

AWARD/CONTRACT		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)	RATING	PAGE OF PAGES 1 5
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2. CONTRACT (Proc. Inst. Ident.) NO. HSHQDC-06-C-00065	3. EFFECTIVE DATE 07/06/2006	4. REQUISITION/PURCHASE REQUEST/PROJECT NO. RSDO-06-00190
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5. ISSUED BY CODE DHS/OPO Department of Homeland Security Office of Procurement Operations 245 Murray Lane, SW Building 410 Attn: Thomas S. Bordone Washington DC 20528	6. ADMINISTERED BY (if other than Item 5) CODE DHS/OPO/DNDO OPO DNDO
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7. NAME AND ADDRESS OF CONTRACTOR (No., Street, City, Country, State and ZIP Code) THERMO EBERLINE LLC PO BOX 2108 SANTA FE NM 875042108	8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input checked="" type="checkbox"/> OTHER (See below)
	9. DISCOUNT FOR PROMPT PAYMENT (8(4))
	10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN

CODE 1793059820000	FACILITY CODE
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11. SHIP TO/MARK FOR CODE DNDO Domestic Nuclear Detection Office 245 Murray Drive, Building 410 Attn: David Taylor Washington DC 20428	12. PAYMENT WILL BE MADE BY CODE DHS S&T Department of Homeland Security Science and Technology Directorate 245 Murray Lane Building 410 Attn: Ms. Deborah DeVault Washington DC 20528
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13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2334 (c) <input type="checkbox"/> 41 U.S.C. 253 (c)	14. ACCOUNTING AND APPROPRIATION DATA See schedule
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15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT
Continued					
15G. TOTAL AMOUNT OF CONTRACT					\$14,617,386.00

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS		PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH			
	C	DESCRIPTIONS/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING		PART IV - REPRESENTATIONS AND INSTRUCTIONS			
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE			L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
	G	CONTRACT ADMINISTRATION DATA			M	EVALUATION FACTORS FOR AWARD	
	H	SPECIAL CONTRACT REQUIREMENTS					

CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 2 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)	18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any condition sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.
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19A. NAME AND TITLE OF SIGNER (Type or print) Greg Wortman, Director of Global Marketing	20A. NAME OF CONTRACTING OFFICER Thomas Bordone
19B. NAME OF CONTRACTOR BY <i>Greg Wortman</i> (Signature of person authorized to sign)	20B. UNITED STATES OF AMERICA BY <i>Thomas Bordone</i> (Signature of the Contracting Officer)
19C. DATE SIGNED 12 July 2006	20C. DATE SIGNED 7/12/06

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SCHEDULE

SECTION B SUPPLIES OR SERVICES AND PRICE/COSTS

B.1 OVERVIEW/PURPOSE

The purpose of this contract is to provide engineering services, development, production, and deployment support that fall within the scope of work specified in Section C.

B.2 CLIN REQUIREMENTS

CLIN PRICING TABLES

BASE YEAR CPAF CONTRACT LINE ITEM NUMBERS (CLINS)

ITEM NO.	SUPPLIES OR SERVICES	ESTIMATE D COST	BASE FEE	ESTIMATED COST PLUS BASE FEE	AWARD FEE
0001	ADVANCED SPECTROSCOPIC PROGRAM REQUIREMENTS IAW SECTION C SOW (EXCLUDING PARAGRAPHS 3.2.1 AND 3.3)	(	b(4))

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
0002	DATA DELIVERABLES	(	b(4))

BASE YEAR FIRM FIXED PRICE CONTRACT LINE ITEM NUMBER (CLIN)

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
0003	EDM 2 X 1 X 2-SIDED VARIANT PORTALS (STANDARD CARGO) IAW SECTION C SOW PARAGRAPHS 3.2.1 AND 3.3	(	b(4))

Delivery of CLIN 0003: NLT 3 MAO, unless otherwise specified in the award documentation.

OPTION YEAR 1 CPAF CONTRACT LINE ITEM NUMBERS (CLINS)

ITEM NO.	SUPPLIES OR SERVICES	ESTIMATED COST	BASE FEE	ESTIMATED COST PLUS BASE FEE	AWARD FEE
1001	ADVANCED SPECTROSCOPIC PROGRAM REQUIREMENTS IAW SECTION C SOW (EXCLUDING PARAGRAPHS 3.2.1 AND 3.3)	(		b(4))

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
1002	DATA DELIVERABLES	(	b(4))

OPTION YEAR 2 CPAF CONTRACT LINE ITEM NUMBERS (CLINS)

ITEM NO.	SUPPLIES OR SERVICES	ESTIMATED COST	BASE FEE	ESTIMATED COST PLUS BASE FEE	AWARD FEE
2001	ADVANCED SPECTROSCOPIC PROGRAM REQUIREMENTS IAW SECTION C SOW (EXCLUDING PARAGRAPHS 3.2.1 AND 3.3)	(		b(4))

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
2002	DATA DELIVERABLES	(	b(4))

OPTION YEAR 3 CPAF CONTRACT LINE ITEM NUMBERS (CLINS)

ITEM NO.	SUPPLIES OR SERVICES	ESTIMATED COST	BASE FEE	ESTIMATED COST PLUS BASE FEE	AWARD FEE
3001	ADVANCED SPECTROSCOPIC PROGRAM REQUIREMENTS IAW SECTION C SOW (EXCLUDING PARAGRAPHS 3.2.1 AND 3.3)	(		b(4))

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
3002	DATA DELIVERABLES	(	b(4))

OPTION YEAR 4 CPAF CONTRACT LINE ITEM NUMBERS (CLINS)

ITEM NO.	SUPPLIES OR SERVICES	ESTIMATED COST	BASE FEE	ESTIMATED COST PLUS BASE FEE	AWARD FEE
4001	ADVANCED SPECTROSCOPIC PROGRAM REQUIREMENTS IAW SECTION C SOW (EXCLUDING PARAGRAPHS 3.2.1 AND 3.3)	(	b(4)))

ITEM NO.	SUPPLIES OR SERVICES	QTY	UNIT	UNIT PRICE
4002	DATA DELIVERABLES	(	b(4))

BASE AND OPTION YEARS 1 THRU 4 FIRM FIXED PRICE OPTIONAL CONTRACT LINE ITEM NUMBER (CLIN)

The addition of a "Dash Number" suffix to the "Basic CLIN Item No" to reflect the Contract ordering year will be used to fully identify the item to be ordered ("0" = Base Year, "-1" = Option Year 1, "-2" = Option Year 2, "-3" = Option Year 3, "-4" = Option Year 4. **Example: 0004A-0 = base year, order for detector panel assy 0004A-1 = 1st Option Year CLIN**".

Basic CLIN	Supplies Or Services Unit Price Quantity	Base Year Unit Price	Option Year 1 Unit Price	Option Year 2 Unit Price	Option Year 3 Unit Price	Option Year 4 Unit Price
0004	REPLACEMENT PARTS PROVISION LINE ITEM TO BE NEGOTIATED AFTER AWARD	(	1	b(4)))

Table B.2.1 below shows the relationships between FFP CLIN numbers and Variant designs.

Table B.2.1 Relationships Between FFP CLINS and Variant designs (Updated Table).

SUPPLIES OR SERVICES (SEE PERFORMANCE SPECIFICATION FOR DETAILED DESCRIPTIONS)	Basic CLIN Item No. (without -0, -1, -2, -3, -4 order year shown)				
	SYSTEM	SYSTEM WITH GFM-GFE	PORTAL SUPPORT STRUCTURE	UPS* KIT MOUNTED WITH PORTAL	VEHICLE ID SYS (VIS)
ASP VARIANT A. 1 X 1 X 1-SIDED	A100	A100G	A010S	A010U	A010V
ASP VARIANT B. 1 X 1 X 2-SIDED (POV)	B100	B100G	B010S	B010U	B010V
ASP VARIANT C. 2 X 1 X 2-SIDED (CARGO)	C100	C100G	C010S	C010U	C010V
ASP VARIANT E. 3 X 2 X 2-SIDED (RAIL)	E100	E100G	E010S	E010U	E010V
ASP VARIANT H. 2 X 1 X 1-SIDED (MOBILE)	H100	H100G	H010S	H010U	H010V
ASP VARIANT J. 2 X 1 X 2-SIDED (RELOCATABLE)	J100	J100G	J010S	J010U	J010V
ASP VARIANT L. 1/2 PANEL INTERNAL MOUNT (MOBILE SUV-BASED)	L0100	L100G	L010S	L010U	L010V
ASP VARIANT M. 1/2 PANEL EXTERNAL MOUNT (MOBILE SUV-BASED)	M100	M100G	M010S	M010U	M010V
ASP VARIANT P. 2 X 1 X 2-SIDED (STANDARD CARGO) LOW RESOLUTION PORTAL	P100	N/A	P010S	P010U	P010V
ANNUNCIATOR ASSEMBLY, INTERIOR	T100	-	-	-	-
ANNUNCIATOR ASSEMBLY, EXTERIOR	T200	-	-	-	-
REMOTE MONITORING STATION	T300	-	-	-	-
SUPERVISORY CONTROL STATION FOR SITE WITH ONE (1) PORTAL	T401	-	-	-	-
SUPERVISORY CONTROL STATION FOR SITE WITH UP TO TEN (10) PORTALS	T410	-	-	-	-
SUPERVISORY CONTROL STATION FOR SITE WITH UP TO TWENTY (20) PORTALS	T420	-	-	-	-
SUPERVISORY CONTROL STATION FOR SITE WITH UP TO FORTY (40) PORTALS	T440	-	-	-	-
WIRELESS CONNECTION BETWEEN ANNUNCIATOR AND PORTAL CONTROL BOX	T500	-	-	-	-
PORTAL DISPLAY AND CONTROL CODE	T951	-	-	-	-
THREAT IDENTIFICATION CODE	T952	-	-	-	-
SUPERVISORY DISPLAY AND CONTROL CODE	T953	-	-	-	-
REMOTE MONITORING DISPLAY CODE	T954	-	-	-	-

The FFP CLIN number is structured for ease of identification:

- First character: ASP Variant (A - P) or Ancillary Equipment (T)
- Second, third and fourth character: Assembly number
- Fifth character and Sixth Character: Alternate or subsystem identifier

- G System with GFM or GFE incorporated
- MV Contractor Provided Vehicle
- S Support Structure assembly or kit
- U Uninterruptible Power Supplies Mounted in Each Portal (as compared to a site centralized Uninterruptible power distribution architecture)

V Vehicle Identification System assembly or kit

Dash Number (Suffix): Contract year that the item is ordered under.

The addition of a "Dash Number" Suffix to the "Basic CLIN Item No" to reflect the Contract ordering year will be used to fully identify the item to be ordered ("-0" = Base Year, "-1" = Option Year 1, "-2" = Option Year 2, "-3" = Option Year 3, "-4" = Option Year 4.

** Indicates unpriced reserved CLINs

[b(4)]

SUPPLIES OR SERVICES AND PRICE/COSTS

SECTION B

HSHQDC-06-C-00065

Offeror: Thermo Electron

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
A100	ASP VARIANT A. 1 X 1 X 1-SIDED BASE CONFIGURATION	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
A100G	ASP VARIANT A. 1 X 1 X 1-SIDED BASE CONFIGURATION WITH GFM-GFE DETECTORS										
A010S	ASP VARIANT A. PORTAL SUPPORT STRUCTURE										
A010U	ASP VARIANT A. UPS KIT MOUNTED IN PORTAL										
A010V	ASP VARIANT A. VEHICLE ID SYS (VIS)										
B100	ASP VARIANT B. 1 X 1 X 2-SIDED (POV) BASE CONFIGURATION										
B100G	ASP VARIANT B. 1 X 1 X 2-SIDED (POV) BASE CONFIGURATION WITH GFM-GFE DETECTORS										
B010S	ASP VARIANT B. PORTAL SUPPORT STRUCTURE										

b(4)

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
B010U	ASP VARIANT B. UPS KIT MOUNTED IN PORTAL										
B010V	ASP VARIANT B. VEHICLE ID SYS (VIS)										
C100	ASP VARIANT C. 2 X 1 X 2-SIDED (STANDARD CARGO) BASE CONFIGURATION										
C100G	ASP VARIANT C. 2 X 1 X 2-SIDED (STANDARD CARGO) BASE CONFIG W/ GFM-GFE DETECTORS					b(4)					
C010S	ASP VARIANT C. PORTAL SUPPORT STRUCTURE										
C010U	ASP VARIANT C. UPS KIT MOUNTED IN PORTAL										
C010V	ASP VARIANT C. VEHICLE ID SYS (VIS)										
E100	ASP VARIANT E. 3 X 2 X 2-SIDED (RAIL) BASE CONFIGURATION										

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
E100G	ASP VARIANT E. 3 X 2 X 2-SIDED (RAIL) BASE CONFIGURATION WITH GFM-GFE DETECTORS										
E010S	ASP VARIANT E. PORTAL SUPPORT TOWERS (SET)										
E010U	ASP VARIANT E. UPS KIT										
E010V	ASP VARIANT E. RAILCAR ID SYSTEM (RIS)										
H100	ASP VARIANT H. 2 X 1 X 1-SIDED MOBILE BASE CONFIGURATION W/ GFE VEHICLE										
H100G	ASP VARIANT H. 2 X 1 X 1-SIDED MOBILE BASE CONFIG. W/ GFE DETECTORS & GFE VEHICLE										
H100S	ASP VARIANT H. PORTAL SUPPORT STRUCTURE INCLUDING CUSTOM TRUCK BED										
H010MV	ASP VARIANT H. CONTRACTOR PROVIDED VEHICLE										

b(4)

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
H010V	ASP VARIANT H. VEHICLE ID SYS (VIS)										
J100	ASP VARIANT J. 2 X 1 X 2-SIDED RELOCATABLE BASE CONFIGURATION										
J100G	ASP VARIANT J. 2 X 1 X 2-SIDED RELOCATABLE BASE CONFIG. W/ GFE DETECTORS										
J100S	ASP VARIANT J. PORTAL SUPPORT STRUCTURE INCLUDING TRAILERS										
J010U	ASP VARIANT J. UPS KIT INSTALLED										
J010V	ASP VARIANT J. VEHICLE ID SYS (VIS)										
L100	ASP VARIANT L. 1/2 PANEL SYSTEM (SUV INTERNAL) NO VEHICLE										
L100G	ASP VARIANT L. 1/2 PANEL SYSTEM (SUV INTERNAL) W/ GFM-GFE DETECTORS, NO VEHICLE										

b(4)

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
L010S	ASP VARIANT L. PORTAL SUPPORT STRUCTURE										
L010U	ASP VARIANT L. UPS KIT										
L010MV	ASP VARIANT L. CONTRACTOR PROVIDED VEHICLE										
L010V	ASP VARIANT L. VEHICLE ID SYS (VIS)					b(4)					
M100	ASP VARIANT M. 1/2 PANEL SYSTEM (SUV EXTERNAL) NO VEHICLE										
M100G	ASP VARIANT M. 1/2 PANEL SYSTEM (SUV EXTERNAL) W/ GFM-GFE DETECTORS, NO VEHICLE										
M010S	ASP VARIANT M. PORTAL SUPPORT STRUCTURE (ROOF TOP ENCLOSURE)										
M010U	ASP VARIANT M. UPS KIT										

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
M010MV	ASP VARIANT M. CONTRACTOR PROVIDED VEHICLE										
M010V	ASP VARIANT M. VEHICLE ID SYS (VIS)										
P100	ASP VARIANT C. 2 X 1 X 2-SIDED (STANDARD CARGO) BASE CONFIGURATION										
P010S	ASP VARIANT P. PORTAL SUPPORT STRUCTURE										
P010U	ASP VARIANT P. UPS KIT MOUNTED IN PORTAL										
P010V	ASP VARIANT P. VEHICLE ID SYS (VIS)										
T100	ANNUNCIATOR ASSEMBLY, INTERIOR										
T200	ANNUNCIATOR ASSEMBLY, EXTERIOR										
T300	REMOTE MONITORING STATION										
T401	SUPERVISORY CONTROL STATION FOR SITE WITH ONE (1) PORTAL										

b(4)

Basic CLIN	Supplies or Services - FFP (See Performance Specification for Detailed Descriptions)	Base Year		Option Year 1		Option Year 2		Option Year 3		Option Year 4	
		Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)	Quantity	Unit Price (\$)
T410	SUPERVISORY CONTROL STATION FOR SITE WITH UP TO TEN (10) PORTALS										
T500	WIRELESS CONNECTION BETWEEN ANNUNCIATOR & PORTAL CONTROL BOX										
T600	MEDIUM RESOLUTION RADIATION SENSOR PANEL										
T601	HIGH RESOLUTION RADIATION SENSOR PANEL										
T700	OPERATOR MONITORING SYSTEM (FOR MOBILE SYSTEMS)										
T801	DETECTION ZONE OCCUPANCY AND SPEED SENSORS										
T951	PORTAL DISPLAY AND CONTROL CODE										
T952	THREAT IDENTIFICATION CODE										
T953	SUPERVISORY DISPLAY AND CONTROL CODE										
T954	REMOTE MONITORING DISPLAY CODE										

b(4)

FFP CLIN NOTES

CLIN	Contract Line Item Number
DAC	Days After Contract Award
DAO	Days After Option Award
GFM-GFE	Government Furnished Material or Government Furnished Equipment
MAC	Months After Contract Award
MAO	Months After Option Award
NLT	No Later Than
NSP	Not Separately Priced
TBD	To be Determined after contract award
UPS	Uninterruptible Power Supply
VIS	Vehicle (or Railcar) Identification System

FFP CLIN NOTE A: PRICE FOR ITEMS WITH GOVERNMENT FURNISHED MATERIAL (GFM) OR GOVERNMENT FURNISHED EQUIPMENT (GFE)

The indicated prices for supplies or services delivered with Government Furnished Material (GFM) or Government Furnished Equipment (GFE) should not include the cost or price of the furnished GFM or GFE.

