

PRODUCTS/SERVICES

Statement of Objectives. This Blanket Purchase Agreement (BPA) is established on a Best Value basis, in support of the Federal Acquisition and Streamlining Act, to support Department of Energy (DOE) participation in the Adobe CLP Program for software acquisition and support. The purpose of this BPA is to provide an award vehicle to consolidate DOE acquisition and maintenance support of Adobe proprietary computer software, in order to maximize cost savings and minimize both acquisition cycle times and administrative burden costs. Federal Supply Schedule (FSS) BPA's streamline the acquisition cycle by elimination or reduction of many of its pre-award phases, including market survey, solicitation and evaluation.

Authorized Users: All DOE Federal organizations, including the National Laboratories and Power Administration, and all DOE contractors, including Management and Operating (M&O) contractors, are eligible to place delivery orders under this BPA. Use of this BPA is limited to DOE organizations and contractors only. Availability of the BPA is contingent upon availability of the parent GSA Schedule (see paragraphs 4.c and 4.g.(7) below). In conformance with DOE regulations prohibiting use of DOE contractor acquisition systems to circumvent Federal acquisition laws and regulations, DOE contractors (including the M&O's) may not utilize this BPA on behalf of DOE Federal organizations; they are eligible to utilize this BPA to meet the requirements of their DOE contracts only.

Note: This is *not* a requirements BPA (FAR 16.506(d)); its use is *not* mandatory for any authorized user.

Background/Scope of BPA. Both DOE Federal and contractor organizations have been extensive users of Adobe proprietary computer software for many years; the DOE has a large installed base of Adobe licenses which require ongoing maintenance support, as well as new licensing requirements.

- a) **Support.** The Adobe Open Options CLP 4.5 Version 1.0 Volume Licensing Program Guide applies to all acquisitions under this BPA. Adobe offers both complimentary "Getting Started Support" and fee based "Adobe Expert Support." Adobe Support Programs and Policies as well as supporting information are available at <http://www.adobe.com/support/programs/policies>. Softmart Government Services can provide Expert Support Pricing within the scope of this BPA, as well as provide answers to licensing and customer services questions relating to Adobe licensing, the Adobe licensing site, product keys, media, electronic software delivery. Please contact the Softmart DOE Adobe Team referenced in BPA Points of Contact.

- b) **CLP Qualification Requirements.** Based on DOE's average annual purchases in the prior CLP, as defined by the total accumulated points averaged over the two year period, the DOE qualifies for this CLP at Discount Level 2, within no initial purchase requirement of 225,000 points.

Affiliate Qualification. DOE ordering organizations which do not wish to establish an affiliate status, or do not meet the 3,500 point minimum for affiliate enrollment, may place delivery orders under the master CLP, at the discount level designated by the master CLP. These ordering organizations will not be issued unique serial numbers, and will use the serial numbers associated with the master CLP. DOE ordering organizations which elect to become affiliates shall provide a point of contact to act as the designated CLP enrollee. The enrollee is the individual who enrolls in the DLP program on behalf of the program applicant (ordering organization). The enrollee will only be contacted if Adobe has any questions regarding the enrollment. The enrollee may be a different person than the "Contact" point designated in the application. The "Contact" shall be listed as the primary contact on the CLP agreement, and will receive all upgrade notices and program information from Adobe.

The following definition of affiliates is applicable to this BPA. Affiliates are entities that have legal personality and, in the case of Government affiliates, are entities that are subject to the same organizational, political, and regulatory schemes as the Government entity that is the Program Member.

- c) **Software Maintenance Support.** Upgrade plan is a fixed cost that CLP program members and/or enrolled Doe affiliates pay to receive future version of Adobe software product – upgrades – that are covered under Upgrade Plan. Under Upgrade Plan, program members and/or enrolled affiliates receive any upgrades, bug fixes, and updates during the term of their Upgrade Plan coverage that Adobe makes generally available. Purchases of Upgrade Plan are a single price for coverage through the expiration of the Adobe CLP program.

Upgrade Plan Renewals should be purchased by the Upgrade Plan anniversary date or coverage will lapse. Program members and/or enrolled affiliates may order Upgrade Plan for any previously owned (legacy) Adobe products only within the first six months of their CLP 4.5 membership, and only if the products are at the current version. After the first six months, program members and/or enrolled affiliates may only order Upgrade Plan for new and upgrade licenses, but are not required to do so. Coverages ordered after the first six months of the CLP membership is prorated by six-month increments as described in BPA

section 4.a.

