

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID NO. PAGE OF PAGES
1 | 10

2. AMENDMENT/MODIFICATION NO. **Two (2)** 3. EFFECTIVE DATE **August 9, 2004** 4. REQUISITION/PURCHASE REQ. NO. 5. PROJECT NO. (if applicable)

6. ISSUED BY CODE 7. ADMINISTERED BY (if other than Item 6) CODE
 National Institutes of Health
 Office of Logistics and Acquisition Operations, OD
 6011 Executive Boulevard, Room 537C, MSC 7663
 Bethesda, Maryland 20892-7663

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)
ALL OFFERORS

9A. AMENDMENT OF SOLICITATION NO. **263-04P(GK)-0032**
 9B. DATED (SEE ITEM 13) **July 13, 2004**
 10A. MODIFICATION OF CONTRACT/ORDER NO.
 10B. DATED (SEE ITEM 13)

CODE FACILITY CODE

11. THIS ITEM APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.
 Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning 10 copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, it may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (if required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(T) A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
 B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
 C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
 D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
THE PURPOSE OF THIS AMENDMENT IS TO:

- 1) Provide the list of attendees to the preproposal conference held on Wednesday, July 28, 2004;
- 2) Provide responses to questions and comments;
- 3) Provide a revised Performance Work Statement, dated 8/6/04.

15A. NAME AND TITLE OF SIGNER (Type or print) 16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
Henry Dove

15B. CONTRACTOR/OFFEROR 15C. DATE SIGNED 16B. UNITED STATES OF AMERICA BY 16C. DATE SIGNED
 (Signature of person authorized to sign.) (Signature of Contracting Officer) August 9, 2004

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

AMENDMENT 02
SOLICITATION 263-04-P(GK)-0032

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1) Provided below is the list of companies and contact persons who attended the preproposal conference held for this solicitation on Wednesday, July 28, 2004.

NO	COMPANY NAME	CONTACT PERSON	ADDRESS	E-MAIL ADDRESS	TEL./FAX NO.	BUSINESS SIZE
1	BOSCOBEL MARKETING	JOYCE BOSC	8606 SECOND AVE SILVER SPRING MD 20910	JBOSC@BOSCOBEL.COM	301-588-2900 301-588-1363	SMALL
2	CMI MANAGEMENT INC	ABE ABRAHAM	4324 -B EVERGREEN LN ANNANDALE VA 22003	AABRAHAM@CMIMGMT.COM	703-256-8801 703-256-9332	SMALL
3	DODGE COLOR, INC	EDWARD FINN	4827 RUGBY AVE BETHESDA MD 20814	EDFINN@DODGECOLOR.COM	301-656-0025 301-656-0435	SMALL
4	EQUALS THREE COMMUNICATION	DENISE PRIMDAHL	7910 WOODMONT AVE SUITE 200 BETHESDA MD 20814	DPRIMDAHL@EQUALS3.COM	301-272-2439 301-652-526	
5	IDR, INC	JAMES RIVERA	10560 MAIN ST LL-10 FAIRFAX VA 22030	RIVERA@IDRNET.COM	703-591-5523	SMALL
6	LANMARK TECHNOLOGY INC	LANI RORRER	10560 MAIN ST LL-10 FAIRFAX VA 22030	RORRERL@LMT-JNC.COM	703-218-9870 703-218-9871	SMALL
7	NATL CAP CONTRACT	C MARQUEZ	820 S LINCOLN ST ARLINGTON VA		703-920-2900	SMALL
8	NIH	KEN RYLAND	BLDG 31 ROOM 6C17 BETHESDA MD 20892	KENR@MAIL.NIH.GOV	301-435-8270	N/A
9	PLAN-A, LLC	EJAZ M. SYED	1514 ELMWOOD AVE EVANSTON IL 60201	ESYED@PLANA.COM	847-951-9340 847-492-0861	SMALL
10	RGM GRAPHICS INC MADISON DESIGN GROUP	JAMES PITTMAN	4350 E W HIGHWAY STE 101 BETHESDA MD 20814	JAMES@THEMDGROUP.COM	301-907-3895 301-907-4797	SMALL
11	WARDEN	L G ZAMBETTI	7717 CHURCHILL CTR MARSHALL VA		540-270-2376	

2) Provided below are the responses to the questions and comments received as a result of the preproposal conference held on Wednesday, July 28, 2004 for this solicitation.

