



All changes are highlighted in
YELLOW.



ECS III- Contract Details



Award Date: 11/27/2002
Expiration Date: 11/26/2012
Contact: 1-888-773-6542

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SECTION B - SUPPLIES OR SERVICES AND PRICE

B.1 Scope of Work The Contractor, as an independent contractor, and not an agent of the Government shall setup maintain and manage an Electronic Commodities Store III, (ECS III) providing Commercial-Off-The-Shelf (COTS) desktop, laptop, handheld computing devices (including peripherals), workstations, software, networking equipment, commercial telecommunications equipment items related to telephony, including but not limited to (network routers, switches, repeaters, and cabling), scientific research workstations, and other electronic devices and systems, software, (including operating systems), related warranty and maintenance services, and services directly supporting those items above to support the National Institutes of Health and other Federal Government agencies in accomplishing their mission.

B.1.1 The Service Contract Act The Service Contract Act does not apply to this contract

B.2 Schedule Of Items The contractor shall provide the National Institutes of Health (NIH) and other Federal Government agencies with a full range of commercial off-the-shelf hardware, software, documentation, maintenance, peripherals, training, supplies and support services, in accordance with the Statement of Work requirements specified in Section C. All maintenance services are to be performed only in conjunction with hardware, software and peripherals acquired under this contract. A Fixed Price, Indefinite Delivery, Indefinite Quantity type contract is contemplated.

The contractor shall review the statement of work requirements and provide a brief description, including the Original Equipment Manufacturer (OEM); OEM Part/Model Number; Contractor Part/Model Number if different from the OEM Part Number; and a description of all IT resources offered. It is the contractor's responsibility to identify the IT resources that will be available through the NIH Electronic Commodities Store III.

B.2.1 Price Tables/Lots The tables provided are samples to be used by the contractors to prepare their price proposal. The contractor must provide price tables for each year. All of the items or services offered, for which the contractors expects to receive compensation (i.e., payment), must appear in the price schedules. If there is no explicit charge associated with a particular item or service, "N/C" (i.e., No Charge) shall be inserted in the appropriate price column. Lot1 through lot 6 are the unit price tables for the commercial-off-the-shelf (COTS) products and support services offered to satisfy the technical requirements. The information required for each column of the Tables are defined below:

Downloadable Samples of Pricing Tables and LOTS (Excel Format):

[LOT-1A](#) [LOT-1B](#) [LOT-1C](#) [LOT-1D](#) [LOT-1E](#) [LOT-1F](#)
[LOT-2](#)
[LOT-3](#)
[LOT-4](#)
[LOT-5](#)
[LOT-6](#)

Column Descriptions for Tables Specific to Lots 1 through 5:

[Column 1 - Contract Line Item Number \(CLIN\)](#). Enter a sequential line item number starting with 1001 for Table B-1, 2001 for Table B-2, 3001 for Table B-3, 4001 for Table

B-4, 5001 for Table B-5. Each different type of hardware, software, service, or functional capability offered must have a distinct CLIN. Following the last line entry for each Table, enter "Last laptop", "Last workstation" etc. as appropriate.

Column 2 - Date CLIN Request Submitted. In this column the Contractor shall list the date that the CLIN request was submitted to the NITAAC Contracting Officer for contract approval.

Column 3 - Model Number/Identification Number. Enter the specific equipment make and model/feature numbers for all equipment components, which are included in the price tables. The Contractor shall identify the Original Equipment Manufacturer (OEM) and specify the OEM Model Number/Identification Number and specify their Model Number/Identification Number if it is different than the OEM Number.

Column 4 – Product Description and Salient Characteristics. Enter a brief description of the IT Resources and salient characteristics for all the resource components included in the price tables.

Column 5 – Technical Industry Specification (TIS). List technical specification for the product.

Column 6 – Web site for TIS. In this column the Contractor shall list the Uniform Resource Locator (URL) for the catalog where the Lot 1-5 CLINs can be located for TIS specification information.

Column 7 – Copy of Catalog Item (See Attached). In this column the Contractor shall list the Uniform Resource Locator (URL) for the catalog where the Lot 1-5 CLINs can be located for review and commercial pricing information including warranty. An excerpt copy of the catalog should also be provided.

Column 8 – Unit and Quantity. Specify the quantity of items for which the Electronic Commodities Store III price is based. If the price offered is based upon a quantity of one (1) enter (1). If volume discounts are offered, enter the quantity range that is applicable for the offered price i.e. (1 - 10), (11 - 20). Each price break must be listed under a separate Contract Line Item Number.

Column 9 - Electronic Commodities Store III Price. Enter the Electronic Commodities Store price proposed for each IT Resource included in the price tables.

Column 10 - General Services Administration (GSA) Schedule Price and Contract Number. State if the IT Resource is available on a schedule contract from the General Services Administration (GSA). This includes schedule contracts with the OEM and Schedule contracts with the contractor. Enter the GSA price and GSA schedule contract number for all equipment and components included in the price tables.

Column 11 - Percent Discount from the GSA Schedule Price. Enter the discount percentage of the Electronic Commodities Store III price as compared with the GSA schedule price for all equipment and components are included in the price tables.

Column 12 - Catalog/List Price. State if the IT Resource is listed on a published catalog by the OEM or contractor. Enter the catalog or list price for all equipment and components are included in the price tables.

Column 13 - Percent Discount from the Catalog List Price. Enter the discount percentage of the Electronic Commodities Store III price as compared with the catalog/list price for all equipment and components included in the price tables. (optional) Quantity Discounts - In

addition to the discounts cited above, contractors are encouraged to propose discounts based on the quantity of items purchased under each individual Delivery Order.

Column 14 – OEM Warranty. In this column the Contractor shall list the Warranty proposed for the LOT 1-5 CLINs under the ECS III Contract, and state whether it is equal to or less than the commercial warranty listed for the LOT 1-5 CLINs cited at the URL address cited in Column 7.

Column Descriptions for the Table Specific to Lot 6:

Column 1 – Date of Initial Lot 1 – 5 Order. In this column the Contractor shall list the date of the original Lot 1-5 delivery order that determined the need for the Lot 6 CLIN.

Column 2 – Related Initial Delivery Order Authorization Number. In this column the Contractor shall list the Delivery Order Authorization Number of the Lot 1-5 Order that determined the need for the Lot 6 CLIN.

Column 3 – Copy of Catalog Item (See Attached). In this column the Contractor shall list the Uniform Resource Locator (URL) for the catalog where the Lot 6 CLIN can be located for commercial pricing and specification information. An excerpt copy of the catalog should also be provided.

Column 4 – CLIN. In this column the Contractor shall list the Contract Line Item Number for the Lot 6 Item. The CLINs should start at 6001 for Table B-6 and continue sequentially.

Column 5 – Date CLIN Request Submitted. In this column the Contractor shall list the date that the CLIN request was submitted to the NITAAC Contracting Officer for contract approval.

Column 6 – REQUIRED: Attach Adequate Work Description of Related Services. In this column the Contractor shall describe the work description of the Lot 6 services being rendered for the Lot 1-5 order.

Column 7 – Original Equipment Manufacturer’s Number (OEM) Model Number. In this column the Contractor shall list the OEM model/part number to enable the NITAAC Contracting Officer to track the commerciality and pricing of the Lot 6 CLIN.

Column 8 – Manufacturer. In this column the Contractor shall list the manufacturer of the Lot 6 CLIN.

Column 9 – Description. In this column the Contractor shall provide a short description of the LOT 6 CLIN being acquired.

Column 10 – Unit and Quantity. In this column the Contractor shall describe the LOT 6 CLIN unit for ordering and quantity required.

Column 11 – ECS Price. In this column the Contractor shall list the price of the LOT 6 CLIN as it is being offered under the ECS III contract.

Column 12 – GSA Schedule Price and Contract Number. In this column the Contractor shall list the price of the LOT 6 CLIN as it is currently offered under a GSA Schedule contract. If it is a Lot 6 CLIN offered under a GSA Schedule Contract, also enter the contact number.

Column 13 – Catalog List Price. In this column the Contractor shall list the price of the LOT 6 CLIN as it appears in the Commercial catalog, corresponding to the URL price that is listed at the URL address in Column 3 of this Lot 6 Table.

Column 14 – Percentage Discount of Catalog Price. In this column the Contractor shall list the percentage of discount between the Commercial catalog price of the Lot 6 CLIN and the price as offered under the ECS III Contract.

Column 15 – Warranty. In this column the Contractor shall list the Warranty proposed for the LOT 6 CLIN under the ECS III Contract and state whether it is equal to or less than the commercial warranty listed for the LOT 6 CLIN cited at the URL address cited in Column 3.

B.2.2 RESERVED

B.3 Program Ceiling Amount The program ceiling amount established for this acquisition is \$600 million a year for ten years a period of one hundred twenty (120) months. The following provisions will apply if this solicitation results in the award of multiple contracts: a Minimum contract amount established for this acquisition is \$100.00. Maximum contract amounts will not be established for individual contracts, however, the aggregate amount expended under all of the contracts resulting from this solicitation shall not exceed \$6,000,000,000.00 during a one hundred twenty (120) month period.

PART II - THE SCHEDULE

SECTION C - STATEMENT OF WORK/SPECIFICATIONS

C.1. OBJECTIVE.

C.1.1 This statement of work defines the National Institutes of Health (NIH) Electronic Commodities Store requirements for:

- Lot 1: commercial-off-the-shelf (COTS) desktop, laptop and handheld computing devices (including peripherals), workstations, software, and networking equipment,
- Lot 2: commercial telecommunications equipment items related to telephony (including, but not limited to network routers, switches, repeaters, and cabling),
- Lot 3: scientific research workstations, and other electronic devices and systems,
- Lot 4: software (including operating systems),
- Lot 5: related warranty and maintenance services, and
- Lot 6: support services that provide direct support to Lots 1-5 products/services that are being (or have been) acquired under ECS III.

