother's maiden name, biometric records, etc.
- E. **FISMA Provisions.** Contractor shall meet and comply with all USAC IT privacy and information security policies and procedures and all applicable FISMA and NIST requirements for the protection and security of the information system, PII and Confidential Information. Contractor's security and privacy controls must be assessed against the same NIST criteria and standards (i.e., NIST SP 800-53 Rev. 4) as if they were a government-owned or-operated system, and comply with FISMA requirements.

## **Safeguarding of Covered Contractor Information Systems:**

The Contractor shall apply the following minimum safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for safeguarding of covered contractor information systems shall include, at a minimum, the following security and privacy controls:

1. Limit information system access to only authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
2. Limit information system access to only the types of transactions and functions that authorized users are permitted to execute.
3. Verify and control/limit connections to and use of external information systems.
4. Control information posted or processed on publicly accessible information systems.
5. Identify information system users, processes acting on behalf of users, or devices.
6. Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
7. Sanitize or destroy information system media containing USAC Information before disposal or release for reuse in accordance with NIST requirements.
8. Limit physical access to organizational information systems, equipment, and the respective operating environments to only authorized individuals.
9. Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
10. Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
11. Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
12. Identify, report, and correct information and information system flaws in a timely manner.
13. Provide protection from malicious code at appropriate locations within organizational information systems.
14. Update malicious code protection mechanisms when new releases are available.
15. Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

## **XVI. PROPRIETARY RIGHTS**

Contractor agrees that all Data, Software, Deliverables, reports or other materials (collectively “Materials”) developed or conceived by Contractor and/or documented by Contractor in the performance of the Contract, as well as all modifications and improvements thereto and all other designs, discoveries and inventions, are USAC property and shall be deemed USAC Information pursuant to Section C.XIV above and works made-for-hire for USAC within the meaning of the copyright laws of the United States and accordingly, USAC shall be the sole and exclusive owner for all purposes for the use, distribution, exhibition, advertising and exploitation of such Materials or any part of them in any way and in all media and by all means throughout the universe in perpetuity.

The Contractor shall not, without the prior written permission of the USAC PM, incorporate in

Materials delivered under the Contract any data, software, information or materials of any type in which either the Contractor or a third party has proprietary rights (collectively, “Third Party Data”) unless the Contractor: (1) identifies the Third Party Data; and (2) Grants to USAC, or acquires on USAC’s behalf, a license of the same scope as set forth earlier in this Section C.XVI.

## **XVII. RESPONSIBILITY FOR CONTRACTOR PERSONNEL**

Contractor personnel working on USAC premises may be required to sign and agree to the terms of a [Visitors Form](#) provided by USAC. Contractor is responsible for any actions of its personnel, including any actions that violate law, are negligent or that constitute a breach of the Visitor Form and/or the Contract.

*Security Briefings.* Before receiving access to IT resources under the Contract, Contractor personnel must receive a security briefing, which USAC will arrange, and complete any forms or nondisclosure agreements required by the Contract. Contractor personnel must also complete USAC’s information security and privacy awareness training and sign USAC’s Rules of Behavior Form.

## **XVIII. RECORD RETENTION**

During the term of the Contract and for three (3) years following final payment, the Contractor shall maintain and make available at its offices at all reasonable times, the records, materials, and other evidence relating to the Contract for examination, audit, or reproduction.

## **XIX. KEY PERSONNEL**

All Contractor employees assigned to the positions identified in Section B.IX.D are key personnel. The key personnel assigned to the Contract must remain in their respective positions throughout the term of the Contract, as applicable. USAC may terminate all or a part of the Contract if the Contractor changes the position, role, or time commitment of key personnel, or removes key personnel from the Contract, without USAC’s prior written approval. USAC may grant approval for changes in staffing of key personnel if it determines in its sole discretion, that:

- (a) changes to, or removal of, key personnel is necessary due to extraordinary circumstances (e.g., a key personnel’s illness, death, termination of employment, or absence due to family leave), and
- (b) the Contractor has resources (e.g., replacement personnel) with the requisite skills, qualifications and availability to perform the role and duties of the outgoing personnel.