NIH VISUAL AND MEDICAL ARTS

	Question	Response
1.	Will you consider a Phase-In proposal only?	No.
2.	Q. How will you rank (1 being most important) following sector when evaluating past performance? * Government experience (any agency) * Industry experience * Subject matter experience	N/A.
3.	Is there an organization chart which shows current contractor staffing?	Yes.
4.	Is there are workflow system in place? Is it an electronic system or paper-based?	Yes. It is in electronic format.
5.	How many contract workers (including subcontract workers) are serving the existing contract for following? 5.1 - Illustration 5.2 - Design Services 5.3 - Photography 5.4 - Events Management 5.5 - Video Services	N/A
6.	What percentage (%) of total contract cost was used for (average from past three years) * Education and Training % * Equipment and Supplies % * General and Administration %	N/A
7.	Will you consider a 100% outsource solution?	Please refer to the Federal Acquisition Regulations and OMB Circular A-76.
8.	Will NIH partner in "seeding" emerging small business with subject matter expertise with 10+ year outlook?	No.

9. On the Performance Work Statement (PWS) Requirement C-5, some of the workload indicators seem to be misnomers; for example requirement 5.2.1 states “# of scientific posters designed – 1550.” The standards show this to be the number produced per month. Please verify and confirm the workload indicators for each requirement. The standard says, it counts the number of posters designed and produced per month. 1550 is # designed per year. Please refer to the introduction of C-5 which explains the lot size that you are referring to.
10. On the Request for Proposal (RFP), Wage Determination No.: 1994-2103, Revision No.: 31, dated 04/21/2004 was used. A later version, Wage Determination No.: 1994-2103, Revision No. 32, was issued dated 05/27/2004. This latter Waged Determination release should use for the purpose of responding to the solicitation. Please confirm. The latest wage determination should be used for the purpose of responding to this solicitation. The most current wage determination will be incorporated by a later amendment to the solicitation.
11. On Volume 1 of the RFP, can some samples for illustrations, posters, etc. be submitted, i.e. 8 ½ x 11 paper, or photographs, in lieu of samples that are many feet in height and width. Please confirm. Yes. As long as it reflects the sample and it will be graded accordingly.
12. Information on Samples. At page 88 of the solicitation, the instructions regarding work samples state that each must provide, “Reference to Past Performance qualification in Volume V.” Similarly, these instructions state that the information on each sample must contain, “Name of primary personnel in original performance of development of the sample (and when appropriate, reference to Volume II for additional information on the personnel).” From this, we would infer that NIH would restrict work samples only to those generated in the reference projects cited in Volume V, “Past Performance.” Is this correct? On the one hand, this seems unduly restrictive if we submit a reasonable number of Past Performance references. On the other hand, it might provide an incentive to “overload” Past Performance in order to maximize the material available for the Portfolio. Please clarify. Yes, work samples should only be those generated in the reference projects cited in Volume V.
13. Tab 1.2, Medical Animation. For examples of Medical Animation, does NIH desire Video Tapes or DVDs, indexed in the Portfolio, or cels abstracted from the animations and presented in the Portfolio? Yes to all references.
14. Tab 1.6, Signage. Clearly, some signage is very large, may involve electronic or computer generated imagery, and so forth, particularly at level 3. To depict such signage, will photos, or design documents in the portfolio be acceptable to NIH?
In that case a Photo will be acceptable.. In that case a photo will be acceptable.
15. Web Page Design. Under Tab 1.10, it states that, “Samples submitted shall demonstrate consultation and collaboration with the requester to define the audience characteristics.” We interpret this to require submission of several stages of development and implementation of the Web site, to refine its appeal to its audience(s). Is this correct? Please clarify. Yes it is correct.