C.1.2. The Electronic Commodities Store contract provides a mechanism to acquire Information Technology (IT) resources in production at the time of acquisition, for the Institutes and Centers of the National Institutes of Health, and for other Federal agencies. It is anticipated that the National Institutes of Health will make multiple awards of Indefinite Delivery, Indefinite Quantity

type contracts as a result of this solicitation. The NIH envisions a performance based acquisition vehicle that will provide the best execution of delivery orders for IT Commodity goods listed above (Lots 1-6). The NIH seeks to acquire state-of-the-art commodities including electronics and computing devices capable of executing the latest generation of software under Microsoft Windows XP/.NET, Mac and UNIX (primarily SUN, SGI, and Linux) operating systems. The NIH requires innovative acquisitions (e.g. broker), acquisitions through flexible financing (e.g. leaser/lessee, lease to own), and traditional acquisition channels (e.g. distributor, independent contractor). The NIH seeks to acquire these commodities and services within the concept of "best execution", which is regarded as the best net price achievable under the current circumstances. Performance based Incentive Awards will be made available to those awardees that are successful in meeting the objectives of this solicitation. In addition to providing the best execution of a delivery order, the successful Contractor(s) will provide efficiencies of operations (e.g. order aggregation) that will recognize the market value of several delivery orders for any particular agency. Incentive Awards will be determined in part by how well the best execution is met, especially in comparison to other Government-Wide Acquisition Vehicles.

C.2. OPERATIONAL ENVIRONMENT.

C.2.1. Although the NIH's current networking environment is based on the IEEE 802.3 and IEEE802.11x standards, with Transmission Control Protocol/Internet Protocol (TCP/IP) and vendor proprietary protocols such as IPX, and Appletalk, it is not known what the environment will be at the time that this contract expires. Therefore, the purpose of this solicitation is to provide equipment to maintain currency of the installed base of desktop, fileserver, and workstation computers as well as provide a source for first time procurement of IT commodities and services.

C.2.2. Desktop, Workstation and Fileserver Computing Environment The equipment shall be used in various environments at the NIH. The three primary user communities are: Intramural Research Programs, which consist of biomedical researchers and staff, and of hospital personnel and staff; Extramural Programs, which consist of health science administrators and staff; and NIH administrators (budget, personnel, procurement, clerical, service support staff, and action officers, etc.) and staff. There is a range of users in each of the previous categories, from novice to power users. There is a range of requirements for each of the user communities. For example, the Intramural Research Programs use desktop machines to perform tasks such as creating scientific manuscripts, and the same machine may be used to operate a piece of scientific research equipment.

C.2.3. Business Procedure Environment The NIH Information Technology Acquisition and Assessment Center (NITAAC), with the assistance of NIH Institutes and Centers, will maintain a record of all information relevant to order processing and contract administration. Product information such as descriptions, prices and specifications shall be electronically and remotely accessible by NIH customers and other users of this contract (the Department of Health and Human Services, and other Federal Agencies) within 15 business days after contract award. Vendors should be prepared to comply with the NITAAC designated Internet implementing convention that will allow catalogue product search capability and on-line ordering. The minimum required elements of the on-line catalogue are CLIN, product description (including salient characteristics), OEM part name and part number, and ECS III price.

C.2.3.1. Processing Fee Awardees shall collect for NITAAC a 1% processing fee on all delivery orders placed through the ECS III. Orders originating from the NIH shall be exempt from the 1% processing fee. The collected fees shall be remitted to NITACC monthly.

C.2.3.2. Incentive Award Administration The 1% processing fee includes the base for the Incentive Awards. The Incentive Award base shall be equal to 25% of the total amount of processing fees collected and remitted to NITAAC. NITAAC will evaluate awardees on their ability to provide best execution, and shall rank-order all awardees. Each awardee shall then be assigned a score from 0 to 100. The awardee's Incentive Award will be equal to the percent of the

total award fee base that is represented by their score (e.g. a score of 10 will earn 10% of the remitted performance base). Awardees that do not remit the collected 1% fees will automatically be assigned a score of 0. This process shall occur quarterly, within 20 business days after the start of the quarter. Contractors explicitly agree that the assignment of rank order and of score is final, and may not be protested or otherwise contested.

C.2.3.3. Electronic Commerce In accordance with the Government Paperwork Elimination Act (GPEA, see OMB Memorandum M-00-10), NITAAC is implementing to the greatest degree possible the paperless processing of all NIH Electronic Commodities Store orders, reports, pricing information, and other relevant business documents.

C.2.3.4. Electronic Data The Contractor(s) must be able to transmit, receive, and process electronic documents. They must comply with published government data conventions and implementation guidelines including NIH's IT architecture. All transactions will be conducted in a secure manner (public/private key encryption, authentication, non-repudiation) whether the transport mechanism is the Internet or a Virtual Private Network (VPN).

C.2.3.5. Electronic Commerce and www Electronic Catalogue Implementation The Electronic Commodities Store Contractor(s) shall make available to NITAAC, NIH Institutes and Centers (ICs), and authorized users of this contract, within 15 business days of contract award, a full complement of contract related resources, documents, and information like those described in C.2.3 above, on the World Wide Web. In addition, the Contractor(s) agrees to accept orders placed against the NIH Electronic Commodities Store Contract, issue invoices and receive payment through electronic commerce implemented by NIH and approved by the NITAAC. Vendors should be prepared to comply with the NITAAC designated Internet implementing convention that will allow catalogue product search capability and on-line ordering. The minimum required elements of the on-line catalogue are CLIN, product description (including salient characteristics), OEM part name and part number, and NIH ECS III price. For the purpose of evaluation, the Contractor shall provide a URL address to view its proposed electronic catalogue.

C.3. APPLICABLE DOCUMENTS

The standards referenced in this Statement of Work may be obtained from the applicable documents listed below. In the event of conflict between these documents and the contents of the rest of this technical specification, these documents shall govern. The below listed documents are for prospective Contractors to ensure compliance with applicable standards.

C.3.1 Office of Management and Budget (OMB) Circular A-130 may be found at:

<http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html>

OMB Memorandum M-00-10 may be found at:

<http://www.whitehouse.gov/omb/memoranda/m00-10.html>

C.3.2 DHHS Automated Information Systems Security Program Handbook.

The DHHS AISSP Handbook may be found at:

<http://www.oir.nih.gov/policy/aissp.html>

C.3.3 National Computer Security Center Documents.

Copies of security requirements may be obtained from: National Infosec Service Center

<http://www.nsa.gov/ia/index.cfm>

C.3.4 Defense Security Service Documents.

Copies of security requirements may be obtained from: Defense Security Service Security Library

<http://www.dss.mil/seclib/index.htm>

C.4. COMMERCIALY AVAILABLE PRODUCTS

C.4.1. Equipment and software proposed in response to this solicitation shall by the closing date for the submission of initial proposals be commercially available, off-the-shelf, state-of-the-art, in current production and have previously been the subject of one or more sales. The proposal of prototype, developmental, limited production, or beta test products is not acceptable. A proposal with discontinued, announced discontinued or used/refurbished, remanufactured, or reconditioned products is also not acceptable. a) An item is "commercial" if it is customarily used for other than Government purposes, and it has been sold, leased, or licensed to the general public or the Government, or has been offered for sale, lease or license to the general public. b) An item is "available" if it has evolved from an item described as a commercial item in C.4.1.a., above, through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation. c) "State-of-the-art" is defined as recently designed components, which are in current production, marketed, available, and maintained. d) To be in "current production", an item must be completely constructed with components specified by the manufacturer for that equipment, and those component types (not necessarily the specific components) must have been manufactured within the last 180 calendar days.

C.5. CONTRACT TERMINOLOGY AND GENERAL REQUIREMENTS

C.5.1. Definitions.

Broker. For the purposes of this acquisition a broker is regarded as the agent of both parties to a purchase/lease agreement. However, the broker is deemed the agent only of the party from whom the broker receives the original request for purchase/lease; and is not regarded as the agent of the other until the terms of the purchase/lease have been ratified between the principals.

Equipment. The term equipment is used throughout the solicitation to refer to a combination of items such as hardware, software, and firmware.

C.5.2. Certifications. The requirement for compliance with the Commercial Items, EPA Energy Star, Federal Communications Commission (FCC) Class B, EN 55022 Class B, and Underwriters Laboratory (UL) Listing is required by contract award. The UNIX compliant operating systems listed on the NIST POSIX approved product listing is required within twelve months after contract award. All desktop, file server, Web server, and application server systems shall be certified for the then current version of Windows (contained in the Microsoft Hardware Compatibility List, or HCL) within 12 months of contract award even though Windows may not be provided in the contract (the 12 month period is intended to provide Microsoft with sufficient time to evaluate and certify the offering). Such systems that are delivered prior to appearance on the NIST approved products listing and Windows HCL certification will be retrofitted or replaced for compliance, if necessary, at no cost to Government.

C.5.3 EPA Energy Star. This Section specifies that contractors shall offer equipment that is Energy Star compliant. At contract award, the sole Energy Star requirement shall be the self-certification by the Contractor that the offered equipment is Energy Star compliant. If any equipment fails to meet Energy Star requirements, the Contractor(s) shall replace, not retrofit, at no additional cost to the Government, all equipment it delivers under this contract to be Energy Star compliant as determined by the EPA sanctioned test. All subsequent deliveries of equipment shall also be Energy Star compliant as determined by the EPA sanctioned test. Equipment specifically exempted from EPA Energy Star requirements (e.g., multi-user systems) is exempt from this article.