Replacement personnel are considered key personnel and this Section XIX shall apply to their placement on and removal from the Contract.

## **XX. INSURANCE**

At its own expense, Contractor shall maintain sufficient insurance in amounts required by law or appropriate for the industry, whichever is greater, to protect and compensate USAC from all risks and damages/injuries that may arise under the Contract, including as appropriate, public and commercial general liability, personal injury, property damage and employer's liability and worker's compensation insurance. At a minimum, Contractor shall maintain at all times insurance in the amounts identified by the Contractor in response to the RFP.

Contractor shall produce evidence of such insurance upon request by USAC. Contractor shall provide thirty (30) days' prior written notice to USAC in the event of cancellation of or material change in the policy.

## **XXI. CONFLICT OF INTEREST**

It is essential that any Contractor providing Services or Deliverables in support of USAC's administration of the USF maintain the same neutrality, both in fact and in appearance, and avoid any conflict of interest or even the appearance of a conflict of interest. For example, to the extent that Contractor, or any of its principals, has client, membership, financial and/or any other material affiliation with entities that participate in the federal USF in any respect, there may be actual, potential and/or apparent conflict(s) of interest. Contractor shall promptly notify USAC in writing of any actual or potential conflicts of interest involving Contractor, or any circumstances that give rise to the appearance of a conflict of interest, and the means by which Contractor proposes to avoid, neutralize, or mitigate such conflicts. Failure to provide adequate means to avoid, neutralize or mitigate any conflict of interest may be the basis for termination of the Contract. By its execution hereof, the Contractor represents and certifies that it has not paid or promised to pay a gratuity, or offered current or future employment or consultancy, to any USAC or governmental employee in connection with the award. In order to maintain the required neutrality, Contractor must not advocate any policy positions with respect to the Programs or the USF during the term of the Contract. Neither the Contractor nor its subcontractors shall issue any public statement relating to or in any way disclosing any aspect of the Contract without the prior written consent of USAC.

## **XXII. INVALIDITY OF ANY PROVISION**

It is the intent of the parties that the provisions of the Contract will be enforced to the fullest extent permissible, but that the unenforceability of any provision will not render unenforceable or impair the remainder of the Contract, which will be deemed amended, to delete or modify, as necessary, the invalid or unenforceable provisions. The parties further agree to negotiate replacement provisions for any unenforceable term that are as close as possible to the original term and to change such original term only to the extent necessary to render the same valid and enforceable.

## **XXIII. WAIVER**

Any waiver by either party of a breach of any provision of the Contract shall not operate or be construed as a waiver of any subsequent breach by either party.

## **XXIV. SEVERABILITY**

The invalidity or unenforceability of any provisions of the Contract shall not affect the validity or enforceability of any other provision of the Contract, which shall remain in full force and effect.

## **XXV. CHOICE OF LAW/CONSENT TO JURISDICTION**

The Contract shall be governed by and construed in accordance with the laws of the District of Columbia (the term “laws” is to be construed as broadly as possible to include case law, statutes, regulations, orders, etc.) without regard to any otherwise applicable principle of conflicts of laws. Contractor agrees that all actions or proceedings arising in connection with the Contract shall be litigated exclusively in the State and, if applicable, Federal courts located in the District of Columbia (“Courts”). This choice of venue is intended to be mandatory and the parties’ waive any right to assert forum non conveniens or similar objection to venue. Each party hereby consents to in personam jurisdiction in the Courts. Contractor must submit all claims or other disputes to the USAC PM for informal resolution prior to initiating any action in the Courts and must work with USAC in good faith to resolve any disputed issues. A dispute over payment or performance, whether informal or in the Courts, shall not relieve Contractor of its obligation to continue performance of the Contract and Contractor shall proceed diligently with performance during any dispute over performance or payment.