Product/Price Schedule. Ordering organizations may request and negotiate additional (spot) discounts based on their anticipated requirements of products and/or services. Software license terms and conditions are provided by Adobe Product End User License Agreements at <http://www.adobe.com/products/eulas/>.

1. **Pricing Terms.** Prices shall not escalate during the term of the BPA except as reflected in the parent GSA Schedule; the initial discount structure shall be maintained. Spot discounting is encouraged. Prices will be reviewed annually or as required to determine whether a reduction is appropriate in accordance with the price reduction provisions of the agreement. Prices shall not include any fees except that GSA for the parent GSA Schedule, whether to the sponsoring organization or any other organization. The Contractor is responsible for all required fee payments and other filings with GSA in accordance with the terms of the parent GSA Schedule.
2. **Price Reduction (Most Favored Customer Prices).** The prices under this BPA shall be at least as low as the prices Softmart has under any other contract instrument under like terms and conditions. If at any time, the prices under any other contract instrument become lower than the prices in this BPA, this BPA shall be modified to include the lower prices.
3. **Services.** All services provided by Softmart Government Services in support of the BPA, including order tracking, online reporting, customer service support related to Adobe licensing, the Adobe licensing site, product keys, media and electronic software downloads (where available) are included in the offered prices. Adobe Expert Support described at <http://www.adobe.com/support/programs/> provides a range (bronze, silver, gold and platinum) of fee based services to ensure the customer is receiving maximum value from their Adobe software. Datasheets and offered services are available for download from the same link. Adobe Expert Support is offered by Adobe via Softmart Government Services and will include only those services described in the offering. Services are considered incidentals and based upon prior history are not projected to comprise a significant portion of the awards under this BPA.
4. **Ordering.** Because of the large number of products and to reduce the possibility of ordering the wrong thing, it is encouraged that eligible users communicate their requirements to the contractor, Softmart Government Services, for a formal quotation within the scope of this BPA. This will ensure that the customer receives the correct license, upgrade, upgrade plan, upgrade plan renewal, platform and/or installation media that is required. All such prices will be at or lower than the offered BPA prices. For all questions, quote requests and inquiries, or if an authorized user

wishes to request additional "spot" discounts, the contractor points of contact for this BPA are:

BPA Points of Contact:

Program Manager:

David Armentrout
Director, Federal Sales
Softmart Government Services, Inc.
450 Acorn Lane
Downingtown, PA 19335
Phone: (800) 628-9091
Fax: (800) 522-4329
E-Mail: david.armentrout@softmart.com

Or Alternate Point of Contact:

Terri Karol
Civilian Business Manager
Softmart Government Services, Inc.
450 Acorn Lane
Downingtown, PA 19335
Phone: (800) 763-8627 X4385
Fax: (610) 518-4827
E-Mail: terri.karol@softmart.com

Orders:

Terri Karol
Civilian Business Manager
Softmart Government Services, Inc.
450 Acorn Lane
Downingtown, PA 19335
Phone: (800) 763-8627 X4385
Fax: (800) 518-4827
E-Mail: terri.karol@softmart.com

Orders:

Kathy Hurd, Account Manager
Softmart Government Services, Inc.
450 Acorn Lane
Downingtown, PA 19335
Phone: (800) 628-9091 X4385
Fax: (610) 518-4827
E-Mail: Kathy.hurd@softmart.com
E-Mail: GovtSales@softmart.com

Important Note: This BPA does *not* utilize a serial number ordering process. Authorized users are *not* required to obtain any delivery order serial number prior to placement of the order.

Order Format/Forms/Content. Since DOE contractors as well as DOE Federal organizations are authorized users, no specific requirements for call/order format are applicable. Authorized users may utilize their own preferred forms. All requirements of the parent GSA Schedule are applicable. Orders may be on paper or electronic; purchase/credit card orders which conform to regulations for those programs may be accepted by the Contractor. All orders must include identification of the ordering activity, its payment instructions, and specifics of all products/prices ordered (including applicable line item numbers). It is preferable for all orders to be based upon, and include a reference to, a Contractor quotation. If the Adobe Upgrade Plan is included in an order, it shall be specified in accordance with subparagraph 4.a. below.

- 5. Technology Improvement.** The DOE may solicit, and the Contractor is encouraged to propose independently, technology improvements to the BPA. Proposals shall be submitted by the Contractor and include a description of the products and/or services, an electronic copy of the pricing tables, technical literature descriptions of the products and/or services, and evidence of inclusion in the GSA Schedule against which

this BPA is established. Discounts shall be at the same or greater discount level as the original BPA products prices.