C.5.4 Security. The Contractor must provide assurances that it meets the safeguards outlined in the Office of Management and Budget Circular A-130, Management of Federal Information Resources, and DHHS Automated Information Systems Security Program (AISSP) Handbook,

version 2.0. The Contractor may be required to provide a written security plan prior to performance that addresses the safeguards required by delivery orders.

C.5.4.1 Information, computer systems, LANs, and other telecommunications systems at NIH should be considered to be categorized as high criticality/high sensitivity systems, as defined in the DHHS AISSP Handbook, unless otherwise identified by the Government.

C.5.4.2 The Contractor shall agree to establish and follow any additional security precautions considered by NIH to be necessary to ensure proper and confidential handling of data and information. A written agreement between NIH and the Contractor shall be reached before data and information otherwise exempt from public disclosure may be disclosed to the Contractor. The Contractor must include these requirements in any subcontract awarded under the prime contract.

C.5.4.3. Contractor personnel shall be granted rights of entry to and exit from those NIH and other Government facilities required for performance of work under this contract. Contractor employees shall comply with all applicable directives and policies regarding conduct of personnel and operation of the facility. The Government reserves the right to require Contractor personnel to "sign-in" upon entry to and "sign-out" upon exit from any Government facility.

C.5.4.4. The Contractor shall secure and protect all Contractor-owned and Contractor employee-owned personal property and equipment brought into Government facilities during performance of work under this contract. The Government shall not be held liable for loss of or damage to Contractor-owned or Contractor employee-owned personal property or equipment brought into Government facilities. The Contractor shall remove any Contractor-owned or Contractor employee-owned personal property deemed inappropriate by the Government, for any reason, from the Government facility in which it is found.

C.5.4.5. Under no circumstances are Contractor personnel permitted to use Government equipment, software, or supplies for purposes other than performance of this contract.

C.5.4.6. All Contractor employees must be United States citizens, legal residents of the United States, or aliens authorized temporary employment in the United States before they can be employed under this contract. All Contractor employees and sub-Contractor employees must sign a "Commitment to Protect Privileged Information Contractor Agreement" form. The Contractor will be held liable for any inappropriate disclosure of information/data by its employees or via any system used by the Contractor. Should the Contractor become aware of the need for additional safeguards, it must notify the COTR immediately.

C.5.5. Americans with Disabilities Act All equipment and services provided by the Contractor(s) shall comply with ADA requirements. Specifically, equipment offered must be adaptable to meet the requirements of persons with disabilities, where such adaptations would not place an undue burden on the manufacturer.

C.6 DESKTOP COMPUTER REQUIREMENTS

C.6.1 The Contractor(s) shall establish, operate, and manage the NIH Electronic Commodities Store, ensuring that necessary hardware, software, maintenance, training, and documentation are available to satisfy the NIH desktop computing needs. Due to the wide range of Personal Computers in use at the NIH, the Contractor(s) shall provide a wide range of equipment from a wide range of Original Equipment Manufacturers. The Contractor(s) is also strongly encouraged to consider providing equipment that may be beyond the requirements of the NIH in order to address the requirements of other Federal Agencies that will utilize this acquisition vehicle. For example, the Contractor(s) may consider C2 security requirements, or NSA certification requirements, in selecting OEM equipment to offer.

C.7 EQUIPMENT REQUIREMENTS.

C.7.1 The wide range of network equipment currently in use at the NIH requires a wide range of network equipment and accessories to ensure the preservation of capital investments in LAN/WAN infrastructure and operability. The primary topology for any NIH LAN is 10Base-T, 100Base-T, or ATM. In addition, the NIH requires network and telephony equipment such as, but not limited to storage and application (including WWW) servers, storage area networks, wireless hubs, and telephonic devices and services.

C.7.2 The broad range of NIH's functions in health, biomedical research, statistics, and science in general requires a broad range of computational requirements for UNIX based workstations and support equipment. The functional categories of workstations and accessories required by users of the Electronic Commodities Store include Data Servers, and High-performance Graphics Workstations

C.9 CONTRACT MANAGEMENT.

C.9.1 Contractors are encouraged to propose Web-based reporting in response to the reporting requirements listed below.

C.9.2 Recipients. Specific postal or Internet addresses for delivery of the reports and other files will be provided by the NIH Office of Procurement Management at the post-award conference.

C.9.3 Ordering Catalog. See Sections F and G.

C.9.4. RESERVED

C.9.5. Project Status Reviews. The Contractor(s) shall participate in Project Status Review (PSR) meetings with the Government quarterly. The location for each meeting will be specified by the Government. The meeting may be held more often at the request of the Contracting Officer.

C.9.6. Pricing. If Contractor(s) propose an NIH Electronic Commodities Store price which is higher than the GSA schedule price or the Catalogue List price, then Contractor(s) shall provide explanation for the higher price on an attachment to material provided by Contractor(s) under the Tables in Section B.

C.10. CONFIGURATION MANAGEMENT.

C.10.1. Notification of Changes. See Section F.

C.11. WARRANTY.

C.11.1. The Contractor(s) shall extend all warranties to be identical to those offered to the general public in customary commercial practices when those terms exceed the requirements of this solicitation. The Contractor(s) may at its discretion offer, as separately priced, extended warranties for warranty coverage beyond the minimum OEM warranty period, and may offer terms including decreased (faster) response times and on-call, on-site support.

C.11.2. On-Site Locations. The Contractor(s) shall provide warranty service for all equipment the Contractor delivers under this contract to the Washington D.C. Metropolitan Area. The Government recognizes that the terms of this article may be met by OEM warranty terms.

C.11.3. Other Locations Outside the Washington D.C. Metropolitan Area. The Contractor(s) shall provide a method for warranty, which may be separately priced, for equipment the Contractor delivers, for other locations not listed in the paragraph above. The Contractor(s) shall provide for repairing the equipment including the means to transport the systems. The Contractor(s) shall bear all shipping costs and responsibilities both to and from the Government site.

C.11.4. Coverage Period. The warranty period will commence upon date of delivery to the Government. User receipt of an item that is inoperable upon delivery shall be resolved in accordance with the warranty provisions of the contract. Period, the newly installed part shall become Government property. The defective part shall become the property of the Contractor(s) except the Government reserves the right to purchase defective hard drives and removable hard drives containing sensitive or classified material that is required by statute or regulation to be destroyed or retained by the Government. The effective warranty for all replacement items installed during the initial warranty period shall be the greater of (1) the remaining warranty period on the original item or (2) a 90 calendar day warranty period provided with each replacement item. All replacement parts shall conform to technical specifications and architectural standards as described in this solicitation.

C.11.6. New or Warranted Parts. Only new parts or parts warranted by the OEM as equal to new shall be utilized for replacement when repairs are made.

C.11.7. Time to Repair. Equipment/software (including documentation) delivered to all Washington D.C. metropolitan area locations shall be repaired or replaced, and fully operational within two (2) working days following notification to the Contractor(s)' designated technical support personnel of the need for warranty service. Equipment/software (including documentation) delivered to all other area locations shall be repaired or replaced, and fully operational within five (5) working days following notification to the Contractor(s)' designated technical support personnel of the need for warranty service. Temporary replacement equipment may be used to satisfy this requirement provided that the replacement equipment is provided at no additional cost to the Government, and that it is functionally equivalent or exceeds equivalence to the equipment being repaired or replaced.

C.11.8. Warranty Conditions. The Government shall be able to upgrade PC systems by inserting items or attaching other devices such as third party cards or disk drives without voiding the warranty on items delivered under this contract. Substitutions and additions of equipment not manufactured or supplied by the Contractor(s) shall be subject to the following: (1) The Contractor(s) will not be responsible for damage caused to the original equipment provided the damage results from the use of third party equipment, and (2) The Contractor(s) will not be responsible for defects or overall system performance degradation if such defects or performance degradation result from the use of third party equipment.

C.12. TELEPHONIC SUPPORT.

C.12.1. Telephonic support via a toll free number shall be provided by the Contractor(s) to the Government.

C.12.2. Availability. Telephonic support services shall be available, as a minimum, Monday through Friday, 8:00 a.m. through 6:00 p.m. Eastern Time, excluding U.S. Government holidays. Recorded answering services are not acceptable to the Government during those times. The Contractor(s) shall provide a method for telephonic support services, such as a Fax-back service, a paging service, or third-party support service, for worldwide support whereby requests for telephonic support are responded to no later than the next business day for requests originating outside of the Continental United States.

C.12.3. Services. As a minimum, Telephonic Support Services shall consist of the following:

a) Order Processing and Order Tracking Information. When provided with a Government delivery order number (the ECS authorized tracking number), the Contractor(s) shall be required to provide the Government the date of receipt of the order and the shipping status.

b) User Technical Assistance. The Contractor(s) shall be prepared to receive product problem reports and assist the user towards timely resolution of the reported problem. Reports of problems may also come through Email and/or Internet/WWW messaging. The Contractor(s) is

responsible for hardware/software related calls for all products which are covered under warranty. The Contractor(s) shall maintain contact with the reporting user until final resolution and user notification. Interim resolution of a software problem is to include a work around solution until the problem is finally corrected in the next release or version of the product. Technical assistance may be provided by the OEM to satisfy this requirement.

C.12.3.1. Telephonic Support Personnel. Contractor(s)' personnel manning the telephonic support service telephones shall have sufficient expertise to recommend corrective actions for hardware and software problems, and the personnel shall speak and understand English.

C.13. MAINTENANCE SUPPORT.