## **XXVI. USAC AND APPLICABLE LAWS**

USAC is not a Federal agency, a government corporation, a government controlled corporation or other establishment in the Executive Branch of the United States Government. USAC is not a contractor to the Federal Government and the Contract is not a subcontract under a federal prime contract. USAC conducts its procurements in accordance with the terms of a Memorandum of Understanding with the FCC, which requires USAC and its Contractors to adhere to certain procurement-related provisions of the Code of Federal Regulations, 2 C.F.R. §§ 200.318-321, 200-323, 200.325-326 and App. II to C.F.R. Part 200 (collectively “Procurement Regulations”). USAC is also required to comply with FISMA and NIST requirements. The Contractor shall comply with the procurement standards and all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under the Contract.

## **XXVII. RIGHTS IN THE EVENT OF BANKRUPTCY**

All licenses or other rights granted under or pursuant to the Contract are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code, or any replacement provision therefore (the "Code"), licenses to rights to "intellectual property" as defined in the Code. The Parties agree that USAC, as licensee of such rights under the Contract, shall retain and may fully exercise all of its rights and elections under the Code. The Parties further agree that, in the event of the commencement of bankruptcy proceedings by or against Contractor under the Code, USAC shall be entitled to retain all of its rights under the Contract and shall not, as

a result of such proceedings, forfeit its rights to any Material, license, Software, Data or works made for hire.

### **XXXI. NON-EXCLUSIVITY/INDEPENDENT CONTRACTOR**

Nothing herein shall be deemed to preclude USAC from retaining the services of other persons or entities undertaking the same or similar functions as those undertaken by the Contractor hereunder or from independently developing or acquiring goods or services that are similar to, or competitive with, the goods or services, as the case may be, contemplated under the Contract.

Contractor acknowledges and agrees that it is an independent contractor to USAC and Contractor's key personnel, employees, representatives, directors, officers, subcontractors and agents are not employees of USAC. USAC will not withhold or contribute to Social Security, workers' compensation, federal or state income tax, unemployment compensation or other employee benefit programs on behalf of Contractor or Contractor personnel. Contractor shall indemnify and hold USAC harmless against any and all loss, liability, cost and expense (including attorneys' fees) incurred by USAC as a result of USAC not withholding or making such payments. Neither Contractor nor any of Contractor's personnel are entitled to participate in any of the employee benefit plans of, or otherwise obtain any employee benefits from, USAC. USAC has no obligation to make any payments to Contractor's key personnel, employees, representatives, directors, officers, subcontractors and agents.

### **XXXII. TEMPORARY EXTENSION OF SERVICES**

USAC may require continued performance of any Contract services within the limits and at the rates specified in the Contract. USAC may extend the services more than once, but the total extension of performance hereunder shall not exceed six (6) months. The USAC Procurement representative may exercise an option to extend by written notice to the Contractor within ten (10) days prior to expiration of the then current term.

### **XXXIII. NOTICES**

All notices, consent, approval or other communications required or authorized by the Contract shall be given in writing and shall be:

- (a) personally delivered;
- (b) mailed by registered or certified mail (return receipt requested) postage prepaid;
- (c) sent by overnight delivery service (with a receipt for delivery); or

(d) sent by electronic mail with a confirmation of receipt returned by recipient's electronic mail server to such party at the following address:

*If to USAC:* Chief Procurement Officer, Universal Service Administrative Co., 700 12<sup>th</sup> Street, NW, Suite 900 Washington, DC 20005

With an email copy to the USAC PM.

*If to Contractor:* To the address or email set forth in the Contractor's proposal in response to the RFP.

#### **XXXIV. SURVIVAL**

All provisions that logically should survive the expiration or termination of the Contract shall remain in full force and effect after expiration or early termination of the Term of the Contract. Without limitation, all provisions relating to return of USAC information, confidentiality obligations, proprietary rights, and indemnification obligations shall survive the expiration or termination of the Contract.