16. Video Production. Under Tab 1.24B, it states that offerors must submit, “evidence such as experience that demonstrates proficiency (specifically knowledge, skills and abilities) in the use of each of the following types of distribution vehicles...” In this consideration, what constitutes “evidence”? Would it be resumes, referenced in Volume II? Or would it be such items as work orders or the like? Please clarify. Both résumé’s and work orders.
17. Scope of the Portfolio. Our initial estimate of the minimum number of samples required to satisfy the requirements of the portfolio is more than 300 items. Of these, there may be as many as fifty physical objects (videotapes, trophies, large exhibits, and the like) packaged separate from the Portfolio. These items could weigh in excess of fifty pounds. The portfolio itself will probably comprise 400 to 500 pages, inclusive of the required identification information for each sample. Given the logistics of this Volume, we suggest that NIH might wish to reconsider requiring the submission of a total of 11 sets of this Volume. It would probably be simpler for the reviewers to come to the Portfolios submitted by the offerors than to send multiple portfolios to each reviewer. Offerors may submit one (1) full set of the portfolio.
18. Form II-1. After reviewing the requirements of this chart, we found a number of terms unclear. The following are our interpretations. First, the term “Organization” in column 2 as we understand it refers to the various subordinate units in the project team organization, and not to the corporate organization of the offeror or subcontractors. Is this correct? Next, we understand the term “Position Title” to mean the project working title or project labor category, and not a corporate or Government rank or title. Is this correct? Also, does the term “Supervisory Ref” signify a numbering scheme for all positions – or at least the supervisory and managerial positions -- to be incorporated in the project team organization chart? Finally, in describing the column marked “Company, the instructions specify, “Show one row for each company per position title to reflect the number of proposed positions” We assume you mean column rather than row here. If not, please explain. Yes. Just need the title for the position. Yes every row.

19. Form II-2. After reviewing this form, we conclude that every position will have multiple workload factors in each of the five technical requirement areas of the PWS (I. e., Illustration, Design Services, Photography, Events Management, and Video Services). Actual preparation of meaningful productivity factors in something like the format depicted here would require development of automated multivariate analyses of the outputs of each of the five technical areas. We assume that it is not the intent of NIH to have offerors undertake such an effort as part of a proposal. Please clarify what would satisfy this requirement. Perhaps it would be advisable to eliminate this Form.
20. Form II-4. Please clarify the purpose of this form. As is the case with most professional, technical, and administrative support firms, we do not adhere rigidly to a particular set of working hours, but adapt our daily schedules to those of our clients. This is particularly the case when working on-site, as would be the situation in this instance.
21. Form II-5. Are position descriptions required for every project labor category or each position, regardless of duplication? We would assume the former, but it is not clear in the solicitation. Please clarify.
22. Key Personnel Resume. A signature block is provided in the key personnel resume form. Whose signature is sought, the employee's or an authorized official of the offeror? If the employee, does this not create the appearance of personal services contracting in violation of FAR 37.104(b)?
23. Customer Service. Tab 3.3 requires delineation of our approach to and procedures for, "provision of customer service for all RFP requirements." After reviewing the PWS in its entirety, and Section C.5, "Requirements, particularly, we are unable to find either a definition of or technical requirements for "Customer Service." Perhaps we have somehow overlooked the relevant material. If so, can NIH direct us to the correct Section(s) of the RFP? On the other hand, if the salient text was inadvertently omitted, can NIH furnish it now?
24. Tab References. Tabs 3.4, 3.5, and 3.6 respectively have as their titles "C.5.1," "C.5.2," and "C.5.3." We infer that these stand for the corresponding Sections of the PWS, and the substance of these Tabs will address our approach too Illustration, Design Services, and Photography respectively. Is this correct? Subsequently, all Tabs are enumerated as "3.N." Here we have assumed that "N" stands for the appropriate number in sequence; e. g., the first "3.N after 3.6 should be properly numbered "3.7," and so forth. Is this correct?
- Fill out the form. That would satisfy the requirement.
- Please fill out the form as it is a requirement to have some standard time proposed by the service provider.
- A position description is required for each position. You do not have to submit duplicate position descriptions.
- The employee's signature is required to certify that all the information on the resume is current, complete and accurate. This information is submitted as part of the employer's proposal. This is a data accuracy issue, completely unrelated to personal service contracting.
- This refers to how a service provider would handle customer service issues such as taking work orders, distribution, follow-up etc.
- Yes it stands for the corresponding sections of the PWS in continuity.