C.13.1. Contractor(s) shall propose software and hardware maintenance, including but not limited to prepaid software license upgrade rights and routine hardware maintenance, for hardware and software on this contract. At the Government's option, the Government may order, at any time during a warranty period, monthly or yearly maintenance at the Monthly/Yearly Maintenance Discounted Amount in the pricing proposal. The Contractor(s) shall propose a fixed-price for maintenance services during the principal period of maintenance (PPM), 8:00 a.m. to 5:00 p.m., excluding weekends and Government holidays. For maintenance outside PPM, it shall be priced as time and materials. Spare parts should be priced separately. Such maintenance shall be separately priced.

C.14. ORDER PROCESSING.

C.14.1. The Contractor(s) shall have the capability to receive and process orders both in hard copy and electronic media.

C.15. QUALITY ASSURANCE

C.15.1. The Contractor(s) shall provide Quality Assurance to ensure that configurations ordered are adequately burnt-in and tested prior to shipment. The Contractor(s) shall also provide quality assurance to ensure that the requirements of this contract are met from initial acceptance of equipment by the Government and throughout the life of the contract, in accordance with the Commercial Items clause. The Government reserves the right to perform quality assurance inspections to assure the requirements of the contract have been met. Technical personnel necessary for Government inspections shall be provided by the Contractor(s) when requested.

C.16. EXPEDITED DELIVERY AND ON-SITE CRISIS SUPPORT.

C.16.1. The Contractor(s) shall propose expedited delivery and on-site crisis support services for an as-requested basis.

C.17. TRAINING AND OTHER INTEGRATION SERVICES.

C.17.1. The Government encourages contractors to propose in Table B-10 different types of standard commercial training and other services related to installation and set-up of delivered equipment.

C.18. PROMOTING THE CONTRACT.

C.18.1. The Contractor(s) shall promote this contract to all NIH ICs, the Centers for Disease Control and Prevention, the Office of the Secretary of Health and Human Services, and other eligible users during the life of the contract. This may include utilization of existing Contractor(s) marketing resources near the NIH facilities and users of the contract. This should include the use of the Internet resources such as mail lists and the WWW. The Contractor(s)' goals shall be to:

- A) Make customers aware of this procurement vehicle.
- B) Make customers aware of available products and services.
- C) Make customers aware of sub-Contractor(s) products and services.
- D) Assist customers in creating timely and accurate purchase orders.

PART II - THE SCHEDULE

SECTION D - PACKAGING AND MARKING

D.1 PRESERVATION, RESERVATION, PACKAGING and PACKING

Unless otherwise specified, all items shall be preserved, packaged and packed in accordance with normal commercial practices and in a manner that will afford protection against corrosion, deterioration and physical damage during shipment. The items shall be packed in a manner conforming to the requirements of Uniform Freight Classification for rail shipment; National Motor Freight Classification for truck shipment; Parcel Post Regulations, and the regulations of other carriers as applicable to the mode of transportation employed.

D.2 MARKING

Exterior shipping containers and items not shipped in containers shall be clearly marked on an external surface as follows:

- a) Name of contractor
- b) Contract/order number
- c) Itemized list of contents including quantity and CLIN
- d) Consignee's title, address and telephone Number
- e) Package number of multiple packages (i.e., 1 of 5, 2 of 5)

D.3 INITIAL PACKING, PACKING AND STORAGE OF ITEMS

All initial packaging, packing and storage incidental to shipping of items to be acquired under this contract shall be made at the contractor's expense. Such packaging, packing and storage cost shall not be billed to the Government.

D.4 RESERVED

PART II - THE SCHEDULE

SECTION E - INSPECTION AND ACCEPTANCE

E.1 General At the minimum the following paragraphs shall be applicable to all Delivery Orders issued under this contract. Additional inspection and acceptance requirements may be specified in each Delivery Order.

E.2 APPROVING AND ACCEPTING AUTHORITY

The delivery orders issued by outside customers will have their own acceptance official. Each delivery order issued by NIH customers and non-NIH customers will have its own acceptance official.

E.3 INSPECTION AND ACCEPTANCE LOCATION

Government inspection and acceptance of all CLIN's hereunder shall take place at the installation site. The installation site is the location set forth as place of delivery under specified on each individual Delivery Order.

PART II - THE SCHEDULE

SECTION F - DELIVERIES OR PERFORMANCE

F.1 DELIVERY SCHEDULE

Delivery schedule must be specified with each quotation or during the per order verification, and should be reflected in any resulting delivery order.

F.2 DELIVERY LOCATION

The place of performance and/or delivery for all items to be acquired hereunder will be specified in the individual Delivery Orders issued under this contract.

F.3 RESERVED

F.4 RESERVED

F.5 TRANSPORTATION

F.5.1 Transportation Charges The contractor shall make all arrangements for transportation. All transportation charges for deliveries to the Contiguous Continental United States (CONUS) shall be included in the item prices. Transportation charges for deliveries outside the Contiguous Continental United States (OCONUS) will be negotiated on each individual delivery order.

F.5.2 Equipment Shipped for Replacement The contractor shall bear the transportation charges whenever equipment is shipped for replacement purposes, unless the replacement was due to a cause specified as a Government responsibility in accordance with the "Responsibility for Supplies" clause (FAR 52.246-16).

F.6 PERIOD OF PERFORMANCE

The period of performance for this contract shall be 10 years (120 months) from date of contract award.

F.7 REPORTS OF WORK

(a) Bi-weekly reporting requirements (FRIDAY) **(Sample report to be provided prior to contract award.)** The contractor shall provide a biweekly sales report. One copy of the biweekly report shall be provided electronically to the financial analyst at the financial team e-mail in section G. One copy is also to be provided to the contracting officer in section G. The report is to be received no later than the close of business. (see attachment 2 section J for report format).

(b) Monthly progress/check reports **(Sample report to be provided prior to award)** The contractors shall provide a monthly check report. One copy of the monthly check report shall be provided electronically to the financial team and contracting officer. The due dates for the reports are the 10th of each month. (see attachment 3 section J for report format). (C) Project Status Reviews The contractors shall attend and participate in Project Status Review (PSR) meetings with the Government on a quarterly basis. The technical meetings will be held in the Washington D.C. Metropolitan area and will be scheduled by the Project Manager at a date and time mutually agreed upon by the Contractor and the Government.

PART II - THE SCHEDULE

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 PROJECT MANAGER

1. (To be designated at time of award), is hereby designated as the Project Manager. The Project Manager may be changed at any time by the Government without prior notice to the contractor but notification of the change, including the name and address of the successor Program Manager, will be promptly provided to the Contractor by the Contracting Officer in writing. The Project Manager, Victor Powers is located at the National Institutes of Health, DHHS, 6011 Executive Blvd. 5th floor.
2. His telephone number and Area Code 301/435-3902.
3. The responsibilities and limitations of the Project Manager are as follows:
 - (a) The Project Manager is responsible for the technical aspects of the project and technical liaison with the Contractor. The Project Manager is also responsible for:
 - (1) Monitoring the Contractor's technical progress, including the surveillance and assessment of performance and recommending to the Contracting Officer changes in requirements;
 - (2) interpreting the Statement of Work or specifications and any other technical performance requirements;
 - (3) performing technical evaluation as required;
 - (4) performing technical inspections and acceptances required by this contract; and
 - (5) assisting in the resolution of technical problems encountered during performance, and such other responsibilities as may be specified in the contract.
 - (b) The Project Manager is not authorized to make any commitments or otherwise obligate the Government or authorize any changes that affect the Contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the Project Officer. No such changes shall be made without the expressed prior authorization of the Contracting Officer.

G.2 CONTRACTING OFFICER'S AUTHORITY

The Contracting Officer is the only person with the authority to act as agent of the Government under this contract. Only the Contracting Officer has authority to:

- (1) direct or negotiate any changes in the Statement of Work or specifications;
- (2) modify or extend the period of performance;
- (3) change the delivery schedule; or
- (4) otherwise change any terms and conditions of this contract.

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of this contract and notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event the contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in costs incurred as a result thereof.

G.3 ACCOUNTABLE MANAGEMENT OFFICIAL

The individual within the customer's organization (NIH or external), who is empowered to obligate the Government, this individual has the authority to bind the Government to the extent of the authority delegated to him/her. The dollar threshold set forth in the individual's delegation may not

be exceeded. In most cases, this individual will be the contracting officer. This individual would have control over the individual Delivery orders.

G.4 CONTRACT MANAGEMENT

Notwithstanding the Contractor's responsibility for total management responsibility during the performance of this contract, the administration of the contract will require maximum coordination between the Government and the contractor. The following individuals will be the Government points of contact during performance of the contract: The Contracting Officer for this contract is identified as:

Millicent Manning
6011 Executive Boulevard, Suite 503-G
Rockville, Maryland 20892
Tel: (301) 402-3072
Fax: (301) 402-2431
email: ManningM@od.nih.gov

The Administrative Contract Specialist for this contract is identified as:

Monique Woodard
6011 Executive Boulevard, Suite 503-D
Rockville, Maryland 20892
Tel: (301) 435-3885
Fax: (301) 402-2431
email: WoodardM@od.nih.gov

- a. **Project Manager** The duties and responsibilities of the Project Manager, and the delegation thereof, are stated in Section G.1 of this contract.
- b. **Financial Analysis Team** The NIH financial analysts team have the following responsibilities: tracking gross sales, NIH sales and outside NIH sales by contractor and by contract on a monthly basis; reconciling contractor-end-of-the-month financial reports to the Delivery Orders and the 1% NITAAC processing Fee received by the NIH, Office of Financial Management; follow-up will include contacting contractors and agencies to reconcile discrepancies.
- c. **Contracting Officer** All contract administration will be effected by the Contracting Officer, address as shown on face page of this contract. Communications pertaining to contract administration matters will be addressed to the Contracting Officer. No changes in or deviation from the scope of work shall be effected without a Supplemental Agreement executed by the Contracting Officer authorizing such changes.