#### **XXXV. EXECUTION/AUTHORITY**

The Contract may be executed by the parties hereto on any number of separate counterparts and counterparts taken together shall be deemed to constitute one and the same instrument. A signature sent via facsimile or PDF shall be as effective as if it was an original signature. Each person signing the Contract represents and warrants that they are duly authorized to sign the Contract on behalf of their respective party and that their signature binds their party to all provisions hereof.

#### **XXXVI. INDEMNITY**

Contractor shall defend, indemnify and hold harmless USAC from and against, any costs, liabilities, damages or expenses (including reasonable attorneys' fees) arising out of or relating to: (a) claims for personal injuries, death or damage to tangible personal or real property to the extent proximately caused by the negligent acts or negligent omissions of Contractor or its employees, agents, consultants, or Subcontractors in connection with the Contract; and (b) claims of any nature whatsoever to the extent caused by the violation of contract terms, negligence, illegal or intentional wrongful acts or omissions of Contractor or its employees, agents, consultants, or Subcontractors in connection with the performance of the Services.

#### **XXXVII. WARRANTIES**

Contractor warrants that any Materials supplied hereunder shall conform to the generally recognized manufacturing and safety standards of Contractor's industry in the United States and shall meet or exceed Contractor's specifications on performance as detailed in Contractor's brochures, sales literature and other specifications as may be available to USAC. In addition,



Contractor warrants that Materials furnished pursuant to this Order will be: (a) free from defects in title, workmanship, and material; (b) free from defects in design except to the extent that such items comply with detailed designs provided by USAC; and (c) will be New Materials in accordance with Section 3, above. If any Materials covered by this Order are found not to be as warranted, USAC may, by written notice to Contractor: (a) rescind this Order as to such non-conforming Materials; (b) accept such Materials at an equitable reduction in price; (c) reject such nonconforming Materials and require the delivery of suitable replacements. Cost of replacement, rework, inspection, repackaging and transportation of such corrected Materials shall be at Contractor's expense. This warranty provision shall survive any delivery, inspection, acceptance, payment, expiration or earlier termination of this Order. Rights granted to USAC in this Section 8 are in addition to any other rights or remedies provided elsewhere in this Order or provided under the law. Contractor shall pass through to USAC all rights and warranties provided by the manufacturer.

### XXXVIII. NEW MATERIALS

Contractor shall provide USAC with the specified support services as described in **Attachment 1** and quantities of the Materials identified on the face of this Purchase Order. Contractor must provide the most recent commercially available versions and releases of the Materials. New items only must be provided; no re-furnished, grey market or previously used, items will be accepted. Grey market is defined as trade of a commodity through distribution channels which are legal but are unofficial, unauthorized, or unintended by the original manufacturer.

### XXXIX. MALICIOUS SOFTWARE

Contractor represents and warrants that it shall use its best efforts to prevent the introduction into USAC's network, software or systems ("USAC IT Systems") of any Software, program, routine, device, or other undisclosed feature that is designed to delete, disable, deactivate, interfere with or otherwise harm USAC's IT Systems or Data, or that is intended to provide unauthorized access or modifications ("Malicious Software"). Contractor agrees that if it introduces, or allows the introduction of Malicious Software into USAC's IT Systems intentionally, negligently or by failure to maintain available safeguards, Contractor must, at no additional cost to USAC, eliminate, or reduce to the greatest extent possible, the effects of the Malicious Software, including restoring Data, and, if the Malicious Software causes a loss of operational efficiency, loss of data or other damages, to mitigate and restore such losses, and to indemnify USAC for any damages Proprietary Rights.