FFP CLIN NOTE B: OPTION EXERCISE ORDER

The FFP Option CLINS have been grouped by Option Year. Option Year CLINS, if exercised, must be exercised sequentially by year. Failure to exercise the Option Year CLIN group for one year shall preclude the Government from exercising any future Option Year CLIN groups. Individual CLINS within the Option Year Group are independent of each other, as the Government does not anticipate that all Option CLINS for all variants will be exercised in each option year. So long as the Government exercises its option for the minimum specified quantity in an Option Year, it has the right to exercise its Option for the proceeding Option Year group of CLINS at the prices specified in Section B. The minimum purchases quantities per contract per Option Year for "equivalent Radiation Sensor Panels" are addressed in section H.1.

FFP CLIN NOTE C: ADDITIONAL NON-RECURRING ENGINEERING FOR SYSTEM VARIANTS

The exercise of FFP options may require additional non-recurring engineering to be performed under CPAF Items in accordance with Section C Statement of Work excluding Paragraphs 3.2.1 and 3.3. If the design and engineering efforts determine that material changes are required to deliver systems compliant to the performance or delivery requirements, the Government and the Contractor may negotiate a change to the FFP item.

FFP CLIN NOTE D: SYSTEM CONFIGURATION

The base configuration of each system includes the equipment and components indicated in Section 4.2 of the ASP Performance Specification. FFP Equipment CLINS shall not include costs

for warranty (if proposed), start-up support, maintenance or repair, or any other non-recurring engineering items in Section C.

FFP CLIN NOTE E: VENUE SPECIFIC CONFIGURATION PERFORMANCE

The Contractor is responsible for the performance of the integrated system for each venue specific configuration which is to be assembled and integrated from the CLIN items identified in the Venue Specific Equipment List (VSEL) CDRL 049 included in the option execution documentation.

FFP CLIN NOTE F: SUPPORT STRUCTURE

The support structure(s) for fixed and mobile systems are described in the ASP Performance Specification. The exercise of FFP options for support structures may require additional non-recurring engineering to be performed under CPAF Items in accordance with Section C Statement of Work, excluding Paragraphs 3.2.1 and 3.3. If the design and engineering efforts indicate that material changes are required to deliver support systems compliant with the performance or delivery requirements, the Government and the Contractor may negotiate a change to the FFP item.

FFP CLIN NOTE G: REPLACEMENT PARTS (CLINS 0004)

Following contract award, the Contractor shall provide a priced list of replacement parts with cross reference indicator for variant applicability in accordance with data item 046.

FFP CLIN NOTE H:

It is intended that vehicles for the mobile applications will be provided as GFE, however, FFP Equipment CLINs have been specified for cases where it is necessary for the contractor to provide the system inclusive of the vehicle.

FFP CLIN NOTE I:

(Reserved)

FFP CLIN NOTE J: ASP VARIANT P (LOW-RESOLUTION PORTAL)

(Reserved)

FFP CLIN NOTE K:

(Reserved)

B.3 CONTRACT TYPE AND SERVICES

This contract consists of Cost-Plus-Award-Fee (CPAF) CLINS for engineering services, development, and deployment support; and Firm Fixed Price (FFP) CLINS for production and the pilot prototype CLIN 0003.

B.4 OBLIGATED AMOUNT, ESTIMATED COST, FIXED FEE and AWARD FEE

[b(4)]

The following is the Accounting and Appropriation Data for this obligation:

Line Item	Accounting Code	Amount
-----------	-----------------	--------

[b(4)]

Total Obligated Amount	\$ 14,617,386
PR Number	RSDO-06-00190

[b(4)]

This contract provides for a maximum award fee pool for the base year CPAF CLIN 0001 and for all options (if exercised) CLINS 1001, 2001, 3001, and 4001 (Section B Table). The maximum award fee pool amount for base year and each option will be evaluated using the process identified herein, divided and paid over consecutive evaluation periods as described in Attachment 4.

SECTION C DESCRIPTION/SPECIFICATION/WORK STATEMENT**C.1 BACKGROUND AND STATEMENT OF WORK****Advanced Spectroscopic Portal (ASP) Program****1.0 Background and Scope**

Covert nuclear attack is the foremost threat facing the United States and is a primary focus of the war on terror. The safety of the United States depends upon its ability to design and field systems to detect and interdict smuggled nuclear weapons and materials. The Domestic Nuclear Detection Office (DNDO) of the Department of Homeland Security (DHS) is chartered to develop, acquire, and support the deployment and improvement of a domestic system to detect attempts to import, assemble, or transport a nuclear explosive device, fissile material, or radiological material intended for illicit use. The Advanced Spectroscopic Portal (ASP) Program is a high-priority program within DHS and is a key component of DNDO and other federal national nuclear detection initiatives to meet homeland security needs.

A critical component of the DNDO nuclear detection architecture is a passive radiation detection portal suitable for examining cargo containers, trucks, privately owned vehicles, mail, and bundled cargo. The primary technical challenge associated with the development of such a device is the accurate and rapid detection of threat objects including Improvised Nuclear Devices (INDs), Special Nuclear Material (SNM) and Radiological Dispersive Devices (RDDs) with efficient discrimination of innocent radiating materials from dangerous special nuclear materials.

In the years since September 11, 2001, the Bureau of Customs and Border Protection (CBP) has deployed nearly six hundred (600) first-generation passive Radiation Portal Monitors (RPMs) at manned ports of entry (POEs), international mail and express consignment courier facilities (ECCF), land border crossings, airports, and seaports. This set of portal products (deployed in different configurations appropriate to specific transportation venues) is referred to as a 'Family of Portals.' Each venue-specific member of the family of portals is referred to as a 'variant.' DHS considers the 4-panel ASP cargo portal configuration as defined in the ASP Performance Specification to be the Baseline Variant - from which all the others are derived. The scope of this contract includes development and production of fixed and mobile variants to support CBP requirements, as well as spectroscopic requirements of other Federal, state, local, and tribal agencies.

The Government intends to develop and acquire a family of medium-resolution portals with gamma detection principally based upon sodium iodide (NaI) gamma detection technology, and a family of high-resolution portals based upon gamma detection materials that have a full-width-half-maximum resolution finer than NaI, such as high-purity germanium.

ASP systems will be mounted in several configurations and quantities based on the deployment venue. Possible venues include installations at ports-of-entry (POE) for use in surveying cargo vehicles and privately-owned vehicles (POV). Transportable truck-mounted portals will be required for some locations (e.g. seaports and air cargo terminals) while trailer-mounted mobile portals may be used for temporary checkpoints. Additional mobile configurations, some using specially modified vans and sport utility vehicles (SUV), may also be required to support covert

surveillance efforts. Other variants that may also be required are a human-portable system for use in maritime environments and a long-dwell-time variant to be used as a secondary portal following an alarm from a primary portal.

2.0 Applicable Documents

- A. Performance Specification for the Advanced Spectroscopic Portal (ASP) Program revision 3.0 dated 26 May 2006 (Section J, Attachment 10)
- B. Contract Data Deliverables and Schedule (Section J, Attachment 3)
- C. American National Standards Institute (ANSI)/EIA-748-A-1998 Earned Value Management Systems

3.0 Requirements

The scope of this statement of work (SOW) encompasses all required products, resources, and services to fully support ASP program objectives. This includes the engineering services necessary to design, develop, enhance, produce, and deploy the ASP systems. It also includes maintenance and training services required to support deployment of the ASP variants.

Performance is subject to written Technical Instruction (TI) issued by the Contracting Officer Technical Representative (COTR). TIs provide direction and guidelines for performance of the cost-plus-award-fee work and must be within the scope of work stated in the contract. TIs shall be coordinated with the Contracting Officer and issued in writing by the COTR. The Contractor shall proceed promptly with the performance of the TI issued by the COTR. Any action(s) taken by the Contractor in response to any direction given by any person other than the Contracting Officer or the COTR shall be at the Contractor's risk.

The COTR does not have the authority to, and shall not, issue any TI which: (1) constitutes an assignment of additional work outside the Statement of Work (SOW) that requires a cost estimate from the contractor (the Contracting Officer must evaluate and approve the cost prior to commencement of work unless the Contracting Officer provides otherwise in writing); (2) constitutes a change as defined in the "Changes" clause; (3) constitutes a basis for any increase or decrease in the total estimated contract cost, the fixed fee (if any), or the time required for contract performance; (4) changes any of the expressed terms, conditions, or specifications of the contract; or (5) unreasonably interferes with the Contractor's ability to perform the terms and conditions of the contract. Any such TI must first be authorized by a written change order to this Contract issued by the Contracting Officer, as provided in the "Changes" clause. If any TI by the COTR falls within one of the types described above, the Contractor shall not proceed to act on such TIs, and shall promptly notify the Contracting Officer. Upon receipt of a notification from the Contractor, the Contracting Officer shall promptly advise the Contractor either (1) that the TI is within the general scope of the Contract and does not constitute a change under the "Changes" clause, and to proceed on such TI; or (2) that the TI is not within the general scope of the Contract or would constitute a change under the "Changes" clause, and to not proceed to act on such TI unless and until the Contracting Officer issues a written change order.

3.1 Program Management

The Contractor shall establish and maintain an integrated Program Management function for the entire scope of work. The Contractor shall assign a Program Manager (PM) as the principal point of contact. Program management activities shall include oversight and monitoring of scope, cost,

schedule, and performance. Management processes and controls shall be implemented to assure that efforts under the contract are fully coordinated with the DNDO PM.

All data deliverables which require input from subcontractors shall be provided in an integrated, coherent, and standardized manner which shall allow the Government to accomplish an effective and straightforward review of both the summary and detailed information contained in the deliverables without requiring the Government to merge, reformat, translate, convert units for, or otherwise change the provided data.

3.1.1 Project Management Plan

The Contractor shall develop a Project Management Plan (PMP) which shall include a Program Organization Overview. This plan shall describe the roles and responsibilities of the Contractor's team; reporting structures and mechanisms; risk assessment methodology, results, and mitigation strategies; cost, schedule, and progress reporting; Earned Value Management (EVM) monitoring; baseline change process; and corporate oversight.

Data Deliverable(s): 001 Program Organization Overview
059 Project Management Plan (PMP)

3.1.2 Work Breakdown Structure (WBS)

The Contractor shall develop and maintain a detailed WBS. The WBS shall describe in a hierarchical fashion the products and services required to accomplish the scope of work. Each element of the WBS shall define the work to be performed and the deliverables..

Each element of the WBS shall be defined in a WBS dictionary that describes the scope of the work to be performed and the deliverables to be submitted.

The Contractor shall propose a detailed WBS and WBS dictionary in accordance with the structure provided in Attachment 12 and Contract Data Requirement List (CDRL) 003.

Data Deliverable(s): 003 Work Breakdown Structure (WBS) and WBS Dictionary

3.1.3 Master Integrated Program Schedule (MIPS)

The Contractor shall develop and maintain a detailed Master Integrated Program Schedule (MIPS) for all activities associated with the SOW. The MIPS shall show the critical path and the key dependencies, successors, and predecessors for both internal and external activities. In particular, the MIPS shall address the plan for material acquisition involving long lead times. The Contractor shall incorporate schedules for delivery of thallium activated sodium iodide (NaI) nuclear detector assemblies (provided as Contractor Furnished Equipment (CFE) or Government Furnished Equipment (GFE)) into the MIPS.

The Contractor shall develop a resource-loaded MIPS. By using resource-loaded tasks, the updated MIPS shall become the budgeted cost of work scheduled (BCWS) baseline for the program. Costs shall be listed by top-level WBS and month. The critical path, activity float, and schedule reserves shall be identified. The MIPS shall be illustrated in both a Gantt Chart and Network Diagram format.

Data Deliverable(s): 004 Master Integrated Program Schedule (MIPS)

3.1.4 Cost Performance Report (CPR) and Earned Value Management System (EVMS)

The Cost Performance Report (CPR) shall include monthly and cumulative costs, earned value, and key program metrics.

The Contractor shall establish and maintain a project status, control, and reporting system in accordance with ANSI/EIA-748-A-1998 earned value management requirements to effectively evaluate cost, schedule, and performance, and to provide status and planning information to the Government.

The Contractor shall:

- Integrate cost, schedule, and required tasking to form the Acquisition Program Baseline (APB) from which the schedule performance index (SPI) and cost performance index (CPI) shall be calculated, and from which risk mitigation can be assessed and corrective action planning conducted
- Quickly incorporate changes (with each new TI or CLIN exercise) to the baseline and accurately track changes
- Collect, analyze, and deliver metrics on the program to DHS.

The CPR shall be submitted in accordance with the DHS Capital Planning & Investing Control (CPIC) Periodic Cost Reporting formats. This format will be provided by the Government.

This report shall measure the Contractors' cost and schedule performance:

- Data to measure cost and schedule performance by Work Breakdown Structure (WBS) elements, the hardware, software, and services the Government is buying. The level of detail to be reported shall be at level four of the WBS, but lower levels may be specified for high-cost or high-risk items. The Government and the Contractor shall periodically review and adjust as necessary WBS reporting levels to ensure they continue to provide appropriate visibility without requiring excessive information. If there is a significant problem at a lower level, detailed reporting for that WBS element may be required until the problem is resolved.
- The budget baseline plan against which performance is measured.
- A narrative report used to explain significant cost and schedule variances and other identified contract problems and topics. Variance analysis thresholds which, if exceeded, require problem analysis and narrative explanations. If the contract does not specify variance analysis thresholds, the Contractor shall provide appropriate variance analyses. Variance analysis thresholds shall be reviewed periodically and adjusted as necessary to ensure they continue to provide appropriate visibility.

CPR data shall be used by Government to: integrate cost and schedule performance data with technical performance measures; identify the magnitude and impact of actual and potential problem areas causing significant cost and schedule variances, and provide valid, timely program status information. The CPR is a management report. It provides timely, reliable summary-level data with which to assess current and projected contract performance. The CPR's primary value to the Government is its ability to reflect current contract status and reasonably project future program performance. It shall be used to confirm, quantify, and track known or emerging contract problems and serve as a basis for communicating with the Contractor. The CPR data shall accurately reflect how work is being planned, performed, and measured and shall be consistent with the actual contract status. The CPR shall be used to obtain cost and schedule

performance information on contracts requiring compliance with the American National Standards Institute/Electronic Industries Alliance Standard 748 (ANSI/EIA-748), Earned Value Management Systems (EVMS) (current version in effect at time of contract award). The CPR data elements shall reflect the output of the Contractor's ANSI/EIA-748 compliant integrated management system. Reports may reflect data either as of the end of the calendar month or as of the Contractor's accounting period cutoff date, provided it is consistent with the Master Integrated Program Schedule (MIPS). Contractors shall refer to the Earned Value Management Implementation Guide (EVMIG) for guidance on tailoring reporting. Unless otherwise provided in the contract, data reported in the CPR shall pertain to all authorized contract work.

The CPR shall include:

- The dollar value (excluding fee or profit) on which contractual agreement has been reached as of the cutoff date of the report. Amounts for changes shall not be included in this item until they have been priced and incorporated in the contract through contract change order or supplemental agreement. Include the estimated cost negotiated. Changes to the estimated cost shall consist only of estimated amounts for changes in the contract scope of work, not for cost growth ("overrun") above the original estimated cost.
- Profit/Fee. Include fee or percentage of profit that shall apply if the negotiated cost of the contract is met.
- Estimated Price. Based on the most likely estimate of cost at completion for all authorized contract work and the appropriate profit/fee, include the estimated final contract price (total estimated cost to the Government). This number shall be based on the Estimate at Completion (EAC) and normally changes whenever the management estimate or the contract is revised.
- Estimated Contract Ceiling. Include the estimated ceiling price applicable to all authorized contract effort.
- Variance (the Contract Budget Base minus the EAC)
- Work Breakdown Structure Element. Include the noun descriptions of the WBS items for which cost information is being reported. WBS elements and levels reported shall be those specified in the contract.
- Cost of Money. Include the Facilities Capital Cost of Money applicable to the contract.
- General and Administrative. Include the appropriate General and Administrative (G&A) costs.
- Undistributed Budget (UB). This is the budget applicable to contract effort that cannot be planned in sufficient detail to be assigned to a responsible organizational area at the reporting level. Include the amount of budget applicable to contract effort that has not yet been identified to WBS elements at or below the reporting level. For example, if contract changes were authorized late in the reporting period, these changes shall have received a total budget; however, assignment of work and allocation of budgets to individual WBS elements may not have been accomplished as of the Contractor's accounting period cutoff date. Budgets that can be identified to

WBS elements at or below the specified reporting level shall be included in the total budgets shown for the WBS elements and shall not be shown as UB. Include the EAC for the scope of work represented by the UB. Include the variance, if any, and fully explain. The reason(s) for UB shall be fully explained.