G.5 CONTRACTOR REPORTING REQUIREMENTS

The contractor shall send biweekly sales reports and attach copies of all delivery orders that appear on the biweekly reports for each week ending Saturday. The Delivery Order authorization number, (see article H.5) which is assigned by the contractor, must be displayed on the biweekly sales report as well as on the upper right hand corner of the first page of the corresponding delivery order. A delivery order authorization number is also required for any modifications to a delivery order and all modifications to orders must be listed as a separate line item. The first page of the delivery order must include a subtotal for the order (total excluding NIH 1% processing fee), the NIH 1% processing fee and the total. A copy of the biweekly sales report and attached copies of delivery orders including all pages of the delivery order shall be provided to the financial analysts at the financial team address provided below. A copy of the biweekly report without the attached delivery orders shall be provided to the Contracting Officer. The reports are to be received no later than the Friday of the following week. If there is no sales activity, the report is still requires saying "NO SALES" (Report format is incorporated as Section J Attachment No. 2 to the contract). The biweekly sales report can be electronically sent, mailed, faxed or delivered. If a

separate contract line item addressing the NIH 1% processing fee is not displayed on the delivery order, then the contractor is prohibited from filling the order until he receives a modification to increase the amount of the order by the 1% processing fee. All processing fees on this contract will be contractor collect. a. A financial analysis team has been added to this contract. Financial Analysts: The NIH financial analysts identified below have the following responsibilities: tracking gross sales, NIH sales and outside NIH sales by contractor and by contract on a bi-weekly basis; reconciling contractor biweekly/monthly financial reports to the funding documents/orders and the NIH 1% processing fee received by the NIH, Office of Financial Management, and follow-up that includes contacting vendors and agencies to reconcile discrepancies.

TO BE PROVIDED UPON AWARD

b.1 PAYMENT OF NIH PROCESSING FEE A check for the NIH 1% processing fee must be sent monthly for the sum of all NIH processing fee payments received by the contractor for the previous month. The Contractor must bill the 1% fee as a separate line item on the first invoice to the external customer. The check should be sent to the NIH cashier's office at the following address:

**NIH, OFM, FSB
Building 31, Room B1B29
31 Center Drive, MSC 2054
Bethesda, Maryland 20892-2054**

The check shall only cover ECS III payments. Checks for other contracts must be sent separately. The check must be payable to NIH and identified with the following information:

**NITAAC
Contract Name (ECS-III)
Contract Number
Appropriation/CAN Number:**

c. Monthly Check Report A copy of the check should be sent to the Financial Analysts. The check report will provide details relating back to which NIH processing fee(s) were paid by the check, showing individual dollar amounts and identifying authorization number of each order being paid. All modifications to the original orders must be listed as a separate line item. Additionally, the report must total to the amount of the check and include the check number. A sample format for this report is attached and is incorporated as Attachment No. 3, Section J of the contract. This information can be mailed, faxed or delivered to the Financial Analysts to be received not later than the 10th of the following month. If the Contractor does not adhere to all of the contract requirements as stated above, they may be subject to a moratorium of its contract. During the moratorium, the contractor shall be precluded from accepting orders under this contract.

d. Customer Agency Requirements The customer will be responsible for sending a copy of each delivery order directly to the ECS-III Financial Team. The address of the ECS-III Financial Team may be found above. The Customer agency will also send the delivery order to the contractor.

G.8 FAIR OPPORTUNITY TO BE CONSIDERED

Unless one of the exceptions at FAR 16.505(b)(2) applies and is fully documented by the customer, for each delivery order, the requirements of the fair opportunity to be considered process shall be deemed to have been met if the customer compares the various products and prices on the awardees' electronic catalog. **ECS III catalogs** shall be compared, taking into account awardees' past performance, delivery schedules, prices, and other factors pertinent to the particular delivery order. The customer's Delivery Order file shall document the process and provide the rationale for selection of the vendor for the particular delivery order.

G.9 CONTRACT DELIVERY ORDER SYSTEM

A new NITAAC Delivery Order System is under development. Listed below is the basic information for the new system, you will be notified when the system is available for use.

G.9.1 BUSINESS PROCEDURE ENVIRONMENT NIH in accordance with FAR 4.5 Electronic Commerce in Contracting shall exercise broad discretion in selecting the hardware and software that will be used in conducting electronic commerce including electronic signatures. In accordance with the Government Paperwork Elimination Act of October 21, 1998, Title XVII of Division C of Public Law 105-277 and Public Law 106-229 enacted June 30, 2000 for electronic signatures, NIH, Information Technology Acquisition Assessment Center (NITAAC) intends to maximize e-commerce and shall require any system developer of any e-commerce system to fully comply with the enumerated acts. This requirement includes any succeeding regulations that are enacted during the life of the contract. It is anticipated that the only system requirements imposed on vendors are a Web Browser, an Internet connection and a digital certificate by NITAAC.

G.9.2 ELECTRONIC COMMERCE NITAAC with the assistance of NIH Institutes, Centers, and Divisions, will maintain a record of all information relevant to order processing and contract administration. NITAAC is implementing Electronic Commerce to facilitate to the greatest degree possible the paperless processing of all NIH ECS III orders, reports, pricing information, and other relevant business documents in accordance with laws and regulations stated above. These integrated Web based electronic commerce services will greatly enhance the speed and efficiency of interaction between NITAAC and vendors. The services being considered include but not limited to Web based fee accounting system, and on-line catalog. All ECS III vendors will be required to use the electronic commerce system to interact with NITAAC as the systems become available.

G.9.3 WEB BASED FEE ACCOUNTING SYSTEM Vendors shall use a Web based fee accounting system to submit and validate all fees associated with orders placed under this contract. NITAAC finance personnel will use the system to interact with vendors to ensure full accounting and resolve discrepancies. Full reporting on the status of all orders and account information will be available to the vendor through the system.

G.9.4 INFORMATION TECHNOLOGY ACCESSIBILITY FOR PERSONS WITH DISABILITIES All services delivered as result of orders placed under this contract shall comply with accessibility standards in accordance with Federal Information Technology Accessibility as required by Section 508.

PART II - THE SCHEDULE

SECTION H- SPECIAL CONTRACT REQUIREMENTS

H.1 SUBCONTRACTING PROVISIONS

a) Small Business and Small Disadvantaged Business Subcontracting Plan

- (1) The subcontracting plan goals negotiated with "other" than small business in all the socioeconomic categories under this contract will be based on projected subcontracting opportunities identified under projected cumulative delivery order activity for the life of the contract.
- (2) The plan and any subsequent modifications must be submitted to the NIH Contracting Officer prior to the award of a delivery order at or exceeding \$500,000.
- (3) The Small Business and Small Disadvantaged Business Subcontracting Plan will be attached and made a part of the contract.

(4) The failure or any Contractor or subcontractor to comply in good faith with FAR Clause 52.219-8, entitled A Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns incorporated in this contract and the subsequent subcontracting plan, will be a material breach of such contract or subcontract and subject to the remedies reserved to the Government under FAR Clause 52.219-16 entitled A Liquidated Damages - Subcontracting Plan.

b) Subcontracting Reports (1) The Contractor shall submit the original and 1 copy of the Subcontracting Report for Individual Contracts, SF-294 in accordance with the instructions on the report as referenced in Public Law 95-507, Section 211. Regardless of the effective date of this contract, the Report shall be submitted on the following dates for the entire life of the contract (Note - this reporting requirement will be effective upon receipt of a delivery order at or exceeding \$500,000):

April 30th
October 30th

The Report shall be sent to the following address:

**Contracting Officer
NITAAC/ECS III
6011 Executive Blvd., MSC
Rockville, MD 20852**

(2) The Contractor shall submit 1 copy of Summary Subcontract Report, SF-295 in accordance with the instructions on the report as referenced in Public Law 95-507, Section 211. The Summary Subcontract Report shall be submitted annually on the following date for the entire life of the contract: (Note: This reporting requirement will begin upon receipt of a delivery order at or exceeding \$500,000): October 30th The first report shall be submitted after the first full year of the contract (if a delivery Order at or exceeding \$500,000 has been received) in addition to any fractional part of the year in which this contract becomes effective. This Report shall be mailed to the following address:

**Office of Small and Disadvantaged Business Utilization
Department of Health and Human Services
Hubert H. Humphrey Bldg., Room 517-D
200 Independence Avenue, SW
Washington, DC 20201**

H.2 ENERGY STAR REQUIREMENTS

In compliance with Executive Order 12845 (requiring agencies to purchase energy efficient computer equipment) all microcomputers, including personal computers, monitors, and printers that are acquired using Government funds in performance of a contract shall be equipped with or meet energy efficient low-power standby feature as defined by the EPA Energy Star program unless the equipment always meets EPA Energy Star efficiency levels. The microcomputer, as configured with all components, must be Energy Star compliant. This low power feature must already be activated when the computer equipment is delivered to the agency and be of equivalent functionality of similar power managed modules. If the equipment will be used on a local area network, the vendor must provide equipment that is fully compatible with the network environment. In addition, the equipment will run commercial off-the-shelf software both before and after recovery from its energy conservation mode.