# SECTION D:

## Attachments

### I. ATTACHMENT LIST

- Attachment 1: Bid Sheet
- Attachment 2: Confidentiality Agreement
- Attachment 3: IT Security Network Rules of Behavior Form

## **SECTION E:**

### Instructions and Evaluation Criteria

## **I. GENERAL**

### **A. CONTRACT TERMS AND CONDITIONS**

The Contract awarded as a result of this RFP will be governed by, and subject to, the requirements, Terms and Conditions set forth in RFP sections A, B, C, and D and any attachments listed in Section D (hereafter collectively referred to as the “Terms and Conditions”). Offeror’s submission of a proposal constitutes its agreement to the Terms and Conditions and their precedence over any other terms, requirements, or conditions proposed by Offeror.

The Offeror’s proposal may identify deviations from, or revisions, exceptions or additional terms (collectively “exceptions”) to the Terms and Conditions, but only if such exceptions are clearly identified in a separate section within each proposal volume entitled “Exceptions to RFP Terms.” Proposals that include material exceptions to the Terms and Conditions may be considered unacceptable and render Offeror ineligible for award unless the Offeror withdraws or modifies any unacceptable exceptions prior to USAC’s selection of the successful Offeror for award. USAC will only consider changes or additions to the RFP Terms and conditions that are included in Offeror’s proposal. After selection of the awardee, USAC will not consider or negotiate any exceptions to the Terms and Conditions.

### **B. PERIOD FOR ACCEPTANCE OF OFFERS**

The Offeror agrees to hold the fixed rates in its offer firm for 120 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

Proposals must:

- Be submitted in PDF format, excluding the bid sheet.
- Each volume of the proposal must be submitted as a separate PDF file.
- Concisely address USAC’s requirements, as set forth in the Requirements and Scope of Work (Section B), and should not contain a significant amount of corporate boilerplate marketing information.
- Be submitted to USAC Procurement Department, no later than 11:00 AM ET on January 17, 2018.
- Be submitted in the form of one electronic copy submitted to [rfp@usac.org](mailto:rfp@usac.org). The subject line for all email communication related to this solicitation should **only** state the Solicitation Number, IT-17-170, of this RFP.

### C. PROPOSAL SCHEDULE

DATE	EVENT
December 12, 2017	RFP Released
December 18, 2017	Questions due to USAC by 11:00 AM ET
December 21, 2017	Q&A posted to <a href="http://www.usac.org">www.usac.org</a> procurement website
January 17, 2018	Proposal Due to USAC by 11:00 AM ET at <a href="mailto:rfp@usac.org">rfp@usac.org</a>
TBD	Anticipated Award Date

To be timely, Offeror's proposal must be received by USAC by the Proposal Due Date at the email address specified above. Any offer, modification, revision, or withdrawal of an offer received at the USAC office designated in the solicitation after the Proposal Due Date and Time is "late" and will not be considered by USAC, unless USAC determines, in its sole discretion, that (1) circumstances beyond the control of Offeror prevented timely submission, (2) consideration of the offer is in the best interest of USAC, or (3) the offer is the only proposal received by USAC.

### D. AMEND, REVISE OR CANCEL RFP

USAC reserves the right to amend, revise or cancel this RFP at any time at the sole discretion of USAC and no legal or other obligations are assumed by USAC by virtue of the issuance of this RFP, including payment of any proposal costs or expenses, or any commitment to procure the services sought herein.

## II. CONTRACT AWARD

USAC intends to evaluate offers and make one contract award to an Offeror. USAC may reject any or all offers if such action is in the public's or USAC's interest; accept other than the lowest offers; and waive informalities and minor irregularities in offers received.

## III. IDENTIFICATION OF CONFIDENTIAL INFORMATION

The proposal shall clearly and conspicuously identify information contained in the proposal that the Offeror contends is Confidential Information. *See* Section C.XIII.