- Use of Undistributed Budget. UB is used to accommodate temporary situations where time constraints prevent adequate budget planning or where contract effort can only be defined in very general terms. UB shall not be used as a substitute for adequate contract planning. Formal budgets shall be allocated to contract effort and responsible organizations at the earliest possible time, preferably within the next reporting period.
- Performance Measurement Baseline. Include the sum of the costs and budgets for direct, indirect, cost of money, and G&A. This subtotal represents the dollars in the allocated budget (less MR), which is the Performance Measurement Baseline (PMB) against which performance is measured. Also include the time-phased PMB as it exists at the end of the reporting period. The difference between this and the PMB (Beginning of Period) represents the effects of all significant changes, including the authorized changes, allocations of MR made during the period, and changes to time phasing. The reasons for these changes shall be explained.
- Management Reserve. MR is an amount of the overall contract budget withheld for management control purposes and is held for program unknowns (realized risks on authorized work scope). Reserve is held for future needs and shall not be used to offset cumulative cost variances. It shall not be eliminated from contract prices by the Government during subsequent negotiations nor used to absorb the cost of contract changes. Include the total amount of budget identified as MR as of the end of the current reporting period. Amounts of MR applied to WBS elements during the reporting period shall be listed and explained. (Negative entries shall not be made in Management Reserve. There is no such thing as "negative MR.")
- Total. Include the sum of all direct, indirect, cost of money, and G&A costs, and UB and MR (if applicable)

The data shall reflect the output of the Contractor's ANSI/EIA-748 compliant integrated management system and shall include the following:

- Budgeted Cost Work Scheduled (BCWS)
- Budgeted Cost Work Performed (BCWP)
- Actual Cost Work Performed (ACWP). Include without regard to ceiling.
- Schedule Variance (SV) (i.e., accomplishment). Indicate the differences between BCWS and BCWP. SV is derived by subtracting BCWS from BCWP, including cumulative to date. A positive number in Column (5) and Column (10) indicates a favorable variance. A negative number indicates an unfavorable variance. Significant variances as specified in the contract shall be fully explained. If the contract does not specify variance analysis thresholds, the Contractor shall provide appropriate variance analyses.
- Cost Variance (CV). Indicate the difference between BCWP and ACWP. CV is derived by subtracting ACWP from BCWP, including cumulative to date. A positive

value indicates a favorable variance. A negative value (indicated by parentheses) indicates an unfavorable variance. Significant variances as specified in the contract shall be fully explained. If the contract does not specify variance analysis thresholds, the Contractor shall provide appropriate variance analyses.

- Budget At Completion (BAC). Include the BAC. This entry shall consist of the sum of the original budgets plus or minus budget changes resulting from contract changes, replanning, and application of MR. The total shall equal the Total Allocated Budget.
- Estimate at Completion (EAC): Include the latest revised EAC cost at completion including estimated overrun/under-run for all authorized work. If the subtotal does not agree with the EAC, the difference shall be explained.
- Variance At Completion (VAC) - Include the difference between the BAC and EAC. A negative value (indicated by parentheses) reflects an unfavorable variance. Significant variances as specified in the contract shall be fully explained. If the contract does not specify variance analysis thresholds, the Contractor shall provide appropriate variance analyses.
- Total Allocated Budget. Include the sum of all budgets allocated to the performance of the contractual effort. Differences shall be explained when a negative value appears and subsequently for any changes in the difference between Contract Budget Base and the Total Allocated Budget.
- Planned Completion Date. Include the completion date to which the budgets allocated in the PMB have been planned. This date represents the planned completion of all significant effort on the contract. The cost associated with the schedule from which this date is taken is the Total Allocated Budget.
- Contract Completion Date. Include the contract scheduled completion date in accordance with the latest contract modification. The cost associated with the schedule from which this date is taken is the Contract Budget Base.
- Baseline Changes. List all significant baseline changes that have occurred during the reporting period. This listing shall include the contract changes and supplemental agreements authorized during the reporting period, allocations from MR and UB, and any significant re-phasing of budgets. All significant authorized baseline changes shall be listed. In the PMB in this report, include the projected BCWS by month for the next six months and for periodic increments (monthly, quarterly, or annually) thereafter for the remainder of the contract. It is useful to show the time phasing of any baseline changes.
- Explanations and Problem Analyses. This is a narrative report prepared to amplify and explain data in the CPR. It shall normally at a minimum address the following: contractually required cost, schedule, and EAC variance analyses; MR changes and usage; UB contents, and significant differences between beginning of period PMB time phasing and end of period PMB time phasing; performance measurement milestones that are inconsistent with contractual milestones; formal reprogramming (over target baseline) implementation details. Any other topic relevant to contract cost, schedule, or technical performance may be addressed in this format.

- **Management Reserve Changes.** Identify the sources and uses of MR changes during the reporting period. Identify the WBS and organizational elements to which MR is applied, and the reasons for its application.
- **Baseline Changes.** Explain reasons for significant shifts in time phasing of the PMB.

Provide a summary analysis that identifies significant problems affecting performance. Indicate corrective actions required, including Government action where applicable. Significant changes since the previous report shall be highlighted. Discuss any other issues affecting successful attainment of contract cost, schedule, or technical objectives that the Contractor deems significant or noteworthy. This section is brief, normally one page.

Explain all variances that exceed specified variance thresholds. Explanations of variances shall clearly identify the nature of the problem, significant reasons for cost or schedule variance, effect on the immediate task, impact on the total contract, and the corrective action taken or planned. Explanations of cost variances shall identify amounts attributable to rate changes separately from amounts applicable to hours worked; amounts attributable to material price changes separately from amounts applicable to material usage; and amounts attributable to overhead rate changes separately from amounts applicable to overhead base changes or changes in the overhead allocation basis. To reduce the volume of variance analysis explanations, the Contractor may refer to a prior CPR's variance analysis explanations if the explanation for the current CPR's variance has not changed significantly. Explanations of schedule variances and the impact on the contract shall be performed in parallel with the schedule analysis called out by the IMS.

Data Deliverable(s): 060 Cost Performance Report (CPR)

3.1.5 Configuration Management

The Contractor shall maintain an effective configuration management process and develop a Configuration Management Plan that describes how changes in data, software and hardware are identified, evaluated, implemented, and verified when complete.

The Contractor shall develop a program baseline (functional/product, cost, and schedule baseline) from requirements contained in the executed contract. These changes shall be approved by the COTR and shall be incorporated by the Contractor in drawings, specifications, procedures, and other affected program documentation.

The Contractor shall also maintain a formal configuration management process for all changes to the production variants. These changes must be approved by COTR and shall be incorporated by the Contractor in drawings, specifications, procedures, and other affected project documentation. A change control log shall be established from which a specific serial number shall be assigned to each change request, and in which the title, scope, and cost of the change shall be recorded, along with the disposition of the change and any assigned action items.

Data Deliverable(s): 053 Configuration Management Plan
063 Change Control Log
073 Engineering Change Proposal (ECP)

3.1.6 Quality Assurance

The Contractor shall prepare and maintain a Quality Assurance (QA) Plan for all deliverable items that describes the standards, processes and procedures that ensure the delivery of high-

quality ASP products and services. The plan shall define the organizational roles and responsibilities for implementing quality assurance activities and identify required reviews, audits, and corrective action. The QA plan shall address quality-related activities associated with all aspects of ASP deployment including, but not limited to: design, hardware, software development, configuration control, procurement, subcontracting, material control, manufacturing, installation, testing, and operations. The QA plan shall specifically address data quality output by the ASP systems regarding both completeness and accuracy.

Data Deliverable(s): 009 Quality Assurance Plan

3.1.7 Contractor Exchange of CDRLs/Program Data

Contractors shall submit all unclassified CDRL items and other unclassified program related data to the Government electronically via the internet. The Government maintains a portal for this purpose called DHSInteractive. Instructions for the use of DHSInteractive will be made available to the Contractor upon contract award.

When uploading files to DHSInteractive, filenames shall be in the format:

<VVV CDRL# Version Description Misc>

Where:

- "VVV" is a unique code assigned to the Contractor for identification purposes
- "CDRL#" is the CDRL Data Item # (if applicable)
- "Version" is the Contractor version identifier
- "Description" shall closely match the CDRL Data Item Title or be a succinct description of the data contained therein
- "Misc" is any additional data the vendor wishes to include in the filename

Immediately after submitting an item to DHSInteractive, the Contractor shall notify the individual(s) listed in Block 14 of the corresponding DNDO Form 1423-1, Contract Data Requirements List (1 Data Item). The Government anticipates issuing instructions for using DHSInteractive to make notification(s), but in the absence of instructions, the Contractor shall send such notification(s) via email.

The Government anticipates transmitting program data or guidance to the Contractor via DHSInteractive.

Classified data shall be submitted in accordance with current DNDO policies.

The Contractor shall produce and post a Data Accession List (DAL) that specifies all internally generated data and computer software used by the Contractor to develop, test, and manage the program.

The DAL shall include the identification number, and title, and version, and shall describe content and in-house release date.

Data Deliverable(s): 008 Data Accession List

3.1.7.1 Contractor Information Management System (CIMS)

The contractor shall develop an electronic digital Contractor Information Management System (CIMS) and CIMS architecture to manage, store, retrieve and exchange all types of ASP project and contractual information.

The CIMS shall be a means for providing authorized DHS users and their assigned representatives with on-line access to, and exchange of, Contractor-generated and maintained data specified in a Contract Data Requirements List (CDRL). The system shall be required to handle unclassified data only. The contractor shall establish a digital technical information system to provide automation and integration of the delivery of program technical information. Unless otherwise specified within the contract, all, or any portion of, the technical information specified herein shall be developed and delivered in a digital form compatible with requirements stated herein. Unless specifically stated herein, the following requirements do not replace or amend requirements for delivery of technical information in non-digital forms specified elsewhere in the contract. The maximum file size that shall be downloaded is 10 MB in order to reduce potential telecommunications problems. The contractor shall provide on-line capability for users to request physical delivery of data files too large to download.

Data shall be available through CIMS during the period of performance of this contract. The contractor shall provide access to appropriate subcontractor data via the CIMS. The contractor shall determine the method by which the subcontractor shall provide this data and the manner in which it is incorporated into the CIMS. The Contractor shall determine whether the subcontractors shall be linked to the CIMS network or whether they will simply provide their data in digital formats with the prime contractor then loading it into CIMS. The CIMS shall provide 24-hour on-line service every day of the week. Users shall be notified 24 hours in advance of any scheduled maintenance or other events affecting CIMS accessibility.

Unless specifically stated herein, the following requirements do not replace or amend requirements for delivery of technical information in digital or non-digital forms specified elsewhere in the contract.

Data Deliverable(s): 055 Contractor Information Management System Architecture

3.1.8 Progress Reports

The Contractor shall provide a written Progress Report on a recurring basis in a standard format to be specified by the Government. The report shall include the overall program status, an abstract or summary of accomplishments to date, and milestones completed, and activities and events planned for the following period.

The Progress Report shall identify significant issues or problems, to include the status of design, fabrication, testing and procurement of long lead items. The report shall contain an action item list of all identified corrective actions or inquiries, their status, and due dates.

The Contractor may add topics or items to the Government-provided format as appropriate.

Data Deliverable(s): 006 Progress Report

3.1.9 Support for Meetings, Working Groups, and Integrated Product Teams

As required, the Contractor shall support and actively participate in the meetings, working groups, and integrated product teams (IPT) at a location and time as designated by the Government.

The Contractor shall provide a level of effort and expertise that is appropriate to the topic.

As directed by the Government, the Contractor shall prepare and present briefs on a topic designated by the Government.

After all meetings, the Contractor shall submit meeting minutes in accordance with CDRL 054.

The Government anticipates that the COTR or his representative shall visit the Contractor facilities on a frequent basis and will be in attendance on a daily basis during, and prior to, review periods, tests, or other significant production or program events.

The Contractor shall provide a work area with a phone and internet connection for use by the Government representative during visits.

Data Deliverable(s): 002 Presentation Materials

054 Meeting Minutes

3.1.10 Reserved

3.2 Design and Engineering

The Requirements in this Section shall be individually applied to each variant.

The Contractor shall simultaneously conduct all engineering required to design, build, test, interface, and support the deployment of the ASP variants as tasked with a Technical Instruction (TI). The effort shall include establishing, maintaining, and documenting an effective engineering approach that addresses software, hardware, interfaces, electronics, mechanical, and environmental requirements as specified in the ASP Performance Specification.

The Contractor shall design the ASP systems for safe operation and maintenance. The Contractor shall demonstrate that the system has no adverse impact on user safety and the safety of surrounding operations. The engineering shall address hazards associated with the ASP deployments, including high voltage, radioactive calibration sources, and cryogenic temperatures. The Contractor shall identify all known hazardous materials associated with the ASP variants and shall communicate these to the Government in a Hazardous Materials Report.

Development of each variant shall be based upon the design and fabrication of an Engineering Development Model (EDM), which shall be the basis for a decision to authorize a specific CLIN for an increment of production. Subsequent design changes and spiral software upgrades shall be incorporated into the design.

The general nomenclature for ASP variants is defined in Section 4.0 of the ASP Performance Specification. The Contractor shall incorporate this nomenclature in all documentation.

The Government may require long dwell time versions of one or more of these variants. A long dwell time version supports a wait in mode allowing longer measurement durations and may require fewer sensor elements to achieve minimum detectable activity goals.

The Contractor shall conduct design and engineering efforts necessary to fully describe ASP hardware, software, interfaces, and integration. This includes developing and validating that the internal and external designs for the ASP variants meet the requirements of the ASP Performance Specification.

The Contractor shall also develop, maintain, and deliver the necessary support documentation needed to effectively accomplish hardware, software and interface design and integration.

The Contractor shall perform structural analysis in accordance with the ASP Performance Specification.

The Contractor shall provide the necessary design input to support design and construction of ASP foundations.

The Contractor shall develop and maintain all technical design information including hardware, software, and interface design documents.

Data Deliverable(s): 036 Structural Analysis Report

3.2.1 Engineering Development Model (EDM) Portals

The Contractor shall conduct the design and engineering required to successfully produce an EDM portal for each ASP variant so that it is operationally suitable for deployment.

The EDM portals for the Variant C (Cargo) may be refurbished GFE portals previously deployed in ASP-related prototypes. The EDM portals shall have fully functioning software, to include spectroscopic identification, and all displays and controls.

The Contractor shall conduct a Engineering Design Model Design Review (EDM DR) and provide a description of all proposed design changes.

The Contractor shall conduct a Systems Configuration Review (SCR) prior to the Test Readiness Review (TRR) to demonstrate that the ASP variants meet requirements in the ASP Performance Specification and related design data. The review shall be documented in the SCR report and shall demonstrate that the as-built configurations of the ASP variants conform to the technical documentation defining the system.

The Contractor shall support a test readiness review prior to Government testing of the EDM.

Data Deliverable(s): 034 EDM Design Review (EDM DR) Data Package

027 Test Readiness Review (TRR) Data Package

042 Operator Manual (Draft)

043 Maintenance Manual (Draft)

062 System Configuration Review (SCR) Report

002 Presentation Materials

054 Meeting Minutes

031 Test Report

3.2.2 System Requirements Documentation

The Contractor shall develop a System Requirements Document (SRD). The SRD shall set the functional and system requirements for the contractor's ASP system.

The Contractor shall develop a System Requirements Verification Matrix (SRVM) based on the ASP Performance Specification to confirm that system requirements have been included in the design.

Data Deliverable(s): 058 System Requirements Document (SRD)

014 System Requirements Verification Matrix (SRVM)

016 Functional Block Diagram

3.2.3 Configuration Audits, Functional Configuration Audits (FCA), and Physical Configuration Audits (PCA)

The Contractor shall maintain the configuration audit system that maintains the functional and physical characteristics of existing or planned hardware, firmware, software, or combination thereof. The configuration baseline shall be documented using a configuration control process. The Contractor shall maintain a functional configuration audit (FCA) system that verifies the actual performance that the configuration meets the requirements stated in the performance specification. The physical configuration audit (PCA) is a formal examination of the as-built configuration against the technical specifications, documentations, and drawings.

Data Deliverable(s): 053 Configuration Management Plan
068 Functional Configuration Audit
069 Physical Configuration Audit

3.2.4 Hardware Design and Engineering

The Contractor shall provide design documentation for the hardware components that comprise the ASP systems. This includes hardware items such as gamma detector assemblies, cameras, support structures, computers and other components. This documentation shall also include engineering calculations and design data. The ASP system variants shall be modular based on the 1 x 1 x 1-sided variant. The fixed and mobile system variants may need the same number of detector assemblies within a panel; the long dwell time variants may have fewer detector assemblies within a panel.

Data Deliverable(s): 010 Hardware Design Data (HDD)
032 Detector Assembly Specification

3.2.5 Software Design and Engineering

The Contractor shall provide software design data for the ASP systems for fixed, mobile and man-portable variations. Software shall be DNDO approved before any ASP deployment to the field. The software design data shall include design requirements for an open architecture, as set forth in Section 3.2.5.1 of the SOW, that can easily allow for future operating system (OS) and algorithm upgrades, easy access to removable data storage, design descriptions, transmitted data encryption needs, interface requirements, database design, data structure format for reach back, specification of the graphical user interface, OS source code (not required if OS is a common operating system widely known to computer users and available commercially), and software test plan for an assembled system. Data transfer may include, but is not limited to, transmission via local point-to-point, wireless, satellite, and internet.

Data Deliverable(s): 019 Software Design Data (SDD)
020 Data Transmission Design
021 Operating System Source and Executable Code
022 Test Code

023 Software Tools

3.2.5.1 Open Architecture for Software Development and Maintenance

The Contractor shall use an Open Architecture Approach for Software Development and Maintenance of its ASP variant that:

- a. Shall facilitate development of a modular architecture and allow for affordable interoperability.
- b. Shall ensure that the system design is sufficiently flexible and robust to accommodate changing technology and requirements.
- c. Shall fully document data storage and interface formats to facilitate independent testing of new and potentially enhanced algorithm modules as well as allow insertion of modules collecting data for an in depth study of potential signal characteristics (e.g., building empirical histograms of baseline depression factors).
- d. Shall contain excess memory and CPU power to facilitate additional, yet-to-be-defined evaluation software.
- e. Shall facilitate integration with other variants and use of commercial products from multiple sources both in the initial design and in future enhancements.
- f. Shall allow for affordable support.
- g. Shall enable incremental system improvements through upgrades of individual hardware or software modules with newer modular components without redesign of entire systems or large portions thereof.
- h. Shall mitigate the risks associated with technology obsolescence, being locked into proprietary technology, and reliance on a single source of supply over the life of the system.

3.2.6 Interface Design and Engineering

The Contractor shall review and analyze the interface definitions ID-01 through ID-05 in the ASP Performance Specification. The Contractor shall develop an interface design based on these requirements and shall indicate any deviations from the interface definitions. The Contractor shall conduct the design and engineering efforts necessary to fully address ASP physical site interfaces, operating system interfaces, data display, data transfer, and standardized data format for reach back. Types of data shall include, but are not limited to, spectra, digital imagery, isotopic identification, vehicle dwell time, and event date/time. Data transfer shall include, but is not limited to, transmission via local point-to-point, wireless, satellite, and internet. Types of data to be sent include alerts, spectra, visual, gamma count, and neutron counts. In addition, this subtask encompasses development, maintenance, and delivery of the necessary support documentation needed to effectively accomplish interface design and integration.