H.3 GOVERNMENT DATA SUPPLIED TO THE CONTRACTOR

During the course of the contract, the Contractor may have access to Government data relevant to this project, as required. Any information not previously published, received from the Government in connection with this contract, or furnished to the Contractor from other sources under this contract, will be restricted to this project and may not be disclosed or used for any other purpose without the prior written approval of the Contracting Officer. These restrictions do not apply to information which:

- (a) currently or subsequently enters the public domain
- (b) has been released to any third party, without restrictions, or
- (c) is obtained by the contractor independent of the Government.

H.4 INSURANCE COVERAGE

Pursuant to the clause "Insurance - Work on a Government Installation (FAR 52.228?5)," the Contractor will be required to present evidence to show, as a minimum, the amounts of insurance coverage indicated below: (a) Workers Compensation and Employer's Liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers. (b) General Liability. The Contractor shall have bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence. (c) Automobile Liability. The Contractor shall have automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. (d) Aircraft Public and Passenger Liability. When aircraft are used in connection with performing the contract, the Contractor shall have aircraft public and passenger liability insurance. Coverage shall be at least \$200,000 per person and \$500,000 per occurrence for bodily injury, other than passenger liability, and \$200,000 per occurrence for property damage. Coverage for passenger liability bodily injury shall be at least \$200,000 multiplied by the number of seats or passengers, whichever is greater.

H.5 DELIVERY ORDER PROCEDURES

For purposes of this contract and all modifications issued under this contract the term delivery order includes the following:

Delivery orders
Purchase card transactions
NIH record of call

a) Customer's Responsibilities

1. Upon determining its requirements, the customer **reviews all contractors'** electronic catalogs to determine whether they can provide the IT products/services required. All sources should be accessed to determine the best value to the Government for the product/service. This constitutes the FAR requirement at FAR 16.505(b) for "fair opportunity to be considered".
2. The Customer, taking into consideration price, delivery scheduling, past performance, quality, etc., performs a best value analysis and documents the source selection decision in its official task order file. If the decision is made that one of the exceptions to the "fair opportunity to be considered" process contained at FAR 16.505(b)(2) applies, the rationale for the use of the

exception chosen must be fully documented in the official delivery order file, and signed by the Agency Contracting Officer or other designated agency official appointed in accordance with agency regulations.

3. For requirements that include ECS III Lot 6 support services, the customer submits an ECS III Pre-Award Documentation Review Checklist and supporting documentation to the ECS III Contracting Officer for approval prior to awarding a delivery order. The supporting documentation shall include (1) an explanation how the Lot 6 requirements provide direct support to Lots 1-5 products/services that are being (or have been) acquired under ECS III, and (2) an adequate description of the support services to be performed, including any required Information Technology systems security provisions.

4. The Customer shall only consider a quote submitted by an ECS III prime contractor, not by an affiliate of the prime contractor (e.g., business partner, subsidiary or subcontractor).

5. If this is an external (e.g., non-N.I.H.) customer, the delivery order must cite the NIH 1% processing fee as a separate firm, fixed price line item on the first page of the delivery order. The first page of the delivery order must include a subtotal of the items purchased, a separate line item for the NIH 1 % processing fee, and a grand total (including the fee).

6. The order must be signed by the customer's Accountable Management Official (AMO) (See Section G, Article G.3).

b) Contractor's Responsibilities

1. Upon receipt of each delivery order placed against this contract, the contractor shall review the order to ensure that the D.O. contains the NIH 1% processing fee (external customers only). The contractor shall ensure that the first page of the delivery order includes a subtotal for the items purchased and a grand total including the 1% processing fee.

2. Prior to performing under a delivery order that includes Lot 6 support services, the contractor shall ensure that (1) the requirements provide direct support to Lots 1-5 products/services that are being (or have been) acquired under ECS III, and (2) the delivery order includes an adequate description of the support services to be performed, including any required Information Technology systems security provisions.

3. Any quote submitted to a customer under ECS III shall only be submitted by an ECS III prime contractor, not by an affiliate of the prime contractor (e.g., business partner, subsidiary or subcontractor).

4. If the NIH 1% processing fee is omitted or is calculated incorrectly, or the order amount is incorrect, the contractor must contact the customer and request a corrected delivery order before it can be accepted.

5. The contractor shall validated the accuracy of delivery order the contractor shall assign the next sequential delivery order authorization number.

6. The contractor shall attach a complete copy of each delivery order to the biweekly sales report submitted to the NIH in accordance with Section II, Article G.5 of the contract.

7. The contractor shall clearly identify all delivery order modifications with the original delivery order authorization number and a numerical extension (e.g. 01,02,03 etc.) that corresponds to the appropriate modifications.

8. If the contractor does not comply with these procedures, it will be subject to a moratorium, of this contract, during which it may not accept any new orders.

H.6 YEAR 2002 WARRANTY - COMMERCIAL SUPPLY ITEMS

The contractor warrants that each hardware, software, and firmware product delivered under this contract and listed below shall be able to accurately process date data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations, when used in accordance with the product documentation provided by the contractor, provided that all listed or unlisted products (e.g.

hardware, software, firmware) used in combination with such listed product properly exchange date data with in. If the contract requires that specific listed products must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the terms and limitations of the contractor's standard commercial warranty or warranties contained in this contract, provided that notwithstanding any provisions to the contrary in such commercial warranty or warranties, the remedies available to the Government under this warranty shall include repair or replacement of any listed product whose non-compliance is discovered and made known to the contractor in writing within ninety (90) days after acceptance. Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

H.7 PAST PERFORMANCE EVALUATIONS

Standard past performance evaluations are used for ECS III delivery orders greater than **\$100,000.00** to monitor and record overall performance of each contractor. The past performance evaluation form will be completed upon delivery order completion by the customer's COTR and signed by the Accountable Management Official (NIH and non-NIH customers). It shall be forwarded to the contractor for comment. Contractor comments received by the customer within 30 calendar days will be considered in the final evaluation, and must be included in the evaluation form. Once the contractor comments are incorporated, the form is forwarded to the ECS Contracting Officer for entry into the NIH Past Performance Database. The information collected in the NIH Past Performance Database will be available to all Government agencies.

H.8 TECHNOLOGY UPGRADES/REFRESHMENTS

H.8.1 After contract award, the Government may solicit, and the Contractor is encouraged to propose independently, technology improvements to the hardware, software, specifications, or other requirements of the contract. These improvements may be proposed to save money, to improve performance, to save energy, to satisfy increased data processing requirements or for any other purpose which presents a technological advantage to the Government. As part of the proposed changes, the Contractor shall submit a price proposal to the Contracting Officer for evaluation. Those proposed technology improvements that are acceptable to the Government will be processed as modifications to the contract.

H.8.2 As a minimum, the following information shall be submitted by the Contractor with each proposal:

H.8.2.1 A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each;

H.8.2.2 Itemized requirements of the contract that must be changed if the proposal is adopted, and the proposed revision to the contract for each such change;

H.8.2.3 An estimate of the changes in performance and price, if any that will result from adoption of the proposal;

H.8.2.4 An evaluation of the effects the proposed changes would have on collateral costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance, operation and conversion (including Government application software); and

H.8.2.5 A statement of the time by which the contract modification adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract including supporting rationale; and

H.8.2.6 Any effect on the contract completion time or delivery schedule shall be identified.

H.8.2.7 The Government will not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has a right to withdraw, in whole or in part, any proposal not accepted by the Government within the period specified in the proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract is final and not subject to the "Disputes" clause of this contract.

H.8.2.8 If the Government wishes to test and evaluate any item(s) proposed, the Contracting Officer will issue written directions to the Contractor specifying what item(s) will be tested, where and when the item(s) will be tested, to whom the item(s) is to be delivered, and the number of days (not to exceed 90 calendar days) that the item will be tested.

H.8.2.9 The Contracting Officer may accept any proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice will be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a proposal under this contract, the Contractor shall remain obligated to perform in accordance with the requirements, terms and conditions of the existing contract.

H.8.2.10 If a proposal submitted pursuant to this clause is accepted and applied to this contract, the equitable adjustment increasing or decreasing the contract price shall be in accordance with the procedures of the "Changes" clause. The resulting contract modification will state that it is made pursuant to this clause.

H.9 LEASING

The Government contemplates leases of the following types: lease to ownership; lease with an option to purchase; and straight lease IT equipment. All leases may include integrated installation and warranty. If Government awards a Delivery Order for leased equipment it, contemplated the use of the equipment for the entire term of the lease identified (Lease Term). However, the Lease Term of the Lease agreement is from the date of acceptance of the equipment through September 30 of the fiscal year in which the delivery order is placed. Acceptance shall be defined in each Delivery Order. The Lease Term of the lease agreement is from the date of acceptance of the equipment through the period specified in the Delivery order.

(a) Credits / Discontinuance Notice - When discontinuing lease pursuant to the clause, the Government will give the contractor thirty (30) days prior written notice of discontinued service or a shorter notice when agreed to by the contractor.

(b) Credit Refunds - The Government shall retain the credits. These credits may be used to extend the lease agreement at no additional cost in the amount of the credits. No money will be refunded back to the Government for credits.

(c) Leasing documentation will be required for each leasing agreement delivery order.

H.10 SECURITY

In addition to Statement of Work security requirements defined in Section C.5.4, Security, the following provisions apply to HHS orders.

H.10.1 Information Technology Systems Security

Provision H.10.1 is applicable to DHHS delivery orders involving, in whole or in part, information technology (IT) where the contractor will develop or have access to an automated information system (AIS), and the order is subject to the security requirements of the DHHS Automated Information Systems Security Program (AIISP). The delivery order security attachment will include this provision complete with order-specific information when applicable.