25. Other Technical Requirements. Immediately following Tab 3.6 is the first Tab 3.N, which is entitled "Other RFP Technical Requirements." Should this Tab be numbered 3.7, and our approach to both Events Management and Video Services be included therein, or may we divide it into Tabs 3.7 and 3.8, each addressing the two technical areas specified above respectively? Refer to Answer for question # 2.
26. Other Tabs. Premised on the above, we assume that the remaining Tabs, "Phase-In Plan" and "Additional Considerations" would be similarly re-numbered, and drafted in accord with the instructions in the solicitation. Is this correct? Yes.
27. Personnel Recruitment. Under Tab 4.1, the first bullet requires discussion of "The ability to hire and retain personnel qualifying for the Position Descriptions...." The third bullet requires consideration of "Recruitment of Personnel and the plan that demonstrates the ability to provide and maintain the required skills,...." It seems to us that these are essentially the same topics. Please clarify the distinction NIH has in mind. After reviewing these requirements, we interpret the first requirement as focusing on historical experience of the offeror in staff acquisition and retention, while the second requirement focuses on recruitment and retention policies and procedures. Is this correct? Please clarify. First requirement refers to historical experience and the third requirement refers to the ability to apply and maintain the skill set.
28. Under Tab 4.2, item 1 asks for discussion of "Managing the Size, Scope and Locations of All Requirements...." Involved in this effort. Item 2 requires discussion of "Managing the Complexities of All Functions Set Forth In the PWS." It would appear to us that the scope of the requirements and all functions in the PWS are largely identical. Can NIH clarify the distinction intended? Scope refers to the logistics of the project where as complexities refers to the technical/creative aspects of the functions.
29. Tab 4.2, item 3 seeks a discussion of the reduction of turn-over. The question is, compared to what? The turn-over experienced by NIH among its employees? The combined turn-over of NIH and its contractors? Or the historical turn-over of the offeror? Please clarify. The reference is to turn-over of the offerors.
30. Tab 4.2, item 5, requires consideration of "efficiencies to be achieved." What types of efficiencies does NIH seek? The most typical are: Question is self explanatory.
1. Reductions in staff while maintaining quality and service
 2. Increased productivity, e. g. through use of IT systems
 3. Cost savings, e. g., through substitution of improved procedures or less costly materials
 4. Elimination of outdated products or services.
- Can NIH provide some clarification of the types of efficiencies it believes feasible?

31. Tab 4.2, item 6, "Work-In-Process Management," and item 7, "Tracking Measures," seem to us to be very closely related, if not identical. Can NIH clarify and define the difference intended? Items 6 and 7 are examples for consideration.
32. Tab 4.2, item 11, asks for discussion of "Out Year Transitions." In our experience, Base Year to Option Year and Option Year to Option Year transition are administrative transactions, conducted by the Contracting Officer and the Authorized Official of the Prime Contractor. There typically are no substantive changes in contractual requirements, nor material changes in funding, staffing, or GFE/GFI. Can NIH clarify what is sought under this rubric? Item 11 is an example for consideration.
33. Tab 4.3, "Quality Control Plan," states in part that, "The Plan shall be written so that it can be implemented during transition and be fully implemented on the first day of full performance." We assume that this means the draft plan submitted herewith will be modified revised, tested, and approved during the five (5) month transition period, and implemented on a fully operational basis on the first day of full performance. Is this correct? Yes. Any modifications had to be approved by the government. Please refer to section C1 and section L.
34. Monthly Deductions. Under Tab 5.2, - Relevant Contracts. This tab references "all Federal contracts for MVA". Must be evaluated against criteria "I, ii, and iii". Must this criteria be used for all other non NIH MVA past performance contracts? Yes. All non-NIH VMA past performance contracts.
35. Reference: 5.2 Design Services, 3.2.3 GFM, 4.2 SP-Furnished Materials
Question: Does the production requirement for each of the design elements also include the fabrication and the materials used to fabricate the end products? If so, will all of the materials required to produce the end products be government furnished? Materials will be furnished by the government.
36. Can copies of the materials which are used for the portfolio be representations of the originals provided, or are exact duplicates of each of the originals required? For example, is it acceptable to submit a single VHS tape as the original with a likeness, which includes the required description, provided in each of the portfolio volumes, or are 10 VHS tape copies required? Only one (1) copy is required.
37. Please validate that the number of autopsies photographed is 10,000; if the number 10,000 is referring to the number of photographs/exposures taken, please break out the number of requests, the number of pictures taken, and/or number of pictures produced. Please clarify if the "number of autopsy photography request," is referring solely to human autopsies or includes animal autopsies as well. The workload indicator has been changed to number of photography request (NCI) and the workload number has been changed to 9000.