Data Deliverable(s): 011 Interface Design Data (IDD)

3.2.7 EDM Lessons Learned

The Contractor shall develop and provide a report identifying all repairs, system crashes, software and hardware abnormal behavior, system reliability statistics, probability of detection statistics (ROC curves), traffic statistics, and other pertinent information needed to identify

upgrades required in the ASP design before it goes into production. The EDM evaluation should also analyze the software performance and the suitability of the alarm criteria implemented in the algorithm.

The Contractor shall analyze the EDM lessons learned data and provide a briefing to the Government at a time and place determined by the Government.

Data Deliverables:

002 Presentation Materials

031 Test Report

054 Meeting Minutes

3.2.8 Algorithm Spiral Development and Team Support

Algorithm development for all variants shall be ongoing from the beginning of the project to many years after the advanced spectral units are placed into operation. As experience and knowledge are gained from EDM testing, initial production units, field experience, software system crashes, display issues, techniques to optimize the equipment, data storage, and common spectrum patterns found in reach back, the software algorithm shall be upgraded on an as needed basis to ensure the highest level of system performance and threat detection. Each algorithm version shall require Government acceptance prior to deployment. The Contractor shall use an open architecture approach for software development, as set forth in Section 3.2.5.1 of the SOW.

In developing the algorithm software, validation test plan, documentation, and source code, the Contractor shall adhere to the ANSI/ANS Standard 10.4 for each algorithm version generated. The algorithm development effort for all variants shall cover medium and high resolution detector algorithms for gamma and neutron detection. During the development effort and documentation of results, the Contractor shall describe its approach to: determination of the background radiation, handling the background radiation; computational methods to combine the information from multiple panels with multiple detectors; method of selecting optimal subsets of detectors for in depth spectral analysis, method of selection the optimal time intervals for in depth spectral analysis; isotope identification techniques; spectrum pattern recognition identification; implementation of DNDO approved alarm criteria; handling spectrum drift in each detector and the test matrix results to evaluate the performance of the algorithm.

The following are expected steps to be taken in the algorithm development effort for each variant for each released algorithm version:

- Software Requirements Defined: Define the problems to be solved.
- Algorithm Requirements Test Validation Matrix: Develop the test matrix (with procedures) using radioactive sources to validate the physics is being captured.
- Algorithm Design Phase and Documentation: Develop the algorithm theory, alarm criteria, and document how it is actually implemented into the code. Incorporate the new algorithm into the Allocated Baseline (Part B Specification) via formal change control procedures.
- Code Implementation: While coding the algorithm, the source code shall have comments placed in the software so that it can be clearly understood. Incorporate the new algorithm into the Product Baseline (Part C Specification) via formal change control procedures.

- Software integrated into the ASP system and tested by the Contractor: Install the software in the ASP system at the factory and perform the test matrix as needed to validate the system is identifying the isotopes of interest.
- Software Installation into the system and tested at NTS: An independent assessment of the ASP system will be performed by Algorithm Spiral Development Team (ADT).
- DNDO Algorithm Approval: Government acceptance of the alarm criteria and algorithm release shall be required.

The Contractor shall participate in the ADT. The ADT will be chartered to discuss the status of the development of the algorithm and to provide a venue to solve issues related to generating a releasable version of the algorithm. ADT will address the fixed, mobile, human-portable, and long dwell time variants.

The Contractor and the Government shall jointly establish standard procedures to protect IP as required and set forth in the clauses found in Section H. For full participation in the ADT, all Contractors shall be strongly encouraged to share insights (not necessarily share the actual code) to improve all of the advanced spectroscopic systems' performance in accordance with the Open Architecture Life Cycle Support referenced in Section 3.2.5.1. The various data delivered or made available to ADT will be the subject of ongoing discussions among the parties.

DNDO intends for the ADT to be a multi-vendor IPT led by the Government. The ADT shall be responsible for independent verification and validation of the algorithmic spiral development. As such, the ADT shall develop a Technology Roadmap (including a Functional Block Diagram and associated algorithm definition document and segment-level interface description) for all algorithms and functions conducted within the ASP system. It is the intent of DNDO to use this Technology Roadmap as the basis for spiral development at the algorithm level with multiple organizations including Industry, University Laboratories, and National Laboratories. As such, the Roadmap (including the inter-CSCI design specification) shall be Open Architecture Life Cycle Support data.

The ADT multi-vendor team shall include subject matter experts (SME) from each Contractor and the Government. At a minimum, the ADT effort shall include active participation by the Contractor's lead design engineer and principal technical representative in monthly team meetings held in Washington, D.C. or other locations as specified.

Data Deliverable(s): 002 Presentation Materials
015 Algorithm Design Document
054 Meeting Minutes
065 Algorithm Test Plan
066 Algorithm Verification and Validation
067 Algorithm Documentation

3.2.9 Display and Control Spiral Development Team Support

The Contractor shall participate in a Display and Control Spiral Development Team. The team will be chartered to unify the ASP Display and Control System so that all deployed variants have a common graphical user interface. This multi-vendor team shall include subject matter experts

(SME) from each contractor and the Government. At a minimum, this shall include active participation by the contractor's lead design engineer and principal technical representative in monthly team meetings held in Washington, D.C. or other places as specified by the COTR.

The Contractor shall participate in the team working groups by providing software design information as well as display format information. The ASP specifications and discussions with the Government largely dictated displays and data viewer. Only open, fully documented, and non-proprietary file formats, interface formats, and display formats shall be included in any ASP design. The Contractor shall propose in the Display and Control Design Document how its ASP portal systems shall incorporate the standardized Display and Control specifications as established by this team. The Contractor shall use an open architecture approach for software development, as set forth in Section 3.2.5.1 of the SOW.

Data Deliverable(s): 002 Presentation Materials
018 Display and Control Design Document
054 Meeting Minutes

3.2.10 Technical Reviews

The Contractor shall provide the necessary personnel and materials to support technical reviews. The technical reviews may focus on in-process, hardware, and software and engineering products, rather than materials generated especially for the review. These in-process reviews shall focus on technical and programmatic status, product development status, open architecture approach for software development and maintenance, as set forth in Section 3.2 of the SOW, and other issues.

Reviews scheduled by the Government shall be incorporated into the Contractor MIPS. Reviews shall be held in locations and times designated by the Government.

All reviews shall be attended by persons with competent technical knowledge of the hardware and software products to be reviewed. This task encompasses, but is not limited to, the types of reviews delineated in the following paragraphs. For each of these reviews, the Contractor shall develop the agenda, provide presentation materials, and generate minutes summarizing the meetings.

No more than five (5) working days after completing each review, the Contractor shall publish and distribute copies of review minutes clearly recording all action items in the minutes and identify whether Government or Contractor action is required for resolution.

The Government will provide formal acknowledgment to the Contractor of the accomplishment of each technical review after receipt of review minutes. The Government establishes the adequacy of the Contractor's review performance by notification:

- Approval -- to indicate that the review was satisfactorily completed.
- Contingent approval -- to indicate that the review is not considered accomplished until the satisfactorily completion of resultant action items.
- Disapproval -- to indicate that the review was seriously inadequate.

3.2.10.1 Systems Requirements Review (SRR)

The Contractor shall conduct a Systems Requirements Review (SRR). The SRR shall be conducted on each variant type (i.e., fixed, mobile, rail). The SRR shall occur very early in the program before the Preliminary Design Review (PDR) and shall be held for the purpose of determining that the requirements are mutually understood and verifying that the individual requirements are allocated into each ASP system variant.

The SRR shall be a multi-disciplined technical review to ensure that all systems requirements and performance requirements derived from the ASP Performance Specification Document are defined, understood, and allocated within the Contractor's program management and systems engineering organization and are consistent with the cost (program budget), schedule (program schedule), risk, and other system constraints. The SRR shall also describe the ASP Program and technical risks in meeting this specification. During the SRR, the Contractor shall provide, as a minimum, the following documentation:

- (1) Presentation Material, which provides an overview of the SRR process, provides a high-level outline of the SRD, SRVM, Functional Block Diagram, and defines the technical and programmatic risks of the ASP Program.
- (2) An updated systems requirements document (SRD).
- (3) An allocation of systems requirements to hardware, human, and software subsystems and Functional Block Diagram.

Data Deliverables: 058 Systems Requirements Document (SRD)
014 System Requirements Verification Matrix (SRVM)
016 Functional Block Diagram

3.2.10.2 Preliminary Design Review (PDR)

The Contractor shall fully review its variant functional designs in Preliminary Design Reviews (PDRs). The PDRs shall describe all design changes made with respect to the original design disclosed in the proposal and provide rationale for the changes. The Contractor is encouraged to provide a hardware or hands-on demonstration of some of the preliminary designs to better illustrate important aspects where necessary. PDRs shall be conducted to address the standard cargo variant and other variants as deemed necessary by the Government.

The Contractor shall address reliability to identify and discuss all aspects of the prime item's reliability features and characteristics. Measured reliability data collected during operation and tests in contractor or government facilities shall be compared with reliability predictions. Predictions shall be updated as necessary.

The Contractor shall address availability as defined in the Performance Specification to identify and discuss all aspects of the prime item's availability features and characteristics. Measured MTBF and MTTR data collected during operation and tests shall be used to update the calculation of Inherent Availability, as appropriate.

The Contractor shall address maintainability, identifying and discussing all aspects of the prime item's maintainability features and characteristics. Measured maintainability data, collected during operation and tests in contractor or government facilities shall be compared with maintainability predictions. Predictions shall be updated as appropriate.

The PDR shall:

- A. Review the Contractor's functional (preliminary) design
- B. Evaluate the progress, technical adequacy, and risk resolution (on a technical, cost, and schedule basis) of the selected design approach,
- C. Determine design compatibility with performance and engineering requirements of the performance specification and referenced applicable documents,
- D. Evaluate the degree of definition and assess the technical risk associated with the selected manufacturing methods/processes,
- E. Identify and describe the compatibility of the physical and functional interfaces among the portal and other items of equipment, facilities, computer software, and personnel, and
- F. (For computer software items):
 - 1) Evaluate the progress, consistency, and technical adequacy of the selected top-level design and test approach,
 - 2) Determine compatibility between software requirements and preliminary design, and on the preliminary version of the operation and support documents.

The Government will provide direction to proceed into detailed design following PDR approval, including formal approval of the Allocated Baseline Part B Specification).

Data Deliverable(s): 025 Preliminary Design Review (PDR) Data Package
002 Presentation Materials
054 Meeting Minutes

3.2.10.3 Critical Design Review (CDR)

The purpose of the CDR is Government review of the contractor's final design. Approval of the final design constitutes establishment of a Final Design Baseline.

The Contractor shall provide the necessary labor and materials to conduct a system Critical Design Review (CDR) for each ASP variant as directed by the government. The CDR shall be conducted at the Contractor's facility, or other location approved by the Government, after Government receipt of the prerequisite documents listed below. Long-lead items reflected in the MIPS may be ordered prior to the CDR with Government concurrence. The Contractor shall provide a priced Bill of Materials and a Parts List during the CDR.

The CDR shall fully describe the Contractor's system design. The Contractor shall also address reliability to identify and discuss all aspects of the prime item's reliability features and characteristics.

The Contractor shall address availability as defined in the Performance Specification to identify and discuss all aspects of the prime item's availability features and characteristics. Measured Mean Time Between Failure (MTBF) and Mean Time To Repair (MTTR) data collected during operation and tests shall be used to update the calculation of Inherent Availability, as appropriate.

The Contractor shall address maintainability, identifying and discussing all aspects of the prime item's maintainability features and characteristics. Measured maintainability data, collected during operation and tests in contractor or government facilities shall be compared with maintainability predictions. Predictions shall be updated as appropriate.

The Critical Design Review shall:

- A. Review the Contractor's system design.
- B. Determine if the detailed design of the ASP variant under review meets the ASP Performance Specification,
- C. Establish design compatibility among ASP variant components, to include the portal, other items of equipment, facilities, computer software, and personnel, as defined in the ASP Performance Specification,
- D. Assess ASP variant program risks and plans to mitigate,
- E. Review hardware product specifications,
- F. Review the adequacy of the configuration, operation, and support documents, and
- G. Review the acceptability of the software design, including performance, test characteristics, and support.
- H. Establish reliability predictions for equipment assuming a constant failure rate for parts. Failure rate shall be estimated for parts where no failure rate data are available with the estimate basis and rationale available provided.

Prerequisites to Critical Design Review (CDR):

- 1) Preliminary Design Review or Technical Interface Meeting as designated by the Government
- 2) Hardware Design Data
- 3) Software Design Data
- 4) Interface Design Data
- 5) System Requirements Verification Matrix (SRVM)

Data Deliverable(s): 026 Critical Design Review (CDR) Data Package
035 Reliability Prediction Report and Critical Items
002 Presentation Materials
054 Meeting Minutes

3.2.10.4 Test Readiness Review (TRR)

The Contractor shall provide Test Readiness Review (TRR) support. The TRR shall assure that the variant is prepared for formal Government testing.

The Contractor shall conduct a TRR after installation at test sites prior to the start all Government testing.

The TRR shall determine if test procedures are complete and shall assure that the Contractor is prepared for formal testing. Test procedures will be evaluated for compliance with test plans and for adequacy in accomplishing test requirements. The TRR consists of Government reviews of the installed system configuration and performance as determined by audits and integration test runs. The test shall not begin until the TRR has been successfully completed and approved by the Government.

The Contractor shall conduct a briefing to include the following topics: entrance criteria, test objectives/requirements, test cases, test configuration, test procedures, data collection, data processing, resources required, and exit criteria. In addition, the Contractor shall address test readiness, basis for readiness, metrics, and data collection and analysis.

CDRL 030 Test Procedures shall be required for certain tests as designated by Technical Instructions.

Data Deliverable(s): 027 Test Readiness Review (TRR) Data Package
002 Presentation Materials
054 Meeting Minutes

3.2.10.5 Reserved

3.2.10.6 Production Readiness Review (PRR)

The Contractor shall conduct a PRR to demonstrate to the Government that the Contractor has the necessary physical, financial, and managerial resources to begin production of each ASP variant. The PRR shall address the standard cargo variant and other variants as deemed necessary by the Government. Production of subsequent hardware shall not commence until the PRR is successfully closed as determined by the Government. A PRR shall be conducted to address the base variant and other variants as deemed necessary by DNDO.

The reviews shall address such concerns as requirements verification, production planning, facilities allocation, incorporation of producibility-oriented changes, identification and fabrication of tools/test equipment, long lead item acquisition, etc.

Data Deliverable(s): 028 Production Readiness Review (PRR) Data Package
002 Presentation Materials
054 Meeting Minutes

3.2.11 Test and Evaluation (T&E)

The Contractor shall provide comprehensive testing support necessary to demonstrate that the systems provided meet the requirements of the ASP Performance Specification. This shall include test planning as well as conducting tests of system performance, effectiveness, and suitability. Contractor testing shall complement and be in accordance with the DNDO ASP Test and Evaluation Master Plan (TEMP). The Government will plan and conduct all tests associated with the performance of ASP systems against threat materials. The Contractor shall support the Government, as required, for tests against threat materials.

3.2.11.1 Reserved

3.2.11.2 ASP Integrated Test and Evaluation Plan (ITEP)

The Contractor shall develop and maintain an Integrated Test and Evaluation Plan (ITEP). The ITEP shall complement and be in accordance with the Government ASP Test and Evaluation Master Plan (TEMP).

The Contractor shall develop and maintain an Integrated Test and Evaluation Plan (ITEP). This document shall provide a comprehensive overview of all testing conducted to demonstrate system effectiveness and suitability for all ASP variants. At a minimum, the ITEP and procedures shall address Critical Item Testing, Maintainability Demonstration, System Qualification Testing (SQT), Environmental Product and Quality Testing (EPQT), and Government Acceptance Testing (GAT). Test plans and procedures shall be formally coordinated, documented, and submitted by the Contractor to the Government for approval. The ITEP shall complement and be in accordance with the DNDO ASP Test and Evaluation Master Plan (TEMP).

The Contractor shall develop plans, test procedures, and schedules for the tests for which they are responsible. For each test, the Contractor shall describe the test methods and data collection, analysis, and archival. The Contractor shall include key test milestones in the MIPS.

Data Deliverable(s): 029 Integrated Test and Evaluation Plan (ITEP)

030 Test Procedures

052 Government Acceptance Test (GAT) Test Procedures

3.2.11.3 Test Execution

Test execution encompasses all activities associated with executing ASP testing, including but not limited to implementing Critical Item Testing, Maintainability Demonstration, SQT, and EPQT for requirements in the ASP Performance Specification (including temperature, vibration).

The Contractor shall document the test performance and submit a test report describing the results of each test performed. Each test shall be fully documented indicating performance levels, successful test activities, failed test activities, and corrective actions taken to improve system performance to required levels. All documentation addressing shall be retained as part of the system history and included with the final successful tests.

The Government will conduct developmental and operational tests during the production phase at a Countermeasures Test Bed (CMTB), Government Laboratories, and one or more selected POEs. The Government testing will evaluate system performance for detecting various radioactive nuclides in a variety of environments and conditions. The Contractor shall provide technical, logistical and administrative support as directed.

3.2.11.3.1 Reserved

3.2.11.3.2 System Qualification Testing (SQT)

The Contractor shall conduct a System Qualification Testing (SQT) prior to all Government testing. SQT is performed to demonstrate to the Government that system requirements delineated in the SRD have been met for each ASP variant. For Computer Software Configuration Items (CSCI), the Contractor shall include all applicable items in the Software Test Description. The Contractor shall participate in developing and documenting the test plans, test cases, and test procedures to be used for SQT, as well as the traceability between the test cases and the system requirements, and data elements expected to be collected from execution of test cases. For

software systems, the Contractor shall include all applicable items in the Software Test Description. The Contractor shall prepare the test data needed to execute the test cases and provide advance notice of the time and location of system qualification testing.