(a) **Sensitivity and Security Level Designations.**

The Statement of Work (SOW) requires the successful offeror to develop or access a Federal Automated Information System (AIS). Based upon the security guidelines contained in the *Department of Health and Human Services (DHHS) Automated Information Systems Security Program (AISSP) Handbook*, the Government has determined that the following apply:

(1) **Category of Safeguarded Information**

The safeguarded agency information that the successful offeror will develop or access is categorized as:

- Non Sensitive Information
- Sensitive Information
- Classified Information:
 - Confidential Secret
 - Top Secret Special Access

(2) **Security Level Designations**

The information that the successful offeror will develop or access is designated as follows:

- Level** ___ applies to the sensitivity of the data.
- Level** ___ applies to the operational criticality of the data.

The overall Security Level designation for this requirement is **Level** ___.

(3) **Position Sensitivity Designations**

Prior to award, the Government will determine the position sensitivity designation for each contractor employee that the successful offeror proposes to work under the contract. For proposal preparation purposes, the following designations apply:

- Level 6C: Sensitive - High Risk (Requires Suitability Determination with a BI).**
Contractor employees assigned to a Level 6C position are subject to a Background Investigation (BI).
- Level 5C: Sensitive - Moderate Risk (Requires Suitability Determination with NACIC).**
Contractor employees assigned to a Level 5C position with no previous investigation and approval shall undergo a National Agency Check and Inquiry Investigation plus a Credit Check (NACIC), or possibly a Limited Background Investigation (LBI).
- Level 4C: Classified (Requires Special Access Clearance with an SSBI).**
Contractor employees assigned to a Level 4C position are subject to a Single Scope Background Investigation (SSBI).
- Level 3C: Classified (Requires Top Secret Clearance with an SSBI).**

Contractor employees assigned to a Level 3C position are subject to a Single Scope Background Investigation (SSBI).

[] Level 2C: Classified (Requires Confidential or Secret Clearance with an LBI).

Contractor employees assigned to a Level 2C position shall undergo a Limited Background Investigation (LBI).

[] Level 1C: Non Sensitive (Requires Suitability Determination with an NACI).

Contractor employees assigned to a Level 1C position are subject to a National Agency Check and Inquiry Investigation (NACI).

Contractor employees who have met investigative requirements within the past five years may only require an updated or upgraded investigation.

(b) Information Technology (IT) System Security Program

The offeror's proposal must:

- (1) Include a detailed outline (commensurate with the size and complexity of the requirements of the SOW) of its present and proposed IT systems security program;
- (2) Demonstrate that it complies with the AISSP security requirements, the Computer Security Act of 1987; Office of Management and Budget (OMB) Circular A-130, Appendix III, "Security of Federal Automated Information Systems;" and the DHHS AISSP Handbook.

At a minimum, the offeror's proposed information technology (IT) systems security program must address the minimum requirements of a **Security Level *** identified in the DHHS AISSP Handbook, Exhibit III-A, Matrix of Minimum Security Safeguards.

- (3) Include an acknowledgment of its understanding of the security requirements.
- (4) Provide similar information for any proposed subcontractor developing or accessing an AIS.

(c) Required Training for IT Systems Security

DHHS policy requires that contractors receive security training commensurate with their responsibilities for performing work under the terms and conditions of their contractual agreements.

The successful offeror will be responsible for assuring that each contractor employee has completed the Computer Security Awareness Training as specified in delivery orders prior to performing any contract work. The contractor will be required to maintain a listing of all individuals who have completed this training and submit this listing to the Government.

**** (NOTE: Include below when a prospective offeror will require access to sensitive information in order to prepare an offer, e.g. an offeror must access an NIH computer room floor plan. If this is not applicable to your solicitation, delete the entire subparagraph (d) below.) ****

(d) Prospective Offeror Non-Disclosure Agreement

The Government has determined that prospective offerors will require access to sensitive information described below in order to prepare an offer.

**** (NOTE: Provide a description of the sensitive information and select the appropriate Position Sensitivity designation.) ****

Any individual having access to this information must possess a valid and current suitability determination at the following level:

- Level 6C: Sensitive - High Risk
- Level 5C: Sensitive - Moderate Risk

To be considered for access to this sensitive information, a prospective offeror must:

- (1) Submit a written request to the Contracting Officer identified in the solicitation;
- (2) Complete and submit the "Prospective Offeror Non-Disclosure Agreement" available on the NITAAC Website; and
- (3) Receive written approval from the Contracting Officer.

Prospective offerors are required to process their requests for access, receive Government approval, and then access the sensitive information within the period of time provided in the solicitation for the preparation of offers.

Nothing in this provision shall be construed, in any manner, by a prospective offeror as an extension to the stated date, time, and location in the solicitation for the submission of offers.

(e) References

The following documents are electronically accessible:

- (1) OMB Circular A-130, Appendix III:
http://www.whitehouse.gov/omb/circulars/a130/a130appendix_iii.html
- (2) DHHS AISSP Handbook: <http://irm.cit.nih.gov/policy/aissp.html>
- (3) DHHS Personnel Security/Suitability Handbook:
<http://www.hhs.gov/ohr/manual/pssh.pdf>
- (4) NIH Applications/Systems Security Template:
<http://irm.cit.nih.gov/security/secplantemp.doc>
- (5) NIST Special Publication 800-16, "Information Technology Security Training Requirements:" <http://csrc.nist.gov/publications/nistpubs/800-16/800-16.pdf>
- (6) NIH CIT-Policies, Guidelines and Regulations:
 - Table 1 - Categories of Safeguarded Agency Information:
<http://irm.cit.nih.gov/security/table1.htm>
 - Table 2 - Security Level Designations for Agency Information:
<http://irm.cit.nih.gov/security/table2.htm>
 - Table 3 - Positions Sensitivity Designations for Individuals Accessing Agency Information: <http://irm.cit.nih.gov/security/table3.htm>

H.10.2 Confidential Treatment of Sensitive Information

Provision H.10.2 is applicable to DHHS delivery orders where the contractor will have access to sensitive information/data during the performance of the order that needs to be handled confidentially by the contractor, but including the clause at HHSAR352.224-70, Confidentiality of Information, would be inappropriate. The delivery order security attachment will include this provision when applicable.

The Contractor shall guarantee strict confidentiality of the information/data that it is provided by the Government during the performance of the contract. The Government has determined that the information/data that the Contractor will be provided during the performance of the contract is of a sensitive nature.

Disclosure of the information/data, in whole or in part, by the Contractor can only be made after the Contractor receives prior written approval from the Contracting Officer. Whenever the Contractor is uncertain with regard to the proper handling of information/data under the contract, the Contractor shall obtain a written determination from the Contracting Officer.

H.10.3 Information Technology Systems Security Specifications

Provision H.10.3 is applicable to DHHS delivery orders involving, in whole or in part, IT where the contractor will develop or have access to AIS, and the order is subject to the security requirements of the DHHS AIISP. The delivery order security attachment will include this provision complete with order-specific information when applicable.

The contractor agrees to comply with the IT systems security and/or privacy specifications set forth herein; the Computer Security Act of 1987; Office of Management and Budget (OMB) Circular A-130, Appendix III, "Security of Federal Automated Information Systems," and the DHHS Automated Information Systems Security Program (AIISP) Handbook, which may be found at the following websites:

Computer Security Act of 1987: http://csrc.nist.gov/ispab/csa_87.txt

OMB A-130, Appendix III:

http://www.whitehouse.gov/omb/circulars/a130/a130appendix_iii.html

DHHS AIISP Handbook: <http://irm.cit.nih.gov/policy/aissp.html>

The contractor further agrees to include this provision in any subcontract awarded pursuant to this prime contract. Failure to comply with these requirements shall constitute cause for termination.

The contractor shall be responsible for properly protecting all information used, gathered, or developed as a result of the SOW. The contractor shall establish and implement appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of sensitive Government information, data, and/or equipment.

In addition, during all activities and operations on Government premises, the contractor shall comply with DHHS, including Operational Division, rules of conduct.

Procedural guidance for compliance with the following requirements can be found at the following website: [http://virtual.nci.nih.gov/security/policy/aissp/contractor/.](http://virtual.nci.nih.gov/security/policy/aissp/contractor/)

a. Required IT Systems Security Training

The contractor shall assure that each employee has completed the Computer Security Awareness Training as specified in delivery orders prior to performing any work.

The contractor shall maintain a listing by name and title of each individual working under a delivery order that has completed the required security training. Any additional security training completed by contractor staff shall be included on this listing. The listing of completed training and any revisions shall be delivered to the Government as specified in delivery orders.

b. Position Sensitivity Designations

- (1) The Government has determined that the following position sensitivity designations and associated clearance and investigation requirements apply under this contract:

**** (NOTE: The position sensitivity designations below are to be finalized following review of proposals and prior to delivery order award.) ****

Level 6C: Sensitive - High Risk (Requires Suitability Determination with a BI).

Contractor employees assigned to a Level 6C position are subject to a Background Investigation (BI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

Level 5C: Sensitive - Moderate Risk (Requires Suitability Determination with NACIC).

Contractor employees assigned to a Level 5C position with no previous investigation and approval shall undergo a National Agency Check and Inquiry Investigation plus a Credit Check (NACIC), or possibly a Limited Background Investigation (LBI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

Level 4C: Classified (Requires Special Access Clearance with an SSBI).

Contractor employees assigned to a Level 4C position are subject to a Single Scope Background Investigation (SSBI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

Level 3C: Classified (Requires Top Secret Clearance with an SSBI).

Contractor employees assigned to a Level 3C position are subject to a Single Scope Background Investigation (SSBI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

Level 2C: Classified (Requires Confidential or Secret Clearance with an LBI).

Contractor employees assigned to a Level 2C position shall undergo a Limited Background Investigation (LBI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

Level 1C: Non Sensitive (Requires Suitability Determination with an NACI).