## IV. PROPOSAL VOLUMES COVER PAGE

Each volume of Offeror's proposal must contain a cover page. On the cover page, please include:

- The name of the Offeror's organization,
- The Offeror's contact name,

- The Offeror's contact information (address, telephone number, email address, website address),
- The Offeror's DUNS number,
- The date of submittal,
- A statement verifying the proposal is valid for a period of 120 days, and
- The signature of a duly authorized Offeror's representative.

## V. PROPOSAL CONTENT

Each proposal shall be comprised of the following four volumes:

### A. CORPORATE INFORMATION (VOLUME I)

This volume must include:

1. A cover page, as outlined above.
2. An executive summary summarizing all key features of the proposal, including the identification of any subcontractors and affiliated individuals or firms that will assist the Offeror in performing the Contract.
3. Pricing information should not appear in the Executive Summary.
4. A statement regarding any known conflicts of interest.
  - a. USAC procurements are conducted with complete impartiality and with preferential treatment for none. USAC procurements require the highest degree of public trust and an impeccable standard of conduct. Offerors must strictly avoid any conflict of interest or even the appearance of a conflict of interest, unless USAC has otherwise approved an acceptable mitigation plan.
  - b. Offerors must identify any actual or potential conflicts of interest involving the Offeror or any proposed subcontractor, or any circumstances that give rise to the appearance of a conflict of interest, and the means by which it proposes to avoid, neutralize, or mitigate such conflicts. Offerors shall identify such conflicts or potential conflicts or appearance issues to USAC and provide detailed information regarding the nature of the conflict. Examples of potential conflicts include, but are not limited to: (1) any ownership, control or other business or contractual relationship(s), including employment relationships, between the Offeror (or proposed subcontractor) and any USF Stakeholder; (2) an Offeror has a direct personal or familial relationship with a USAC or FCC employee; (3) a former employee of USAC or FCC who had access to confidential procurement-related information works for the Offeror; (4) a USAC or FCC employee receives any type of compensation from the Offeror, or has an agreement to receive such compensation in the future; (5) Offeror has communications with a USAC or FCC employee regarding future employment following the issuance of the RFP for this procurement; (6) any employment or consultation arrangement involving USAC or

FCC employees and the Offeror or any proposed subcontractor; and (7) any ownership or control interest in the Offeror or any proposed subcontractor that is held by an FCC or USAC employee. Offerors must also identify any participation by the Offeror, or any proposed subcontractor(s) or personnel associated with the Offeror, in any of the universal service programs. The requirement in this Section E.V.A applies at all times until Contract execution.

- c. Offerors shall propose specific and detailed measures to avoid, neutralize, or mitigate actual, potential and/or apparent conflicts of interest raised by the affiliations and services described above. If USAC determines that Offeror's proposed mitigation plan does not adequately avoid, neutralize or mitigate any actual or potential conflict of interest, or the appearance of a conflict of interest, Offeror will not be eligible for award of a contract.

## **B. TECHNICAL (VOLUME II)**

This volume must include:

1. A cover page, as outlined above.
2. An in-depth discussion of Offeror's technical approach to providing the labor categories listed in Section B.IX., along with a clear statement of whether or not the Offeror's performance of the Contract will comply with all requirements, Terms and Conditions set forth in the RFP. Offerors must submit a detailed response to this RFP. The Offeror must clearly state whether it will comply with all requirements, Terms and Conditions set forth in the RFP, and provide detailed information about how it will fulfill the requirements of the RFP. Any deviations from, or exceptions to, the requirements, Terms or Conditions contained in this RFP must be clearly identified.

Note: Offers that include material deviations from, or take material exceptions to, RFP requirements, Terms or Conditions will be evaluated as technically unacceptable and will be ineligible for award unless USAC subsequently amends the RFP to modify the requirements or, if discussions will be held, decides to address the deviations/exceptions during discussions and thereby resolves the deviations/exceptions are thereby resolved.