The SQT shall verify compliance with the ASP Performance Specification, including the reliability and operational availability requirements in accordance with the SRVM in the SRD. Software shall be demonstrated to be stable and without adverse safety-related issues. SQT shall include a 25-hour critical-fault-free (for software) and critical-failure-free (for hardware) endurance test in which all functions shall be exercised in conditions across the performance envelope including those of stressful external environments and maximum contact, display, communications, functional task loading, and network loading are employed.

The items listed below are prerequisites to the commencement of SQT:

- A. **Software Development:** Software development shall be complete through the highest level of Computer Software Configuration Items (CSCI) validation and hardware and software integration testing and shall be certified by the Contractor's software quality assurance team with Government concurrence. The approved DNDO accepted alarm criteria and algorithms shall be used for these tests.
- B. **Hardware Development:** The Contractor shall certify that hardware development is complete except for changes that may be required from the results of SQT or environmental and product quality testing.
- C. **Pre-requisite Testing:** SQT shall not begin until all scheduled hardware/software integration testing has been completed.
- D. **Readiness Demonstration:** A demonstration of readiness for formal SQT shall take place with Government witnessing. The Contractor shall conduct and successfully complete dry runs of all tests under consideration for SQT. Results shall be presented to the DNDO Test Plan Working Group (TPWG) which will recommend if the system is or is not certified and ready for SQT.

The Contractor shall certify that all prerequisites for the conduct of formal SQT have been met. Concurrence is required before formal SQT is started. During SQT, there shall be a moratorium on changes to the hardware and software under test. Changes required to correct problems discovered during SQT shall be evaluated and approved/disapproved by the Government ASP Systems Engineering Team.

The Contractor shall invite the Government to observe all events associated with the SQT. Notification and invitation shall be given via email to the ASP COTR and ASP TPWG at least 20 days prior to the event. If the Government declines the invitation to attend, SQT shall proceed as scheduled.

Retest shall always be required for those portions of the SQT where a critical fault or failure has occurred and has been corrected or where corrections have been made to meet the requirements for software certification. Retest shall also be required when software changes are made because the cumulative number of Software Problem Reports (SPR) has caused corrections to be made. The extent of retest shall be decided by the Government ASP Systems Engineering Team and may include other test cases that are determined may be affected by the correction.

The Contractor shall develop and document the test plan and procedure for SQT including the traceability between the test cases and the performance requirements. This plan and procedure is to be approved by the Government prior to the start of testing.

The Contractor shall submit a test report describing the results of SQT. This test report shall fully document performance levels, successful test activities, failed test activities, and corrective actions taken to improve system performance to required levels. Improvements to ASP sensitivities to various radionuclides of concern may be addressed prior to a formal SQT by rerunning previous collected raw data through new algorithms. Improvements may be demonstrated based on extrapolating spectral data to MDA values for both bare and shielded test cases.

The SQT shall be performed on each spiral upgrade or new design prior to authorization of each subsequent production CLIN.

After the completion of SQT, the Contractor shall establish the plan for Government Acceptance Testing (GAT) on all production units. This plan shall be included in the SQT test report. This plan shall be approved by the Government at the PRR.

Data Deliverable(s): 030 Test Procedures

031 Test Report

3.2.11.3.3 Environmental and Product Quality Testing

EPQT is performed to demonstrate to the Government that the production ASP meets environmental requirements designated in the SRD.

The Contractor shall conduct environmental and product quality tests in accordance with the ASP Performance Specification. The Contractor may combine EPQT with SQT.

The Contractor shall invite the Government to observe all events associated with the EPQT. Notification and invitation shall be given via email to the ASP COTR and ASP Test Plan Working Group (TPWG) at least 20 days prior to the event. If the Government declines the invitation to attend, EPQT shall proceed as scheduled.

The Contractor shall develop and document the test plan and procedure for EPQT including the traceability between the test cases and the performance requirements. This plan and procedure will be approved by the Government prior to the start of testing.

The Contractor shall submit a test report describing the results of EPQT that fully document performance levels, successful test activities, failed test activities, and corrective actions taken to improve system performance to required levels.

Data Deliverable(s): 030 Test Procedures

031 Test Report

3.2.11.3.4 Government Test Support

The Contractor shall provide comprehensive support to Government field testing at operational sites. As required, this support shall include test planning, site surveys, installation and integration, conduct of the TRR, and logistics and training.

The Government will plan and conduct all tests of ASP systems at operational sites.

As required by the Government, the Contractor shall provide Field Service Representative(s) to provide field support to correct any technical, logistical, training or maintenance issues identified by the Government to support testing. At the conclusion of the events, the Contractor shall uninstall, disassemble, and package for shipping all test portals. The Contractor shall submit a test report at the conclusion of each test event.

Data Deliverable(s): 007 Trip Report

031 Test Report

3.2.11.3.5 Government Acceptance Test (GAT)

As designated by the Government, the GAT shall be performed on the ASP production at the Contractor's facility prior to Government acceptance.

GAT shall be conducted by the Contractor and may be witnessed by the Government.

The Contractor shall develop and document the test plan and procedure for GAT including the traceability between the test cases and the performance requirements and shall include a minimum of 24 hours of continuous, fault-free operation. This plan and procedure shall be approved by the Government prior to the start of testing.

The Contractor shall submit a test report describing the results of the GAT including full documentation of performance levels, successful test activities, failed test activities, and corrective actions taken to improve system performance to required levels.

Following GAT, the Contractor shall submit a Material Inspection and Receiving Report (MIRR) that includes a certification that all GAT tests were performed and successfully passed. When attaching GAT results to the MIRR, the Contractor shall include results from tests that initially failed.

Data Deliverable(s): 031 Test Report (GAT)

047 Material Inspection and Receiving Report (MIRR)

052 Government Acceptance Test (GAT) Test Plan and Procedures

3.2.11.3.6 Engineering Development Model (EDM) Acceptance Test

EDM Acceptance Test shall be conducted by the Contractor and witnessed by the Government.

The Contractor shall develop and document the test plan and procedure for EDM Acceptance Test including the traceability between the test cases and the performance requirements.

The EDM Acceptance Test shall include a minimum of 24 hours continuous, fault-free operation. This plan and procedure shall be approved by the Government prior to the start of testing.

The Contractor shall submit a test report describing the results of EDM Acceptance Test that fully document performance levels, successful test activities, failed test activities, and corrective actions taken to improve system performance to required levels.

Following the EDM Acceptance Test, the Contractor shall submit a Material Inspection and Receiving Report (MIRR) that includes a certification that all EDM Acceptance Test tests were successfully completed. When attaching EDM Acceptance Test results to the MIRR, the Contractor shall include results from tests that initially failed.

Data Deliverable(s): 030 Test Procedures
031 Test Report (EDM Acceptance Test)

3.2.11.4 Reserved

3.2.12 Operations Documentation

The Contractor shall develop an Operator's Manual to identify the training, resources, operator qualifications, procedures, and schedules required to reliably operate the ASP systems.

The Contractor shall develop detailed operator's manuals that contain all information needed to operate the ASP variants, including 1) Operations overview, 2) Location, function, and operation of pertinent subsystems, 3) Operational surveillance and testing, 4) Normal and off normal operations, 5) Startup, reset, and shutdown procedures, 6) Self diagnostics and remote reporting, 7) Diagnostic methods and troubleshooting, and 8) Emergency procedures.

Data Deliverable(s): 042 Operator's Manual
074 Laminated Operator Checklist

3.2.13 Maintenance Documentation

The Contractor shall develop, maintain, and update a Maintenance Plan. In addition, the Contractor shall develop detailed maintenance documentation to enable operators to maintain the ASP systems after they have been deployed. The maintenance documentation shall address both preventive and corrective maintenance and include the following 1) Illustrated Parts Catalogs, 2) Diagnostic Test Equipment and Special Tools, 3) Spare Parts Lists, 4) Maintenance Procedures, and 5) Calibration Procedures.

Data Deliverable(s): 033 Maintenance Plan
043 Maintenance Manual with Maintenance Tasks checklist
044 Maintenance Documentation
046 Recommended Replacement Parts List

3.2.14 Training Documentation

The Contractor shall develop and provide a Training Plan. The Contractor shall develop training products (e.g. training syllabus, presentation materials, and subject matter tests) to support an ASP training program which will be executed by the Government. The contractor shall also provide initial training (including training of Government personnel as instructors) if requested by the Government.

3.2.14.1 Human Systems Interface (HSI)

Training, training support, and training support materials shall be developed and available for use prior to operational test and evaluation (OT&E). Customs and Border Patrol (CBP) specific training requirements shall be developed in concert between the contractor and the CBP user personnel to the maximum extent possible. All systems procured shall be evaluated for suitability of Computer-Human Interface (CHI) and safety features.

3.2.14.2 Training Program

The training program shall consist of formal and informal instruction, and shall address ASP installation, operation, and maintenance. The program may include delivery of training in person or remotely as required to support the Government training needs. The Contractor shall assume no prior knowledge of the ASP system on the part of Government personnel. Consequently, the training program shall be designed to educate the student to a level permitting safe installation, operation, and maintenance. The program shall include an appropriate mix of classroom, remote, and hands-on training, using actual equipment to the greatest extent possible. The training program shall use testing to determine student proficiency. If initial testing indicates a course to be ineffective, the Contractor shall correct course deficiencies. In addition, the Contractor shall provide instructor training.

The CBP training standards manual shall be used as a guide in the development of the required training manuals and material. See The Customs and Border Protection Training Standard, dated August 2003.

The training material shall be in an electronic format which allows modification at a future date by the Government.

Data Deliverable(s): 002 Presentation Materials
037 Training Plan
038 Instructor and Participant's Guide - Installation Training
039 Instructor and Participant's Guide - Operator Training
040 Instructor and Participant's Guide - Maintenance Training
054 Meeting Minutes
056 Training Schedule

3.2.15 Technical Studies

As directed by the Government issued Technical Instruction (TI), the Contractor shall perform studies, analyses, and investigations to support or enhance ASP design. The results of these studies shall be provided to the Government in a written report.

Both the Government requestor of the report and other government technical experts shall be satisfied that the report meets requirements for accuracy and applicability. The Government reserves the right to request additional information or analysis with a specific focus.

Data Deliverable(s): 017 Technical Study Report

3.2.16 Life Cycle and Engineering Development Site (LCEDS)

The Contractor shall allocate space to maintain and operate a Life Cycle and Engineering Development Site (LCEDS). The Contractor, as directed by the COTR, shall install and maintain a production system or representative ASP hardware/software for each ASP variant at the contractor's facility to perform systems engineering and software life-cycle management activities.

3.2.17 Part B Specification: Allocated Baseline

The contractor shall identify ASP hardware and software configuration items (CIs) and allocate system performance requirements to these CIs in a Part B Specification, which, after

Government approval at the Preliminary Design Review (PDR), becomes the Allocated Baseline for the system.

Data Deliverables: 070 Critical Item Identification
071 Part B Specification

3.2.18 Part C Specification: Product Baseline

The contractor shall prepare an ASP Part C Specification, consisting of all CI technical specifications, documents, and drawings, including CI interface control documents and drawings, which, after Government approval at the Critical Design Review (CDR), becomes the Production Baseline for the system.

Data Deliverables: 072 Part C Specification

3.2.19 Systems Configuration Review

The Contractor shall conduct a Systems Configuration Review (SCR) to demonstrate that the ASP variants meet requirements in the ASP Performance Specification and related design data. The SCR will consist of Government reviews of the ASP Functional and Physical Configuration Audits against the Part B and Part C Specifications, respectively. The review demonstrates that the as-built configurations of the ASP variants conform to the technical documentation defining the system.

Data Deliverable(s): 071 Part B Specification
072 Part C Specification

3.3 Production

3.3.1 Manufacture and Delivery

The Requirements in this Section shall be individually applied to each variant.

Upon receipt of an order from the Contracting Officer exercising a CLIN option or options for the production of portal systems, the Contractor shall fabricate, manufacture, mark, and ship these items in accordance with the Performance Specification and the applicable Contract Clauses. Installation, operation, and maintenance manuals shall accompany each portal delivered.

GAT of the first production item of every CLIN shall consist of system-level testing. GAT of all subsequent production items shall be limited to component-level testing. All GAT shall occur prior to shipment and shall conform to the GAT Plan approved by the Government during PRR.

As appropriate, updates for these manuals shall be provided with each software revision.

The Contractor shall package and ship all production units at a time and location designated by the Government. All shipped units shall arrive in a condition that facilitates an effective installation.

Data Deliverable(s): 021 Operating System Source and Executable Code
041 Installation Manual
042 Operator's Manual
043 Maintenance Manual

045 Configuration List

3.3.2 Reserved**3.4 Deployment Support**

The Requirements in this Section shall be individually applied to each variant.

3.4.1 Installation Support**3.4.1.1 Venue Specific Design**

The Contractor shall conduct site surveys and define a set of equipment required to equip a particular site and develop a Venue-Specific Equipment List (VSEL). To the maximum extent possible, the VSEL shall contain equipment available as fixed price CLINs on this contract or GFE items.

For each site requested, the Contractor shall modify the hardware and software of a fixed portal based on venue-specific needs including, but not limited to, an increase or decrease in the area of the detection zone, an increase or decrease in the distance from the RSP to the detection objects, and the orientation of RSP.

For every variant, the Contractor shall prepare an Installation Manual that allows for a Government-designated deployment agency or third-party general contractor to perform all of the activities associated with permanently or temporarily installing and assembling the ASP system.

At each site requested the Contractor shall conduct field surveys to examine site operations, facilities and cargo/vehicle movements to determine optimal deployment strategies for ASP systems. Preferred deployment options for ASP systems shall be selected to minimize disruption of the normal process flow at the site while assuring surveillance for illicit radioactive materials.

As required by the Government, the Contractor shall prepare Installation Drawings for each fixed variant type and each modified fixed portal based on each venue-specific design. These Installation Drawings shall contain sufficient detail to allow an efficient installation by a Government-selected deployment agency.

Data Deliverable(s): 050 Site Survey
049 Venue Specific Equipment List
057 Installation Drawings

3.4.1.2 Materials and Special Fabrication

The Contractor shall provide materials and special fabrication services necessary to equip particular facilities, platform, vehicles, or regions.

3.4.2 Installation Checkout

The Contractor shall conduct an Installation Checkout (INCO) of each ASP system at its installed location to validate the operational-ready status of the system. The Contractor shall submit an installation check out report which identifies ASP system performance as either satisfactory or unsatisfactory. Satisfactory performance shall be documented using an MDA metric with portal width, background rates, baseline depression information, and sensitivity values (cps/ μ Ci) for specific detection modes as well as other parameters that influence MDA

values. For unsatisfactory performance, corrective actions shall be prescribed in the report. The specific locations will be identified in the Technical Instruction which invokes the INCO efforts. The Contractor shall provide an Installation Checkout Spares List.

The Installation Checkout Spares List shall include quantity, model, model numbers, manufacturer information and prices for any non-standard or custom parts, and any other relevant information. Installation Checkout Spare Parts shall be used only for the Installation period and are not to remain at the installation locations as an initial stockpile of spare parts.

Data Deliverable(s): 051 Installation Checkout Report
005 Installation Checkout Spares List

3.4.3 Logistics and Support

The Contractor shall support and maintain the installed ASP portals. The Contractor shall keep a maintenance log for the duration of the period of performance, which shall be furnished to the Government.

Data Deliverable(s): 013 Maintenance Log

3.4.3.1 [Not Used]

3.4.3.2 Maintenance Planning

The Contractor shall perform maintenance at two levels – on site/organizational and at repair facility/depot. Periodic inspection and preventive maintenance must ensure components are operational 24 hours per day, seven days per week.

3.4.3.3 Maintenance of the Advanced Spectroscopic Portals (ASP) shall be as follows:

3.4.3.3.1 On-Site/Organizational

On-Site Maintenance tasks are normally performed using contract resources. Downtime shall be minimized by initiating removal/replace/repair actions as applicable. Maintenance shall be conducted in accordance with DHS, CBP equipment maintenance and support policies, and procedures, or as modified for specific requirements.

3.4.3.3.2 Repair Facility/Depot

The Contractor shall accomplish on- and off-equipment maintenance tasks at a technology repair center, centralized repair facility, or at an operating location, as negotiated between the operator and the contractor. (On-equipment maintenance is defined as those maintenance tasks that can be effectively performed on the installed equipment at the system facility without removal of equipment. Off-equipment maintenance is defined as those maintenance tasks that cannot be effectively performed on the installed equipment but require removal to a shop or facility (depot) for repair.

3.4.3.4 Support Equipment

The Contractor shall strive to achieve minimal reliance on external support and test equipment for maintaining the ASP, and if needed, the Contractor shall use to the maximum extent possible common commercially available support/test equipment.

3.5 Operator Training

Training, training support, and training support materials shall be developed and available for use prior to operational test and evaluation (OT&E). Government specific training requirements shall be developed in concert between the Contractor and Government user personnel to the maximum extent possible.

3.5.1 Training Support

The Contractor shall provide up to 30 days of operator and instructor training at its facility or at facilities to be specified by the Government and shall last no more than 8 eight hours per day. For each training session, the Government shall specify the portal variant, the number of training days, and the number of trainees. The Contractor shall conduct the training within two weeks of receipt of Government request for training.

3.5.2 Training Program

The training program shall consist of formal and informal instruction, and shall address ASP installation, operation, and maintenance. The program may include training in person or remotely to support Government training needs. The Contractor shall assume no prior knowledge of the ASP system on the part of Government personnel. Consequently, the training program shall be designed to educate the student to a level permitting safe installation, operation, and maintenance. The program shall include an appropriate mix of classroom, remote, and hands-on training, using actual equipment to the greatest extent possible. The training program shall use testing to determine student proficiency. If initial testing indicates a course to be ineffective, the Contractor shall correct course deficiencies. In addition, the Contractor shall provide instructor training. The training material shall be in an electronic format which allows modification at a future date by the Government.