38. Please clarify the requirement for “bound publications designed” as distinguishable from folded brochures, booklets, mini booklets, and (non-event) publications. Please validate that the workload number required is 3,414 “bound publications designed.”
39. A workload sample document that was provided with the Performance Work Statement dated July 9, 2004. The hours that are provided, are they for one year or a month?
40. Monthly Deductions. Under Tab 6.2, paragraph 10, this RFP states that “...offerors must propose a monthly deduction for each of the performance standards in Section C for failure to meet Acceptable Quality Level.” Although the subject solicitation contemplates a performance-based contract, the form of the deductions does not conform to the requirements of FAR Part 16.4. To summarize, this Part requires that performance based incentives: 1. Provide for both positive and negative incentives; 2. Apply only to fee or profit and not cost; i.e., do not cause a contractor to suffer a loss by virtue of their application; 3. Are not punitive in nature.

In this instance, there are no positive incentives, but only deduction applied. Further, because there is a requirement to establish deductions for each and every task and performance standard, the clear potential exists for the total amounts deducted to exceed profit or fee, and cause a deduction to incurred cost, causing the Contractor to suffer an operating loss. Finally, the operation of this particular price adjustment provision appears t be clearly punitive in nature. It appears to us that Tab 6.2, paragraph 10, is clearly in violation of FAR Part 16.4 Finally, there is an administrative defect, as neither of the requisite Clauses (FAR 52.216-16 or FAR 52.216-17) required to implement incentive plans included by reference in Section I of the RFP.

Similarly, we do not believe the provisions of Tab 6.2, paragraph 10 can be construed as liquidated damages. FAR Part 11.5 defines the conditions under which liquidated damages are reasonably applicable. It particularly provides at FAR 11.501(b) that “Liquidated damages are not punitive and are not negative performance incentives...” In our opinion, Tab 6.2 paragraph 10 does not meet this criterion. Moreover, the the requisite Clause (FAR 52.211-11, Liquidated Damages–supplies, Services, or Research and Development) to implement Liquidated Damages, whether applicable or not, has not been included in Section I of the solicitation.

In light of the above, we suggest that NIH may wish to modify Tab 6.2, paragraph 10 to conform to the requirements of FAR Part 16.4. If time is of the essence, this paragraph could be deleted for the present, and a conforming incentive plan negotiated during the five (5) month phase in period. Will NIH consider these alternatives?

The number of bound publications designed is changed to ten (10).

The workload represents a year' s worth of data, however, it is still a sample and offerors propose based on the requirements in the PWS.

FAR 52,246-4, Inspection of Services – Fixed Price. The clause states that “the government may ...reduce the contract price to reflect the reduced value of the services performed.” Paragraph 10 is designed to prevent punitive penalties. Each offeror is requested to identify the value of each service based on their proposal. Therefore, potential deductions will be based on the reduced value of the services, not an arbitrary government formula. The positive incentive is the fixed price mechanism that allows offerors to keep 100% of savings attributed to process and productivity improvements that meet the contract requirements.

Any required FAR clause additions and deletions will be provided in a subsequent amendment to the RFP.

The alternative is not considered.

41. What level of detail will be required for billing? If a certain level of detail is required, in what way would it need to be applied? Please refer to the revised PWS dated 8/6/04.

3) A revised Performance Work Statement, dated 8/6/04 is provided, and may be obtained at the following weblink:

<http://www.olao.od.nih.gov/VendorResources/RequestForProposal/FY2004A76Requirements/VisualAndMedicalArts/>