Technical proposals that merely repeat the requirements set forth in the RFP and state that Contractor "will perform the statement of work" or similar verbiage will be considered technically unacceptable and will not receive further consideration. USAC is interested only in proposals that demonstrate the Contractor's expertise in performing engagements of this type as illustrated by the Offeror's description of how it proposes to perform the requirements set forth in this RFP.

3. Capabilities. Describe Offeror's capabilities for performing the Contract, including personnel resources and management capabilities. If applicable, describe how

subcontractors or partners are used and how rates are determined when using subcontractors. Provide a list of firms, if any, that will be used.

4. Experience. Describe your firm's experience in providing a secure server solution and deliverables as required by Section B. Provide a narrative regarding projects, similar in scope to this one, performed in the last three years.
5. Key Personnel. Identify by name all key personnel who will be assigned to the Contract. Key Personnel identified in the proposal shall include the following:
  - a. Project Manager
  - b. Lead Technical Engineer

Submit resumes for all key personnel, as an attachment (**Attachment A**) to the technical volume, no longer than one (1) page in length, that includes his/her degrees and certifications, skills and related experience, a short description of similar projects and roles and responsibilities assumed on such projects

If Contractor, at time of proposal and prior to the award of the contract, has information that any such key personnel anticipate terminating his or her employment or affiliation with Contractor, Contractor shall identify such personnel and include the expected termination date in the proposal.

6. Capabilities Matrix.
  - o Identify the business and technical requirements stated in Sections III and IV that your product currently supports.
  - o Provide a brief explanation of how you would mitigate those business and technical requirements that your product does not currently satisfy.
  - o Provide a roadmap that depicts future capabilities that the product will support. Include a tentative timeline.
7. Implementation Plan. Offeror shall submit a draft Implementation Plan to describe how the offeror plans to manage the resources and implementation activities associate with the Secure Server Solution. The Implementation Plan shall include: (1) a high level overview of Offeror's strategy to successfully implement the Product; and (2) a Project Plan that provides the milestones, durations, and resources necessary to successfully implement a Secure Server Solution.
8. Licensing. Describe how licenses are managed with your product; specify the differences between internal and external users.
9. Training Plan. Offeror shall identify the types of training they provide and provide a thorough training plan and detail the different options (e.g., Train the Trainer, administrator training, etc.)

### **C. PAST PERFORMANCE EVALUATION (VOLUME III)**

This volume must include:

1. A cover page, as outlined above.
2. A list of up to three (3) current or recently completed contracts for similar in scope to those required by this solicitation. Each entry on the list must contain: (i) the client's name, (ii) the project title, (iii) the period of performance, (iv) the contract number, (v) the contract value, (vi) a primary point of contact (including the telephone number and email address for each point of contact, if available), and (vii) a back-up point of contact. If a back-up point of contact is not available, please explain how USAC may contact the client in the event the primary point of contact fails to respond.
  - a. For each past performance, provide a description of the relevant performance and the name and telephone number for USAC to contact for past performance information for each project discussed. A past performance description will consist of: (i) an overview of the engagement, (ii) a description of the scope of work performed, (iii) its relevance to this effort, and (iv) the results achieved. This is the time to identify any unique characteristics of the project, problems encountered, and corrective actions taken. Each overview shall not exceed one (1) page.
  - b. USAC will attempt to contact past performance references identified in the proposal for confirmation of the information contained in the proposal and/or will transmit a past performance questionnaire to the contacts identified in the Offeror's proposals. Although USAC will follow-up with the contacts, the Offeror, not USAC, is responsible for ensuring that the questionnaire is completed and returned by the specified date in USAC's transmittal. If USAC is unable to reach or obtain a reference for the project, USAC may not consider the contract in an evaluation of past performance.

### **D. PRICE (VOLUME IV)**

This volume must include:

1. A cover page, as outlined above.
2. Completed pricing information in **Attachment 1: Bid Sheet**.
  - a. The proposed firm-fixed price must be sufficient to achieve the objectives and deliverables set forth in Section B, and must include all direct and indirect costs, including travel, profit, and overhead.