Data Deliverable(s): 037 Training Plan

038 Instructor and Participant's Guide – Installation Training

039 Instructor and Participant's Guide – Operator Training

040 Instructor and Participant's Guide – Maintenance Training

002 Presentation Materials

056 Training Schedule

054 Meeting Minutes

061 Training Report

3.5.3 Training Requirements

The contractor shall provide on-site training for Government operator personnel as well as Train-the-Trainer courses using materials to include classroom instruction, video, and on-the-job training aids. The training shall cover the imaging equipment, transport system operation, normal and emergency systems operations, image interpretation, and operator console operations. Training shall also include all items contained in the System User's Manual.

The contractor shall be required to present this training curriculum to the Government instructors at the Federal Law Enforcement Training Center (FLETC) in Brunswick, GA.

3.6. Operational/Storage Checklist

The Contractor shall provide a laminated Operators Checklist on a single sheet, listing each step in the procedure required for the following: (1) for operating the ASP system; (2) for preparing an operational system for short- or long-term storage; and (3) for preparing a stored ASP system for operation. The checklist shall only list the sequential steps. Each step shall be described in detail in the Operator's Manual and each step shall reference an Operator's Manual page number. The checklist shall be attached to the ASP system near the operator's station.

Data Deliverable(s): 043 Maintenance Manual with Maintenance Tasks checklist

3.7 On-Call Technical Assistance and Equipment Repair

The Contractor shall provide On-Call Technical Assistance and Equipment Repair service to resolve on-site technical problems for the deployed ASP system after acceptance. The support shall include personnel, materials, equipment, and service required to resolve technical problems. The Contractor shall diagnose technical problems and restore the ASP system to operational status. The specific location will be identified in the Technical Instruction which invokes the On-Call Technical Assistance and Equipment Repair effort.

Data Deliverable(s): 048 On-Call Technical Assistance and Equipment Repair Log.

3.8 Corrosion Control

During the initial deployment period (One Year), the Contractor shall perform a corrosion control program that may include requirements for inspection, cleaning, washing, scaling, corrosion inhibitor application, priming, painting, waxing surfaces exposed to the elements, or other corrosion inhibiting procedures.

In the logbook of the individually deployed ASP and in the On-Call Technical Assistance and Equipment Repair Log, the Contractor shall document the actions taken, the treatment site, and the contact information of the service provider.

Data Deliverable(s): 048 On-Call Technical Assistance and Equipment Repair Log

3.9 Reserved

3.10 Safety

The contractor for shall maintain a system safety program that continually identifies all hazards and provides a methodology to either eliminate or control these identified hazards.

[END OF THIS SECTION]

SECTION D PACKAGING AND MARKING**D.1 PACKAGING AND MARKING**

- a) Exterior Marking. In addition to standard commercial practices for marking for shipment by truck, shipping containers shall also be marked with the DHS Contract number and Contract modification number and intended installation or storage site (as provided by the Government).
- b) Equipment Marking. For identification purposes, the contractor shall place a permanent marking with serialization on each radiation sensor panel and on each portal system. The serialization shall follow this format:

Radiation Sensor Panel: DNDO-MMMM-YYYY-RSP-####

Advanced Spectroscopic Portal (ASP) Program system: DNDO-MMMM-YYYY-ASP-####

DNDO indicates the ordering agency.

MMMM is a four character identifier of the manufacturer (prime contractor).

YYYY is the four digit calendar year which the production option is awarded.

indicates a unique sequential numbers beginning with 0001.

- c) Radiation Sensor Panel Packaging. The ASP Radiation Sensor Panels (RSPs) (with or without steel support structure) shall be crated in such a manner as to protect the equipment during shipment and to allow outdoor storage of crates at jobsite. They shall be palletized on both the top and the bottom. The pallets shall be sufficiently oversized in each direction such that when the RSPs do not come in contact with other RSPs side-to-side or when stacked on top of each other. The pallets shall be secured to the RSPs using steel bands.
- d) Ancillary Equipment Packaging. Control boxes, annunciators, vehicle occupancy sensors, VIS cameras, and any ancillary equipment, cables, bolts, software, and documentation shall be crated in such a manner as to protect the equipment during shipment and to allow outdoor storage of crates at jobsite. All ancillary equipment for a single portal shall be packaged in a single crate such that there will be one crate for each portal shipped to a site.
- e) Shipping. The Government will provide either flat-bed or curtain-sided conveyances for shipping of RSPs and ancillary equipment crates. The contractor shall provide any necessary equipment and services to load the RSPs and ancillary equipment crates from the side of the conveyance in a manner that allows three-sided access to the RSPs and crates such that the only equipment required to unload shipment is a forklift without the use of a loading dock.

[END OF THIS SECTION]

SECTION E INSPECTION AND ACCEPTANCE**E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

<u>NUMBER</u>	<u>TITLE/DATE</u>
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)
52.246-2	INSPECTION OF SUPPLIES--FIXED PRICE (AUG 1996)
52.246-5	INSPECTION OF SERVICES--COST-REIMBURSEMENT (APR 1984)
52.246-16	RESPONSIBILITY FOR SUPPLIES (APR 1984)

E.2 INSPECTION AND ACCEPTANCE

DHS inspection and acceptance of services, reports, and other required non-hardware deliverables or outputs shall take place at 245 Murray Drive, Washington, DC 20528, or at any other location where the services are performed and reports and deliverables or outputs are produced or submitted. The COTR listed in Section G has been delegated authority to inspect and accept all services, reports, and required deliverables or outputs.

The Government plans to accept the Pilot Portal Standard Cargo Variants at a test site TBD. For planning purposes, the Pilot Portals may be transported to the New York-New Jersey Countermeasure Testbed for deployment.

Final Acceptance is defined as successfully completion of all required formal testing as specified in the Statement of Work.

E.3 ACCEPTANCE

Deleted in its entirety.

[END OF THIS SECTION]

SECTION F DELIVERIES OR PERFORMANCE**F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

<u>NUMBER</u>	<u>TITLE/DATE</u>
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)
52.242-15	STOP-WORK ORDER (AUG 1989) ALTERNATE I (APR 1984)
52.247-29	F.O.B. ORIGIN (JUN 1988)
52.247-46	SHIPPING POINTS USED IN EVALUATION OF F.O.B. ORIGIN OFFERS (APR 1984)

The following contract clauses pertinent to this section are hereby incorporated by reference in accordance with the Homeland Security Acquisition Regulation (HSAR):

<u>NUMBER</u>	<u>TITLE/DATE</u>
3052.247-70	F.O.B. ORIGIN INFORMATION (DEC 2003)
3052.247-71	F.O.B. ORIGIN ONLY (DEC 2003)

F.2 PERIOD OF PERFORMANCE

The period of performance is one year (base) starting from the date of award of this contract for a period of twelve months and may be extended up to four additional one-year periods if options are exercised. The Contracting Officer will notify the contractor in writing 60 days prior to the beginning of the option period if the Government determines that it is in its best interest to exercise the option.

CLINS may extend beyond the performance period of the last exercised option as set forth herein provided that:

- This approval is made in writing before the original estimated completion date and clearly states that the extension is at no additional cost;
- Performance must not extend beyond 30 calendar days from the original estimated completion date (last option year if exercised); and

Prior to the original estimated completion date, the Contractor must provide a copy of the COTR's approval for any extension; in addition, the Contractor must attach another copy of the

COTR's approval for such continued performance to the completion voucher submitted for payment.

F.3 PLACES OF PERFORMANCE

Performance of this contract shall be at the Contractor's and any subcontractor's facilities.

F.4 PROVISIONAL ITEM ORDERING

In accordance with Clause H.7 provisioning procedures, the following provisioned items are required to be delivered by the following dates:

<u>Item</u>	<u>Supplies/Services</u>	<u>Reference</u>	<u>Unit</u>	<u>Qty.</u>	<u>Delivery Date</u>
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(Items will be identified when ordered)

The provisioned items requested to be delivered will include appropriate shipping instructions.

F.5 REPORTING REQUIREMENTS

The contractor shall comply with reporting and deliverable requirements in accordance with Attachment 3, Contract Data Deliverables and Schedule.

The contractor shall provide DHS with electronic copies of all technical and non-technical data developed as a result of the efforts described in this SOW. The data may be either proprietary or non-proprietary and includes formal (required by CDRL)

Copies of each report shall be submitted in the quantities indicated and at the time specified by the CDRLs to the addresses shown below:

The Contracting Officer at the following address:

Department of Homeland Security
Domestic Nuclear Detection Office
Office of Procurement Operations
Attn: Thomas S. Bordone
Contracting Officer
245 Murray Lane, SW Building 410
Washington, DC 20528

The COTR at the following address:

Department of Homeland Security
Domestic Nuclear Detection Office
Attn: Rex Reagan COTR
245 Murray Lane, SW Building 410
Washington, DC 20528

[END OF SECTION]

SECTION G CONTRACT ADMINISTRATION DATA**G.1 ADMINISTRATIVE CONTRACTING OFFICE**

The Administrative Contracting Office is:

Department of Homeland Security/OPO/DNDO

G.2 CONTRACTING OFFICER TECHNICAL REPRESENTATIVE (COTR)

The Contracting Officer Technical Representative (COTR) is Rex Reagan.

G.3 COTR RESPONSIBILITIES

(a) Technical Directions by COTR is defined to include:

(1) Written instructions to the Contractor which fill in details, suggest possible lines of inquiry, or otherwise facilitate completion of work;

(2) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications, or technical portions of the work statement;

(3) Review and, where required, provide written approval of technical reports, drawings, specifications, or technical information to be delivered. Technical directions must be in writing, and must be within the scope of the work as detailed in Section C.

(b) The COTR is authorized by designation to take any or all action with respect to the following which could lawfully be taken by the Contracting Officer, except any action specifically prohibited by the terms of this Contract:

(1) Assure that the Contractor performs the technical requirements of the contract in accordance with the contract terms, conditions, and specifications.

(2) Perform or cause to be performed, inspections necessary in connection with a) above and require the Contractor to correct all deficiencies; perform acceptance for the Government.

(3) Maintain all liaison and direct communications with the Contractor. Written communications with the Contractor and documents shall be signed as "Cognizant Technical Officer" with a copy furnished to the Contracting Officer.

(4) Issue written interpretations of technical requirements of Government drawings, designs, and specifications.

(5) Monitor the Contractor's production or performance progress and notify the Contractor in writing of deficiencies observed during surveillance, and direct appropriate action to effect correction. Record and report to the Contracting Officer incidents of faulty or nonconforming work, delays or problems.

(6) Obtain necessary security clearance and appropriate identification if access to Government facilities is required. If to be provided, ensure that Government furnished property is available when required.

LIMITATIONS: The COTR is not empowered to award, agree to, or sign any contract (including delivery or purchase orders) or modifications thereto, or in any way to obligate the payment of money by the Government. The COTR may not take any action which may impact on the contract schedule, funds, scope or rate of utilization of LOE. All contractual agreements, commitments, or modifications which involve prices, quantities, quality, and schedules shall be made only by the Contracting Officer.

(c) The COTR is required to meet quarterly/semi-annually/annually with the Contractor and the Contracting Officer concerning performance of items delivered under this contract and any other administration or technical issues. Telephonic reports may be made if no problems are being experienced. Problem areas shall be brought to the immediate attention of the Contracting Officer.

(d) In the absence of the designated COTR, the COTR may designate someone to serve as COTR in their place. However, such action to direct an individual to act in the COTR's stead shall immediately be communicated to the Contractor and the Contracting Officer.

(e) **Contractual Problems -** Contractual problems, of any nature, that may arise during the life of the contract must be handled in conformance with specific public laws and regulations (i.e. Federal Acquisition Regulation and Department of Homeland Security Acquisition Regulation). The Contractor and the COTR shall bring all contracting problems to the immediate attention of the Contracting Officer. Only the Contracting Officer is authorized to formally resolve such problems. The Contracting Officer will be responsible for resolving contract issues, determining contract scope and interpreting contract terms and conditions. The Contracting Officer is the sole authority authorized to approve changes in any of the requirements under this contract. Notwithstanding any clause contained elsewhere in this contract, the said authority remains solely with the Contracting Officer. These changes include, but will not be limited to the following areas: scope of work, price, quantity, technical specifications, delivery schedules, and contract terms and conditions. In the event the Contractor effects any changes at the direction of any other person other than the Contracting Officer, the change will be considered to have been made without authority.

(f) Failure by the Contractor to report to the Administrative Contracting Office, any action by the Government considered to a change, within the specified number of days contained in FAR 52.243-7 (Notification of Changes), waives the Contractor's right to any claims for equitable adjustments.

(g) **Technical Instruction -** Technical direction and guidelines for within scope changes during performance of this contract must be in compliance with applicable public laws and regulations. Information on the parameters established and the authority required is provided in the Statement

of Work under "Section 3.0 Requirements." Please be advised that deviation from this guidance could result in substantial risks (costs, meeting performance schedules, etc).

G.4 ACCOUNTING AND APPROPRIATION DATA

To be provided upon award

G.5 PAYMENT AND INVOICE INFORMATION

Payment shall be made for services accepted by the Government delivered to the destinations set forth in the 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. The Government will make payment in accordance with the clause FAR 52.232-33, Payment By Electronic Funds Transfer - Central Contractor Registration (May 1999).

All invoices shall contain the following information at a minimum:

- Name & Address of Contractor/Signature and Name of point of contact/
 - Date and invoice number
 - Contract number
 - Number and date of action
 - Labor categories utilized (actual categories required only for pricing arrangements other than Firm Fixed Price (FFP))
 - Contract Line Item Number (CLIN), if applicable
 - Quantity, unit price, and extension of each CLIN
 - Performance period
 - Interim payment period, payment for partial delivery, if applicable
 - Prompt payment discounts
- a. Invoices for Cost-Plus-Fixed-Fee (CPFF) portion of the Cost-Plus-Award-Fee (CPAF) Contract and Firm Fixed Priced efforts shall be submitted on a monthly basis.
 - b. Cost-Plus-Fixed-Fee portion of the Cost-Plus-Award-Fee voucher shall also contain the information provided above.
 - c. Upon inspection and written acceptance of the services described the contractor shall be entitled to payment. Payment of all FFP CLINS will be made upon presentation of final Material Inspection and Receiving Report (Contract Data Deliverable Item 047) or upon fulfillment of all items identified in the conditional acceptance letter.
 - d. Award Fee will be reimbursed under a separate voucher and payable no later than 45 days after the end of the evaluation period.
 - e. Under no circumstances shall the total amount invoiced exceed the amount negotiated under the basic agreement or subsequent modifications.
 - f. To receive timely payment, the contractor shall follow the instructions provided above and submit an original and one copy of all vouchers to:

Contracting Officer
Invoicing PPB
245 Murray Drive
Washington, DC 20528

- g. The payment to _____ shall be made by wire transfer or check as follows:

Bank:

Bank:

ABA #:

Address:

Acct.

Credit Account No.:

- h. Payment will be made as close as possible but not later than the 30th calendar day after the designated paying office has received a proper invoice from the contractor.
- i. The payment date is the date placed on the U.S. Treasury Check at the time of issuance by the disbursing office, or the date the electronic transfer is made, and not the date of the actual receipt of the check in the mail.

G.6 AWARD FEE PAYMENT

The Government anticipates that award fee payments will be made within forty five (45) days after the end of the evaluation period and shall be in accordance with Section J, Attachment 4 of this document.

G.7 REPRESENTATIONS AND CERTIFICATIONS

The representations, certifications, and other statements submitted by the contractor, are incorporated herein by reference.

G.8 TRAVEL

- a. Approval of Foreign Travel: The cost of foreign travel is allowable only when the specific written approval of the Contracting Officer responsible for administration of the contract is obtained prior to commencing the trip. Approval must be requested a least 30 days before the scheduled departure date in order that all necessary clearances may be processed. Each individual trip must be approved separately even though it may have been included in a previously approved budget. Foreign travel is defined as any travel outside of Canada and the United States and its territories and possessions.
- b. Domestic/local travel shall take place in accordance with the Federal Travel Regulations (FTR). Documentation showing dates and mileage for such travel shall be maintained in support of invoices claiming reimbursement.

[END OF THIS SECTION]

SECTION H SPECIAL CONTRACT REQUIREMENTS

H.1.A MINIMUM PURCHASE QUANTITIES

In Table H1, the Government has established minimum purchase quantities per contract per year for “equivalent radiation sensing panels.” The equivalent RSPs per variant are listed in Table 4-1 of the ASP Performance Specification. The Government’s guaranteed minimum will be the minimum quantity specified for the base year. The minimum equivalent RSPs specified in the Table H1 for each option period are the minimum quantities to be ordered that year if any FFP option CLIN is exercised. These minimums are provided to enable the contractor to provide competitive pricing based on overall manufacturing volume without specific assumptions with regard to specific variant purchase quantities. As evidenced by Table L1, the actual variant quantities ordered quantity may be significantly higher than the minimum quantities for equivalent RSPs. Additionally, the number of medium resolution systems vs. high resolution systems ordered may vary based on actual demonstrated performance of the production units.

The minimum equivalent RSP specified in Table H1 for the base year and the option years does not include Variant P.

Table H1 – Guaranteed Minimum RSP Quantities per Contract

Equivalent RSPs Each Offeror						
Variant	Description	Base Year	Option Year 1	Option Year 2	Option Year 3	Option Year 4
Medium Resolution Contractor						
all	Minimum Equivalent RSP	(		b(4))
High Resolution Contractor						
all	Minimum Equivalent RSP	(		b(4))

H.1.B OPTIONS

Consistent with the mission of the Domestic Nuclear Detection Office, DHS reserves the right to exercise the options set forth in Section B on behalf of other agencies in support of the global nuclear detection architecture. For the CPAF Option CLINS, the Contracting Officer shall provide written notice to the contractor 60 days prior to the expiration of the contract that the option will be exercised. Following written notice the contract performance period shall be extended in accordance with the optional period identified and by a formal modification to the contract.