Contractor employees assigned to a Level 1C position are subject to a National Agency Check and Inquiry Investigation (NACI).

**** (List applicable Contractor Position Titles here if considered appropriate.) ****

- (2) The contractor shall submit a roster, by name, position and responsibility, of all IT staff working under the delivery order. The roster shall be submitted to the Project Officer, with a copy to the Contracting Officer, within 14 days of the effective date of the delivery order. The Project Officer shall notify the contractor of the appropriate level of suitability investigations to be performed. An electronic template, entitled "Roster of Employees Requiring Suitability Investigations," is

available for use at <http://virtual.nci.nih.gov/security/policy/aissp/contractor/forms/Suitability-roster.xls>.

Upon receipt of the Government's notification of applicable Suitability Investigation required, the contractor shall complete and submit the required forms within 30 days of the notification. Additional submission instructions can be found at: <http://virtual.nci.nih.gov/security/policy/aissp/contractor/>

Contractor employees who have had a background investigation conducted by the U.S. Office of Personnel Management (OPM) within the last five years may only require an updated or upgraded investigation.

- (3) Contractor employees in AIS-related positions shall comply with the DHHS criteria for the assigned position sensitivity designations prior to performing any work under this contract.

Contractor employees who have met investigative requirements within the past five years may only require an updated or upgraded investigation. Verifications of completed investigations (e.g. copies of certificates of investigations or security clearances), as well as requests for new investigations, shall be submitted to the Project Officer.

c. Commitment to Protect Sensitive Information

(1) Contractor Agreement

The Contractor shall not release, publish, or disclose sensitive information to unauthorized personnel, and shall protect such information in accordance with provisions of the following laws and any other pertinent laws and regulations governing the confidentiality of sensitive information:

- 18 U.S.C. 641 (Criminal Code: Public Money, Property or Records)
- 18 U.S.C. 1905 (Criminal Code: Disclosure of Confidential Information)
- Public Law 96-511 (Paperwork Reduction Act)

(2) Contractor-Employee Non-Disclosure Agreements

Each contractor employee who may have access to sensitive information under this delivery order shall complete the "Contractor Employee Non-Disclosure Agreement" available on the NITAAC Website.

A copy of each signed and witnessed Non-Disclosure agreement shall be submitted to the Project Officer prior to performing any work under the contract.

PART III - CONTRACT CLAUSES

SECTION A - FAR Clause 52.212-4

CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (AUGUST 1996)

(a) Inspection /Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its Post acceptance rights

- (1) within a reasonable time after the defect was discovered or should have been discovered; and
- (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee's rights to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definition. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice. The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized), to the address designated in the contract to receive invoices. An invoice must include—

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice. Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A- 125, Prompt Payment.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory

infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A- 125, Prompt Payment. Unless otherwise provided by an addendum to this contract, the Government shall make payment in accordance with the clause at FAR 52.232-33, Mandatory Information for Electronic Funds Transfer Payment, which is incorporated by reference. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 251 related to whistle blower protections; and 49 U.S.C 40118, Fly American.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents exhibits, and attachments; and (9) the specification.

(End of clause)

PART III - CONTRACT CLAUSES

SECTION B -ADDENDUM TO CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS

NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS

In accordance with FAR clause 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, incorporated in part V section D., contractors will be evaluated by adding a factor of 10% percent to the price of all offers, except offers from small disadvantaged business concerns that have not waived the adjustment. (Note: A listing of other contractors who are excepted and will not have this evaluation factors added to their offer my be found in subparagraph (b) of FAR Clause 52.219-23. A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of FAR Clause 52.219-23 do not apply to contractors that waive the adjustment.

A CONTRACTOR WHO ELECTS TO WAIVE THIS EVALUATION ADJUSTMENT MUST SPECIFICALLY INDICATE WITH A STATEMENT TO THIS EFFECT ON THE COCKER PAGE OF ITS BUSINESS PROPOSAL.

B.1 Far 52.216-22 Indefinite Quantity (Oct 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in

the Schedule as the "maximum" The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issues during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after _____.

B.2 FAR 52.216-18 Ordering

(a) Orders may be issued from date of award through expiration date.

(b) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 11/27/02 through 11/26/12.

(c) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(d) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

B.3 FAR 52.216-19 Order Limitation (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than 100.00 the government is not obligated to purchase

(1) 20 million

(2) 30 million, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor—

(1) Any order for a single item in excess of 20 million;

(2) Any order for a combination of items in excess of 30 million; or

(3) A series of orders from the same ordering office within 3 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) of this section.

(c) If this is a requirement contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within _____ days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

B.4 FAR 52.216-2 Economic Price Adjustment - Standard Supplies (JAN 1997)

(a) The Contractor warrants that the unit price stated in the Schedule for _____ is not in excess of the Contractor's applicable established price in effect on the contract date for like quantities of the same item. The term "unit price" excludes any part of the price directly resulting from requirements for preservation, packaging, or packing beyond standard commercial practice. The term "established price" means a price that

- (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public,
- (2) meets the criteria of subsection 15.804-1 of the Federal Acquisition Regulation (FAR), and
- (3) is the net price after applying any standard trade discounts offered by the Contractor.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly. The Contractor shall certify

- (1) on each invoice that each unit price stated in it reflects all decreases required by this clause or
- (2) on the final invoice that all required price decreases have been applied as required by this clause.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price shall be increased, upon the Contractor's written request to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

- (1) The aggregate of the increases in any contract unit price under this clause shall not exceed 10 percent of the original contract unit price.
- (2) The increased contract unit price shall be effective (i) on the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter or (ii) if the written request is received later, on the date the Contracting Officer receives the request.
- (3) The increased contract unit price shall not apply to quantities scheduled Under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.
- (4) No modification increasing a contract unit price shall be executed under this paragraph until the Contracting Officer verifies the increase in the applicable established price.
- (5) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.

(d) During the time allowed for the cancellation provided for in subparagraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at contract unit price, increased to the extent provided by paragraph (c) of this clause.

B.5 Reserved

B.6 The following clauses are incorporated by reference into this contract, with the same force and effect as if they were given in full text.

52.219-16 Liquidated Damages - Subcontract Plan (OCT 95)
 52.228-05 Insurance - Work on Government Installation (SEP 89)
 52.247-35 F.O.B. Destination Within Consignee's Premises.(APR 84)

B.7 FAR 52.204-2, Security Requirements (AUGUST 1996)

(FAR 52.204-2 presented below, applies to orders that require contractor access to classified information under the national security designations Level 2 (confidential or secret), level 3 (top secret), or level 4 (special access). Alternate 1 to FAR 52.204-2 is not included below as it pertains to cost contracts--ECS III orders are fixed price. Alternate 2 to FAR 52.204-2 is not included below as it pertains to construction and architect-engineer contracts, which are outside of the Information Technology scope of ECS III.)

(a) This clause applies to the extent that this contract involves access to information classified "Confidential," "Secret," or "Top Secret."

(b) The Contractor shall comply with-

(1) The Security Agreement (DD Form 441), including the National Industrial Security Program Operating Manual (DOD 5220.22-M); and

(2) Any revisions to that manual, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this contract.

(d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (d) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access to classified information.

(End of clause)

PART III-CONTRACT CLAUSES

SECTION -C- FAR Clause 52.212-5

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS (May 2002)

All Contract Clauses are applicable under Section C

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of Commercial items:

- (1) 52.222-3, Convict Labor (E.O. 11755); and
 (2) 52.233-3, Protest After Award (31 U.S.C 3553).

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b) which the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(Contracting Officer shall check as appropriate.)

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

X (2) 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (41 U.S.C. 423).

X (3) 52.219-8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (15 U.S.C. 637 (d)(2) and (3)).

X (4) 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4)).

X (5) 52.219-14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

X (6) 52.222-26, Equal Opportunity (E.O. 11246).

X (7) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212).

X (8) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

X (9) 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

X (10) 52.225-3, Buy American Act - Supplies (41 U.S.C. 10).

X (11) 52.225-9, Trade Agreements Act (Deviation) (41 U.S.C. 10, 19 U.S.C. 2501-2582).

(12) [Reserved]

(13) 52.225-18, European Union Sanction for End Products (E.O. 12849).

(14) 52.225-19, European Union Sanction for Services (E.O. 12849).

X (15) (I) 52.225-21, Buy American Act - North American Free Trade Agreement Implementation Act - Balance of Payments Program (41 U.S.C 10, Pub. L. 103-187). 15 (ii) Alternate I of 52.225-21

(16) 52.239-1, Privacy or Security Safeguards 5U.S.C. 552a).

(17) 52.247-64, Preference for Privately Owned U.S. Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor agrees to comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive order, applicable to acquisitions of commercial items or components:

(Contracting Officer checks as appropriate.)

(1) 52.222-41, Service Contract Act of 1965, As amended (41 U.S.C. 351, et seq.).

(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Act - Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record. The Contractor agrees to comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), 8 - (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components—

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a));

(3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (46 U.S.C. 1241)(flow down not required for subcontracts awarded beginning May 1, 1996).

(End of clause)

PART IV - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J

LIST OF ATTACHMENTS-STATEMENT OF WORK/SPECIFICATIONS THAT ARE HEREBY MADE A PART OF THIS SOLICITATION AND ANY RESULTANT CONTRACT.

LIST OF ATTACHMENTS

ATTACHMENT NUMBER J.2 [Biweekly sales report \(HTML Format\)](#) [Biweekly sales report \(Word Format\)](#)

ATTACHMENT NUMBER J.3 [Monthly check report \(HTML Format\)](#) [Monthly check report \(Word Format\)](#)