### **E. INSURANCE (VOLUME V)**

Contractor shall obtain and maintain at its own cost and expense and shall require its subcontractors to obtain and maintain at their own cost and expense insurance of the type set



forth in Section C (Insurance). In this Volume, please indicate the level of insurance coverage to be maintained by offeror during the term of the Contract and the categories of insurance, and supply a copy of the insurance certificate(s).

## VI. EVALUATION

### A. EVALUATION FACTORS

USAC will award a single contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to USAC, price and other factors considered. The following factors, which are listed in descending order of importance, shall be used to compare offers and select the awardees – business and technical capabilities, implementation plan, past performance, and price. When combined, the technical and past performance factors are significantly more important than price.

1. Technical: The technical sub-factors listed below in descending order of importance:
  - a. Technical Approach
  - b. Implementation Plan
  - c. Key Personnel
  - d. Experience
2. Past Performance: Past performance information will be evaluated to assess the risks associated with an Offeror's performance of this effort, considering the relevance, recency and quality of the Offeror's past performance on past or current contracts for the same or similar services. The Offeror's past performance will be evaluated based on the Offeror's discussion of its past performance for similar efforts, information obtained from past performance references (including detailed references for the Offeror's proposed teaming partner(s) and/or subcontractor(s), as applicable) and information that may be obtained from any other sources (including government databases and contracts listed in the Offeror's proposal that are not identified as references).
3. Price Evaluation: USAC will evaluate price based upon the information provided in the Bid Sheet. Price is the least important evaluation factor and USAC may not award a Contract to the lowest priced Offeror. USAC further recognizes that the size of a company, its name-recognition, geographical offerings and the expertise/experience of staff impacts the price of the hourly labor rates offered by the firms, thus making comparisons of differently situated firms less meaningful. Therefore, when considering rates, USAC will use the rates of similarly situated companies for reasonableness and comparison purposes. Price may become a more important selection factor if the ratings for the non-price factors are the same or very close to the same. In addition to considering the total prices of the Offerors when making the award, USAC will also evaluate whether the proposed prices are realistic (i.e., reasonably sufficient to perform the requirements) and reasonable. Proposals containing prices that are determined to be unrealistic or unreasonable will not be considered for award.

4. Insurance: Evidence of insurance required by Section C (Insurance), with specification as to the amount of insurance for each category.

## **B. DOWN-SELECT PROCESS**

USAC may determine that the number of proposals received in response to this RFP (for one or any number of Service Category) are too numerous to efficiently conduct a full evaluation of all evaluation factors prior to establishing a competitive range. In such case, USAC may conduct a down-select process to eliminate Offerors, prior to discussions, from further consideration based on a comparative analysis of Offerors proposals, with primary focus on the price proposal, but USAC may, in its sole discretion, consider other factors such as quality of proposal, technical capabilities and past performance. Proposals that include proposed prices that are significantly higher than the median proposed price for all Offerors may be excluded from the competition without evaluation under the other evaluation factors.

Proposals that contain prices that are unrealistically low in terms of sufficiency to perform the Contract may also be excluded from the competition.

## **C. RESPONSIBILITY DETERMINATION**

USAC will only award contracts to responsible Offerors. USAC will make a responsibility determination based on any available information, including information submitted in an Offeror's proposal. In making a responsibility determination, USAC will consider whether:

1. the Offeror has sufficient resources to perform the Contract;
2. the Offeror has a satisfactory record of performance, integrity and business ethics;
3. the Offeror has the accounting systems and internal controls, quality assurance processes and organizational structure and experience necessary to assure that contract work will be properly performed and accurately invoiced;
4. the Offeror has the facilities, technical and personnel resources required to perform the contract; and
5. the Offeror is not excluded from Government contracting, as listed on the excluded parties list in <https://www.sam.gov>.