Option to Increase Quantity of Separately Priced Line Items: The Government reserves the right to exercise the FFP optional CLINS from time to time at the prices stated in Section B. The Contracting Officer may exercise the option items provided that a preliminary written notice of the Government’s intention to exercise an option item shall be given at least fifteen days prior to the expiration of the period of exercise for said option. The Government may exercise the FFP option items as follows: (1) Option Year 1 CLINS may be exercised anytime prior to 12 months after contract award (MAC); (2) Option Year 2 CLINS may be exercised anytime prior

to 24 MAC; (3) Option Year 3 CLINS may be exercised anytime prior to 36 MAC; and (4) Option Year 4 CLINS may be exercised anytime prior to 48 MAC.

Option to Extend Services: The Government reserves the right to continue performance of any services within the limits and at the cost specified in the contract. It should also be noted that costs may be adjusted as a result of price or rate changes in accordance with FAR 52.217-8.

Option to Extend the Term of the Contract: The Government reserves the right to extend the term of this contract by written notice to the Contractor within 30 days and in accordance with FAR 52.217-9.

H.2 NONEXPENDABLE PROPERTY PURCHASES AND INFORMATION TECHNOLOGY RESOURCES

The Contractor shall request authorization from the Government to purchase equipment and/or resources as required. As part of this requirement, the Contractor shall provide a list giving a description of every item, quantity of units, price, and function.

H.3 SUBCONTRACTING PLAN AND eSRS

The Contractor's subcontracting plan included in the final proposal amendment dated June 5, 2006 is hereby incorporated as a material part of this contract.

As part of Integrated Acquisition Environment (IAE), Contractors must submit their Summary Subcontract Reports for into the Electronic Subcontracting Reporting System (eSRS). The eSRS eliminates both Standard Forms (SFs) 294, "Individual Subcontracting Report (ISR)" and 295, "Summary Subcontracting Report (SSR)" paper submissions. The system is located at: www.esrs.gov. Contractors are responsible for entering accurate, timely and complete reports in the eSRS. Contractors must verify that their Central Contractor Registration (CCR) information is accurate, as the eSRS is pre-populated with select CCR contractor information.

H.4 USE OF NON-DEVELOPMENTAL ITEMS (NDI)

(a) Use of NDI is the preferred method of satisfying operational requirements for nuclear detection systems where such use does not degrade the operational or performance requirements. The term NDI means:

- (1) Any item of supply that is available in the commercial marketplace;
- (2) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local Government, or a foreign Government with which the United States has a mutual defense cooperation agreement;
- (3) Any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

(4) Any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item:

- (i) is not yet in use; or
- (ii) is not yet available in the commercial marketplace.

(b) (Reserved)

H.5 ENVIRONMENTAL IMPACT ANALYSIS AND HAZARDOUS MATERIALS MANAGEMENT

The Contractor shall fully comply with Title 29, Code of Federal Regulations 1910.1200, Hazard Communication Standard. The Contractor shall ensure its personnel and facilities utilized in performance of this contract (and those of his subcontractors) satisfy Federal, State, and Local environmental regulations and statutes. In designing engineering changes and improvements, the Contractor shall review applicable processes, methods, and procedures used in production, inspection, testing maintenance, and repair of the ASP system to ensure that any hazardous materials have been identified, and are included in the Hazardous Material report, and that all materials and their use fall within prescribed Federal, State and Local limits and procedures for usage. The Hazardous Material Report shall be submitted to the COTR. Special attention shall be given to any known or potential Ozone Depleting Substances (ODSs), as well as any substances or materials posing health or safety hazards. In the event the Contractor identifies any real or potential problem, it shall notify the CO in writing of the specific concerns and recommended course of action.

H.6 AWARD FEE

The cost-plus-award-fee portion of this contract shall include an estimated cost, award fee, and a potential base fee.

The award fee amount and the award fee determination methodology are unilateral decisions made solely at the discretion of the Government.

H.7 PROVISIONING PROCEDURES

(a) The Contracting Officer is the only individual authorized to issue Provisional Item Orders (PIO) under this contract.

(b) Ordering

- (1) Replacement Parts identified in CDRL046 may be ordered by the issuance of PIOs. Orders may be issued under CLIN 0004 for the period beginning with the effective date of this contract.
- (2) It is understood and agreed that the Government does not have any obligations under the terms of this contract to issue PIOs.

- (3) All PIOs hereunder are subject to the terms and conditions of this clause. The contract shall control in the event of a conflict with any order.
- (4) Orders shall be effective upon receipt of the PIO by Contractor
- (5) PIOs shall, at a minimum, describe the following:
 - a. The supplies or services being ordered;
 - b. The requested delivery schedule (unpriced orders) or required delivery schedule for definitized orders;
 - c. The designation of the CLINs that the order's price will be listed under; and
 - d. Any other specifics which are required to complete the order.
- (6) The Government reserves the right to issue unpriced orders under this contract. All orders shall be subject to the "Limitation of Funds" clause of this contract. PIOs shall be issued by the Contracting Officer, on a Standard Form 30, "Amendment of Solicitation/Modification of Contract".
- (7) Within thirty (30) days after receipt of an unpriced PIO, the contractor shall submit a FFP proposal to definitize the order. A proposal may address more than one PIO, but each deliverable item must be priced and substantiated separately within the proposal. The parties shall make every effort to negotiate FFPs for items ordered under unpriced PIO. If it becomes apparent that the parties cannot agree on the FFP, the Contracting Officer may issue a unilateral determination of prices subject to the "Disputes" clause of this contract. Nothing in this clause shall excuse the Contractor from performing any work under this contract.

H.8 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE - NONCOMMERCIAL

(a) *Definitions.* As used in this clause:

- (1) "Commercial computer software" means computer software that is a commercial item.
- (2) "Commercial technical data" means technical data pertaining to a commercial item
- (3) "Computer database" or "database" means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.
- (4) "Computer program" means a set of instructions, rules, routines, or statements, regardless of the form or method of recording, that is capable of causing a computer to perform a specific operation or series of operations. Examples include firmware, object code, and any form of executable code.
- (5) "Computer software" means (i) computer programs; and (ii) source code, source code listings, and similar human-readable, recorded information that can be compiled to generate a computer program. The term does not include computer databases or computer software documentation.
- (6) "Computer software documentation" means technical data relating to computer software.

(i) The term includes—

(A) Computer software design documentation, such as design details, algorithms, processes, flow charts, formulas, and related material that describe the design, organization, or structure of computer software; and

(B) Computer software user's documentation, such as user's or owner's manuals, installation instructions, operating instructions, and similar information that explains the capabilities of the computer software or provides instructions for using the computer software.

(ii) The term does not include computer software.

(7) "Detailed manufacturing or process data" means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or to perform a process.

(8) "Developed" means that—

(i) An item or process exists and is workable. Workability is generally established when the item or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item or process, and the state of the art. To be considered "developed," the item or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(ii) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(iii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or

(iv) Computer software user's documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(9) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(10) "Developed exclusively with government funds" means development was accomplished entirely with costs charged to direct cost pools, costs allocated to a government contract, or any combination thereof.

(11) "Developed with mixed funding" means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(12) "Form, fit, and function data" means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(13) "Government purpose" means any activity in which the United States Government is a party.

(i) The term includes competitive procurement and any agreements or contracts with, or sales or transfers to, international or multi-national defense organizations or foreign governments.

(ii) The term does not include the rights to access, use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or to authorize others to do so.

(14) "Government purpose rights" means the rights to—

(i) Access, use, modify, reproduce, release, perform, display, or disclose technical data or computer software within the Government without restriction; and

(ii) Release or disclose technical data or computer software outside the Government and authorize persons to whom release or disclosure has been made to access, use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes. However, the Government shall not release or disclose the technical data or computer software outside the Government unless—

(A) Prior to release or disclosure (or in emergency situations, as soon as practicable), the intended recipient is subject to the non-disclosure agreement at Section J, Attachment 6, or

(B) The recipient is a government contractor receiving access to the technical data for performance of a government contract that contains the clause, **Government-Furnished Information Marked with Restrictive Legends**.

(15) "Limited rights" means the rights to access, use, modify, reproduce, release, perform, display, or disclose noncommercial technical data, in whole or in part, within the Government, except that the technical data may not be used to manufacture additional quantities of the item, or to practice the process to which the technical data pertains. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, or authorize the technical data to be accessed or used by another party, unless—

(i) The reproduction, release, disclosure, access, or use is—

(A) Necessary for emergency repair and overhaul;

(B) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or access or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes; or

(C) A release or disclosure of computer software design documentation to, or access by, a contractor or subcontractor performing a service contract (see 37.101 of the Federal

Acquisition Regulation) in support of this or a related contract to use such computer software documentation to (i) diagnose and correct deficiencies in a computer program; (ii) modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations or for emergency repair or overhaul of items or processes; and

(ii) The recipient is subject to a prohibition on the further reproduction, release, disclosure, access, or use of the technical data; and

(iii) The recipient for emergency repair or overhaul is required to destroy the technical data and all copies in its possession promptly following completion of the emergency repair or overhaul, and to notify the Contractor that the data or software have been destroyed; and

(iv) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, access, or use.

(16) "Noncommercial computer software" means computer software that does not qualify as commercial computer software.

(17) "Noncommercial technical data" means technical data that does not qualify as commercial technical data.

(18) "Open Architecture Life Cycle Support" shall mean any development of technical data or computer software for the Advanced Spectroscopic Portal (ASP) systems and any follow-on systems that will:

(i) Facilitate development of a modular architecture for ASP and allow for affordable interoperability;

(ii) Ensure that the system design of ASP is sufficiently flexible and robust to accommodate changing technology and requirements;

(iii) Facilitate integration with other ASP variants and use of commercial products from multiple sources both in the initial design and in future enhancements;

(iv) Allow for support of ASP from other Government designated entities;

(v) Enable incremental system improvements through upgrades of individual hardware or software modules with newer modular components without redesign of entire systems or large portions thereof; or

(vi) Mitigate the risks associated with technology obsolescence, being locked into proprietary technology, and reliance on a single source of supply over the life of the system.

(19) "Open Architecture Life Cycle Support rights" shall mean the Government's rights to access, use, modify, reproduce, release, perform, display, disclose or create derivative works from any technical data or computer software that is necessary for Open Architecture Life Cycle Support.

(20) "Restricted rights" apply only to noncommercial computer software and mean the Government's rights to—

(i) Install and use computer software on one computer at a time. The computer software may not be time shared or accessed by more than one terminal or central processing unit unless otherwise permitted by this contract;

(ii) Transfer computer software within the Government without further permission of the Contractor so long as the transferred computer software remains subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may—

(A) Use the modified software only as provided in paragraphs (a)(18)(i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(18)(ii), (v) and (vi) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations or for emergency repair or overhaul of items or processes, provided that—

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at Section J, Attachment 6, or are Government contractors receiving access to the software for performance of a Government contract that contains the clause below, **Government-Furnished Information Marked with Restrictive Legends**; and

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(18)(iv) of this clause, for any other purpose;

(D) Such use is subject to the limitation in paragraph (a)(18)(i) of this clause;

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that—

(A) The intended recipient is subject to the use and non-disclosure agreement at Section J, Attachment 6 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause below, **Government-Furnished Information Marked with Restrictive Legends**; and

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(18)(iv) of this clause, for any other purpose; and

(C) The Government shall require a recipient of restricted rights software for emergency repair or overhaul is required to destroy any copies of the software in its possession

promptly following completion of the emergency repair/overhaul and to notify the Contractor that the software has been destroyed.

(21) "Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. Recorded information of a scientific or technical nature that is included in computer databases is also technical data.

(22) "Unlimited rights" means the rights to access, use, modify, reproduce, perform, display, release, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) *Government Rights.* The Contractor grants or shall obtain for the Government the following paid-up, world-wide, nonexclusive, irrevocable license rights in technical data and computer software:

(1) Unlimited rights. The Government shall have unlimited rights in—

(i) Technical data or computer software developed exclusively with Government funds.

(ii) Technical data pertaining to an item or process which has been or will be developed exclusively with Government funds;

(iii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;

(iv) Form, fit, and function data;

(v) Technical data or computer software necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);

(vi) Corrections or changes to technical data or computer software furnished to the Contractor by the Government;

(vii) Technical data or computer software otherwise publicly available or that has been released or disclosed by the Contractor or subcontractor without restrictions;

(viii) Technical data or computer software in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations;

(ix) Technical data or computer software furnished to the Government, under this or any other Government contract or subcontract with restrictive conditions and the restrictive conditions have expired (e.g., government purpose rights, SBIR data rights, or negotiated license rights);

(x) Computer software user's documentation required to be delivered under this contract; and

(xi) Technical data or computer software delivered or otherwise provided to the Government without any restrictive markings (see paragraph (g)).

(2) Government purpose rights.

(i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated in—

(A) Technical data or computer software developed with mixed funding; and

(B) Technical data pertaining to items or processes developed with mixed funding;

(ii) The five-year period, or such other period as may have been negotiated under paragraph (b)(5) of this clause, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software, development of the items or processes, or creation of the technical data. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data or computer software.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(xi) of this clause, the Government shall have limited rights in technical data—

(A) Pertaining to items or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items or processes.

(4) Restricted rights. The Government shall have restricted rights in noncommercial computer software that was developed exclusively at private expense and is required to be delivered or otherwise provided to the Government under this contract.

(5) Negotiated license rights.

(i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(4) of this clause (including the period during which the Government shall have government purpose rights) may be modified only by mutual written agreement.

(ii) If either party desires to negotiate specialized license rights in technical data or computer software, the other party agrees to promptly enter into good faith negotiations to determine whether there are acceptable terms for transferring such rights.

(iii) However, in no event may the negotiated license provide the Government lesser rights than limited rights in technical data, or restricted rights in computer software.

(iv) Any license rights negotiated under this paragraph shall be identified in a license agreement attached to this contract.

(6) Prior government rights. Technical data and computer software that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless—

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to access, use, modify, reproduce, release, perform, display, or disclose the data or software have expired.

(7) Rights in derivative technical data and computer software. The Government shall retain its rights in the unchanged portions of any technical data and computer software delivered under this contract that the Contractor uses to prepare, or includes in, derivative technical data or computer software.

(8) Open Architecture Life Cycle Support rights. Notwithstanding any of previous rights delineated in 1-7 of this paragraph, the Government shall have Open Architecture Life Cycle Support rights in any technical data and computer software that is agreed to by the parties as necessary for Open Architecture Life Cycle Support. Any such technical data and computer software may be made available to any entity the Government designates as having a need to access the technical data and computer software. Any Government designee that will be given access to any technical data and computer software necessary for Open Architecture Life Cycle Support will sign a non-disclosure agreement that will subject all Government designees to the same restrictions on release of any such technical data or computer software. The terms of the non-disclosure agreement will be agreed to in good faith between the Contractor and the Government. For any technical data or computer software to which the Government has Open Architecture Life Cycle Support rights, the Contractor shall mark such technical data and computer software with a Negotiated License Rights Legend.

(c) *Contractor rights in technical data or computer software.* The Contractor (or other third party owner or licensor) retains all intellectual property rights for technical data and computer software (including ownership) developed under this contract except those granted to the Government as specified under paragraph (b).

(d) *Third party technical data or computer software.* (1) The Contractor shall not incorporate any third party owned or licensed technical data or computer software in the technical data or computer software to be delivered under this contract unless—

(A) The Contractor has obtained for the Government the license rights necessary to perfect a license in the deliverable technical data or computer software of the appropriate scope set forth in paragraph (b) of this clause; or

(B) The Contracting Officer has granted specific written approval to do so.

(2) The Contractor shall ensure that any such license rights obtained from third parties and granted to the Government are identified and asserted pursuant to paragraph (f) of this clause, and such technical data and computer software are appropriately marked pursuant to paragraph (g) of this clause.

(e) *Release from liability.* In the event that an authorized recipient of technical data or computer software delivered or otherwise provided to the Government under this contract engages in any unauthorized activities with such data or software, the Contractor agrees to—

(i) Release the Government from liability for any licensed use of technical data or computer software made in accordance with the Government's license rights granted pursuant to paragraph (b) of this clause; and

(ii) Seek relief solely from the party who has improperly accessed, used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(f) *Identification and delivery of data and software to be furnished with restrictions.* The Contractor shall not deliver any technical data or computer software with restrictive markings unless the data or software are listed on an Attachment to this contract in accordance with—

(1) The provision at Section L, **Pre-Award Identification and Assertion of License Restrictions—Technical Data and Computer Software**; and

(2) The clause below, **Post-Award Identification and Assertion of License Restrictions—Technical Data and Computer Software**.

(g) *Marking requirements.* The Contractor, and its subcontractors or suppliers, shall assert restrictions on the Government's rights to access, use, modify, reproduce, release, perform, display, or disclose technical data or computer software delivered under this contract only by marking the deliverable that is subject to restriction. Except as provided in paragraph (g)(5) of this clause, only the following legends are authorized under this contract: the unlimited rights legend at paragraph (g)(2); the government purpose rights legend at paragraph (g)(3); the limited rights legend at paragraph (g)(4); the restricted rights legend at paragraph (g)(5); the negotiated license rights legend at paragraph (g)(4); and a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark all technical data or computer software with the appropriate legends.

(A) The authorized legends shall be placed on the transmittal document or storage container, and on each page of the printed material containing technical data or computer software for which restrictions are asserted. If only portions of a page are subject to the asserted restrictions, the Contractor shall identify the restricted portions (*e.g.*, by circling or underscoring with a note or other appropriate identifier).

(B) Technical data or computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions.

(C) However, the Contractor shall not use instructions that interfere with or delay the operation of computer software in order to display an authorized legend software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery.