6. **Substitution and Technology Refreshment.** If at any time during the period of performance of this BPA, the original manufacturer of the equipment (definition includes software, hardware and firmware) manufacturer schedules products for discontinuation, improvement and/or replacement, the Contractor shall provide a proposal to include the new or revised products in the BPA under the appropriate line items. Proposed prices for new or revised products shall be calculated on a Most Favored Customer basis. Discounts shall be at the same or greater discount as the original BPA products prices. Proposals shall be submitted to the BPA Contracting officer and sponsoring organization within seven (7) calendar days of the Contractor becoming aware of the OEM's intent. Improvement of product includes new releases, updates, upgrades including additional features and functionality, and successor or upgrade products. As noted above, no product may be included in the product/price schedule of this BPA which is not already included in the parent GSA Schedule.
7. **Delivery.** Electronic software delivery (where applicable) and Adobe license keys will be made available through the Adobe licensing site. Authorized users ordering under the Master CLP will not receive unique keys or have access to their own Adobe licensing site. Physical media for installation is available for separate purchase and can be included on BPA orders as open market line items. One installation kit can be used to make as many installations as the program member or affiliate is licensed for. Softmart Government Services maintains stock on installation media and will process orders in most cases the same day as they are received. Softmart Government Services GSA Schedule includes standard ground delivery in the offered prices. License only orders may also be delivered electronically. Expedited shipments will incur an additional charge.

Supplemental Terms and Conditions

1. **Order of Precedence/License Terms and Conditions.** Pursuant to GSA Federal Supply Service (FSS) Schedule Contract GS-35F-0346J, Softmart Government Services agrees to the following terms of a BPA with the DOE. All delivery orders placed against this BPA are subject to the terms and conditions of the FSS contract. In the event of a conflict between the terms of this BPA and those of the FSS contract, or any other Federal law or regulation, the terms of the FSS and/or the Federal law or regulation shall prevail. In the event of a conflict between the terms and conditions of this BPA or the parent FSS contract and those of any authorized user, the terms and conditions of this BPA and the parent FSS contract shall prevail. License terms and conditions applicable to products and/or services acquired under this BPA are set forth at <http://www.adobe.com/products/eulas/>.

The Adobe Upgrade Plan is at <http://www.adobe.com/aboutadobe/openoptions/upgradeplan.html>. The Upgrade Plan provides access to all Adobe upgrades for covered products during the period of the CLP. The Upgrade Plan can be acquired for some, all or none of the licenses purchased under this BPA. For orders which include the Adobe Upgrade Plan, the following schedule is mandatory:

Months 1-6: Purchase 24-month Upgrade Plan SKU
Months 7-12: Purchase 18-month Upgrade Plan SKU
Months 13-18: Purchase 12-month Upgrade Plan SKU
Months 19-23: Purchase 6-month Upgrade Plan SKU

2. **Extent of Obligation.** This BPA does not obligate any funds; all funding will be obligated on individual delivery orders by authorized users. The Government estimates, but does not guarantee, that the volume of acquisitions through this BPA will be \$ through the two year period of performance. All delivery orders will be issued, administered and paid by the authorized user.
3. **BPA Term.** The period of performance is June 1, 2007 – May 31, 2009, in conformance with the term of the current DOE CLP. There are no option periods; the period of performance is unitary, and may be extended by mutual agreement of the parties. The continued availability of this BPA is contingent upon contractor maintenance/renewal of the parent GSA Schedule; if the parent GSA Schedule lapses, this BPA automatically lapses on the same date. The BPA may be extended by mutual agreement of the parties. The BPA may be cancelled by either party with 30 calendar days prior notice; such cancellation does not affect the validity of delivery orders placed prior to the effective date of the cancellation.
4. **Suspension.** There may be occasions where the DOE may suspend ordering (by CLIN up to and including the entire BPA). This authority resides with the Contracting Officer. If a suspension occurs, the Contractor will comply upon receipt of notification.
5. **Invoicing.** Invoice format and content shall comply with FAR 52.212-4 (g) as required by the Contractor's GSA Schedule. The clause full text is online at <http://farsite.hill.af.mil>. Detailed instructions shall be included in the delivery order by the ordering organization, including Invoice Approving Official. The following requirements apply to orders placed by DOE Federal organizations:

Electronic invoicing is permitted. Each paper invoice or voucher submitted shall include the following:

- (1) name and address of the contractor
- (2) invoice date and number
- (3) contract number, contract line item, and, if applicable, the order number