(D) Reproductions of technical data or computer software, or any portions thereof, subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Unlimited rights markings. Technical data or computer software that is delivered or otherwise furnished to the Government with unlimited rights, and that is marked with a copyright legend prescribed under 17 U.S.C. 401 or 402, shall also be marked as follows:

The U.S. Government has Unlimited Rights in this material. Any reproduction of technical data or portions thereof marked with this legend must also reproduce these markings.

(End of legend)

(3) Government purpose rights markings. Technical data or computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No. _____

Contractor Name _____

Contractor Address _____

Expiration Date _____

The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose these technical data or computer software are restricted by paragraph (b)(2) of the Rights in Technical Data and Computer Software—Noncommercial clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or computer software or portions thereof marked with this legend must also reproduce the markings:

(End of legend)

(4) Limited rights markings. Technical data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

LIMITED RIGHTS

Contract No. _____

Contractor Name _____

Contractor Address _____

The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose these technical data or computer software are restricted by paragraph (b)(3) of the Rights in Technical Data and Computer Software—Noncommercial clause contained in the above identified contract. Any reproduction of technical data or computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data or software must promptly notify the above named Contractor.

(End of legend)

(5) Restricted rights markings. Computer software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

RESTRICTED RIGHTS

Contract No. _____

Contractor Name _____

Contractor Address _____

The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose this computer software are restricted by paragraph (b)(4) of the Rights in Technical Data and Computer Software--Noncommercial clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(6) Negotiated license rights markings.

(i) Except as noted in paragraph (ii), technical data and computer software in which the Government's rights stem from a negotiated license shall be marked with the following legend:

NEGOTIATED LICENSE RIGHTS

The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose these technical data or computer software are restricted by Contract No. _____ (Insert contract number)____, License No. _____ (Insert license identifier)____. Any reproduction of technical data or computer software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of marking, negotiated licenses do not include government purpose rights for which a different restrictive period has been negotiated (see paragraph (g)(3) of this clause), or government purpose license rights acquired under a prior contract (see paragraph (g)(7) of this clause).

(7) Pre-existing technical data or computer software markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights in technical data or computer software, the Contractor may mark such technical data or computer software with the appropriate restrictive legend in accordance with the marking procedures in paragraph (g)(1) of this clause.

(h) *Contractor procedures and records.* Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data or computer software with other than unlimited rights, shall—

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data or computer software delivered under this contract.

(i) *Removal of unjustified and nonconforming markings.*

(1) Unjustified technical data or computer software markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data or computer software furnished or to be furnished under this contract are contained in the clause, **Validation of Restrictive Markings on Technical Data and Computer Software**. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data or computer software markings. A nonconforming marking is a marking placed on technical data or computer software delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the clause, **Validation of Restrictive Markings on Technical Data and Computer Software**. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60)

days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(j) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(k) *Limitation on charges for rights in technical data or computer software.*

(1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data or computer software to be delivered under this contract when—

(i) The Government has acquired, by any means, the same or greater rights in the technical data or computer software; or

(ii) The technical data or computer software are available to the public without restrictions.

(2) The limitation in paragraph (k)(1) of this clause—

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data or computer software, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data or computer software will be delivered.

(l) *Applicability to subcontractors or suppliers.*

(1) The Contractor shall recognize and protect the rights afforded its subcontractors and suppliers, and the identification, assertion, and delivery processes of paragraph (e) of this clause.

(2) Whenever any technical data or computer software will be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties as follows: references to the Government are not changed, and the subcontractor or supplier has all rights and obligations of the Contractor in the clause. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data or computer software.

(3) Technical data or computer software required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for technical data or computer software to be submitted with other than unlimited rights, then a subcontractor or supplier may fulfill its requirement by submitting the technical data or computer software directly to the Government.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data or computer software from their subcontractors or suppliers.

(5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data or computer software as an excuse for failing to satisfy its contractual obligation to the Government.

(m) *Publication for sale.*

(1) This paragraph only applies to technical data or computer software in which the Government has obtained unlimited rights or a license to make an unrestricted release of technical data or computer software.

(2) The Government shall not publish, or authorize others to publish on its behalf, deliverable technical data or computer software if the Contractor publishes the technical data or computer software for sale prior to the Government's intended publication. Before the Contractor publishes any technical data or computer software, the Contractor shall promptly notify the Contracting Officer of such publication(s). The Government's publication restrictions shall not apply after twenty-four (24) months following the delivery date specified in this contract, or the removal of any national security or export control restrictions, whichever is later.

(3) This limitation on the Government's right to publish for sale shall continue as long as the data are reasonably available to the public for purchase.

DHS APPROVAL OF SALES AND EXPORT

(n) Notwithstanding any of the rights allocated in this clause, the Contractor agrees not to sell, export, or otherwise dispose of any Computer Software or Technical Data developed and delivered under this contract to any third party whatsoever without obtaining prior permission from the Contracting Officer. Permission to sell, export or otherwise dispose of the any Computer Software or Technical Data delivered under this contract will be reviewed on a case-by-case basis.

H.9 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE - COMMERCIAL

(a) *Definitions.* As used in this clause:

(1) "Commercial computer software" means computer software that is a commercial item.

(2) "Commercial technical data" means technical data pertaining to a commercial item

(3) "Computer database" or "database" means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

(4) "Computer program" means a set of instructions, rules, routines, or statements, regardless of the form or method of recording, that is capable of causing a computer to perform a specific operation or series of operations. Examples include firmware, object code, and any form of executable code.

(5) "Computer software" means (i) computer programs; and (ii) source code, source code listings, and similar human-readable, recorded information that can be compiled to generate a computer program. The term does not include computer databases or computer software documentation.

(6) "Computer software documentation" means technical data relating to computer software.

(i) The term includes--

(A) Computer software design documentation, such as design details, algorithms, processes, flow charts, formulas, and related material that describe the design, organization, or structure of computer software; and

(B) Computer software user's documentation, such as user's or owner's manuals, installation instructions, operating instructions, and similar information that explains the capabilities of the computer software or provides instructions for using the computer software.

(ii) The term does not include computer software.

(7) "Form, fit, and function data" means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(8) The term "item" includes components or processes.

(9) "Open Architecture Life Cycle Support" shall mean any development of technical data or computer software for the Advanced Spectroscopic Portal (ASP) systems and any follow-on systems that will:

(i) Facilitate development of a modular architecture for ASP and allow for affordable interoperability;

(ii) Ensure that the system design of ASP is sufficiently flexible and robust to accommodate changing technology and requirements;

(iii) Facilitate integration with other ASP variants and use of commercial products from multiple sources both in the initial design and in future enhancements;

(iv) Allow for support of ASP from other Government designated entities;

(v) Enable incremental system improvements through upgrades of individual hardware or software modules with newer modular components without redesign of entire systems or large portions thereof; or

(vi) Mitigate the risks associated with technology obsolescence, being locked into proprietary technology, and reliance on a single source of supply over the life of the system.

(10) "Open Architecture Life Cycle Support rights" shall mean the Government's rights to access, use, modify, reproduce, release, perform, display, disclose or create derivative works from any technical data or computer software that is necessary for Open Architecture Life Cycle Support.

(11) "Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). The term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. Recorded

information of a scientific or technical nature that is included in computer databases is also technical data. (See 10 U.S.C. 2302(4)).

(12) "Unlimited rights" means the rights to access, use, modify, reproduce, perform, display, release, or disclose technical data or computer software in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) *Government Rights.* The Government shall have the following license rights in commercial computer software, commercial computer software documentation, and technical data relating to a commercial item that is delivered under this contract:

(1) Standard Commercial License Rights. Except as provided in paragraphs (b)(2) through (4) of this clause, the Government shall have the same rights as those in the standard commercial license customarily provided to the public unless such rights are inconsistent with federal procurement law. The parties will promptly enter into negotiations to resolve any license terms or conditions that are inconsistent with federal procurement law. The resulting license shall be attached to the contract.

(2) Unlimited rights in certain types of technical data. Notwithstanding paragraph (b)(1), the Government shall have the unrestricted right to access, use, modify, reproduce, release, perform, display, or disclose technical data, and to permit others to do so, that—

(i) Have been provided to the Government or others without restrictions on access, use, modification, reproduction, release, or further disclosure other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(ii) Are form, fit, and function data;

(iii) Are a correction or change to technical data furnished to the Contractor by the Government;

(iv) Are necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data);

(v) Have been provided to the Government under a prior contract or licensing agreement through which the Government has acquired the rights to access, use, modify, reproduce, release, perform, display, or disclose the data without restrictions.

(3) Government's minimum rights in technical data. Notwithstanding any limitations in the standard commercial license granted by paragraph (b)(1) of this clause, the Government may access, use, modify, reproduce, release, perform, display, or disclose technical data within the Government. However, unless specifically authorized by the commercial license granted under paragraph (b)(1), the Government shall not—

(i) Use the technical data to manufacture additional quantities of the commercial items;

or

(ii) Release, perform, display, disclose, or authorize access or use of the technical data outside the Government without the Contractor's written permission unless—

(A) The release, disclosure or permitted access or use is—

(1) Necessary for emergency repair or overhaul of the commercial items furnished under this contract; or

(2) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or access or use of such data by, a foreign government that is in the interest of the Government and is required for evaluation or informational purposes;

(B) The release or disclosure is subject to a prohibition on the further reproduction, release, disclosure, access, or use of the technical data; and

(C) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, access, or use.

(4) Negotiated license rights.

(i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause may be modified only by mutual written agreement.

(ii) If either party desires to negotiate specialized license rights in technical data or computer software, the other party agrees to promptly enter into good faith negotiations to determine whether there are acceptable terms for transferring such rights.

(iii) However, in no event may the negotiated license provide the Government lesser rights than limited rights in technical data or restricted rights in computer software.

(iv) Any license rights negotiated under this paragraph shall be identified in a license agreement attached to this contract.

(5) Open Architecture Life Cycle Support rights.

Notwithstanding any limitations in the standard commercial license granted by paragraph (b)(1) of this clause, the Government shall have Open Architecture Life Cycle Support rights in any technical data and computer software that is agreed to by the parties as necessary for Open Architecture Life Cycle Support. Any such technical data and computer software may be made available to any entity the Government designates as having a need to access the technical data and computer software. Any Government designee that will be given access to any technical data and computer software necessary for Open Architecture Life Cycle Support will sign a non-disclosure agreement that will subject all Government designees to the same restrictions on release of any such technical data or computer software. The terms of the non-disclosure agreement will be agreed to in good faith between the Contractor and the Government. For Any technical data or computer software to which the Government has Open Architecture Life Cycle Support rights, the Contractor shall mark such technical data and computer software with a Negotiated License Rights Legend.

(c) *Contractor Rights.* The Contractor retains all intellectual property rights (including ownership) not granted to the government in paragraph (b) of this clause.

(d) *Restrictive Markings and Notices Required.* The Contractor shall ensure that all commercial technical data and commercial computer software to be delivered or otherwise provided to the Government with restrictions are—

(1) Identified in an attachment to this contract, in accordance with—

(i) The provision at Section L of the Solicitation, Pre-Award Identification and Assertion of License Restrictions—Technical Data and Computer Software; and/or

(ii) The clause, **Post-Award Identification and Assertion of License Restrictions— Technical Data and Computer Software**; and

(2) Marked to indicate that these data or software are licensed subject to access, use, modification, reproduction, release, performance, display, or disclosure restrictions. The form of the marking or notice must be consistent with best commercial practices, and must accurately describe the Government's rights. Validation of the marking is governed by the clause, **Validation of Restrictive Markings on Technical Data and Computer Software**.

(e) *Release from liability.*

(1) The Contractor agrees that the Government, and other persons to whom the Government may have released or disclosed technical data or computer software delivered or otherwise furnished under this contract, shall have no liability for any release or disclosure of technical data or computer software that are not marked to indicate that these technical data or computer software are licensed data subject to use, modification, reproduction, release, performance, display, or disclosure restrictions.

(2) In the event that an authorized recipient of technical data or computer software delivered or otherwise provided to the Government under this contract engages in any unauthorized activities with such data or software, the Contractor agrees to—

(i) Release the Government from liability for any release or disclosure of technical data or computer software made in accordance with the Government's license rights granted pursuant to paragraph (b) of this clause; and

(ii) Seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(f) *Applicability to subcontractors or suppliers.*

(1) The Contractor shall recognize and protect the rights afforded its subcontractors and suppliers, and the identification, assertion, and delivery processes of paragraph (f) of this clause.

(2) Whenever any technical data or computer software will be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties as follows: references to the Government are not changed, and the subcontractor or supplier has all rights and obligations of the Contractor in the clause.

(End of clause)

DHS APPROVAL OF SALES AND EXPORT

(g) Notwithstanding any of the rights allocated in this clause, the Contractor agrees not to sell, export, or otherwise dispose of any Commercial Computer Software or Commercial Technical Data developed and delivered under this contract to any third party whatsoever without obtaining prior permission from the Contracting Officer. Permission to sell, export or otherwise dispose of

the any Computer Software or Technical Data delivered under this contract will be reviewed on a case-by-case basis.

H.10 RIGHTS IN PROPOSAL INFORMATION

(a) *Definitions.* As used in this provision—

- (1) "Offeror" includes an Offeror's subcontractors, suppliers, or potential subcontractors or suppliers at any tier.
- (2) Other terms are defined in the following clause(s) contained in this solicitation:
 - (i) Rights in Technical Data and Computer Software—Noncommercial; or
 - (ii) Rights in Technical Data and Computer Software—Commercial.

(b) *Government rights prior to contract award.* By submission of its offer, the Offeror agrees that the Government—

- (1) May reproduce the proposal, or any portions thereof, to the extent necessary to evaluate the offer.
- (2) Except as provided in paragraph (d) of this clause, shall use information contained in the proposal only for evaluation purposes and shall not disclose, directly or indirectly, such information to any person including potential evaluators, unless that person has been authorized by the head of the agency, his or her designee, or the Contracting Officer to receive such information.

(c) *Government rights subsequent to contract award.* The Contractor agrees—

- (1) Except as provided in paragraphs (c)(2), (d), and (e) of this clause, the Government shall have the rights to access, use, modify, reproduce, release, perform, display, or disclose information contained in the Contractor's proposal within the Government. The Government shall not release, perform, display, or disclose such information outside the Government without the Contractor's written permission.
- (2) The Government's right to access, use, modify, reproduce, release, perform, display, or disclose information that is technical data or computer software required to be delivered under this contract are determined by the Rights in Technical Data and Computer Software--Noncommercial, or Rights in Technical Data and Computer Software--Commercial, or Rights in Technical Data and Computer Software clause(s) of this contract.

(d) *Government-furnished information.* The Government's rights with respect to technical data or computer software contained in the Contractor's proposal that were provided to the Contractor by the Government are subject only to restrictions on access, use, modification, reproduction, release, performance, display, or disclosure, if any, imposed by the developer or licensor of such data or software.

(e) *Information available without restrictions.* The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose information contained in a proposal, including technical data or computer software, and to permit others to do so, shall not be restricted in any manner if such information has been released or disclosed to the Government or to other persons without restrictions other than a release or disclosure resulting from the sale, transfer, or other

assignment of interest in the information to another party or the sale or transfer of some or all of a business entity or its assets to another party.

(f) *Flowdown.* The Contractor shall include this clause in all subcontracts or similar contractual instruments and require its subcontractors or suppliers to do so without alteration, except to identify the parties as follows: references to the Government are not changed, and the subcontractor or supplier has all rights and obligations of the Contractor in the clause.

(End of clause)

H.11 POST-AWARD IDENTIFICATION AND ASSERTION OF LICENSE RESTRICTIONS - TECHNICAL DATA AND COMPUTER SOFTWARE

(a) *Definitions.* As used in this clause:

(1) "Contractor" includes a Contractor's subcontractors, suppliers, or potential subcontractors or suppliers at any tier.

(2) Other terms are defined in the following clause(s) contained in this contract:

(i) **Rights in Technical Data and Computer Software--Noncommercial Items;** or

(ii) **Rights in Technical Data and Computer Software--Commercial.**

(b) *Scope.* The identification and assertion requirements in this clause apply only to technical data and computer software to be delivered with other than unlimited rights. For contracts awarded under the SBIR Program, the identification and assertion requirements do not apply to technical data or computer software that will be generated under the resulting SBIR contract.

(c) *Pre-award assertion list.* This contract contains the list of all deliverable technical data or computer software that the Contractor asserted should be furnished to the Government with restrictions pursuant to the provision at Section L of the Solicitation, **Pre-Award Identification and Assertion of License Restrictions - - Technical Data and Computer Software.**

(d) *Restrictions on delivery.* Except as permitted by paragraph (e), Contractor shall not deliver any technical data or computer software with restrictive markings unless the technical data or computer software is identified in the list of assertions referenced in paragraph (c).

(e) *Post-award assertions.*

(1) Post-award assertions may be identified after award only when based on:

(i) new information or;

(ii) inadvertent omissions, unless the inadvertent omissions would have materially affected the source selection decision.

(2) The post-award identification and assertion shall be submitted to the Contracting Officer as soon as practicable and shall be prior to the scheduled date for delivery of the technical data or computer software.

(f) *Form of contractor's post-award assertions.* Contractor's post-award assertions shall be submitted as identifications in a separate attachment. A pre-award identification may be submitted as

a post-award identification only if the pre-award identification is being amended. Contractor's post-award identification shall contain the following information:

(1) *Title.* Place the following title at the top of the first page of the attachment: "POST-AWARD IDENTIFICATION AND ASSERTION OF LICENSE RESTRICTIONS - - TECHNICAL DATA AND COMPUTER SOFTWARE."

(2) *Statement of Assertion.* Include the following statement(s): "The Contractor asserts for itself, or the persons identified below, that the Government's rights to access, use, modify, reproduce, release, perform, display, or disclose only the following technical data or computer software should be restricted:"

(3) *Identification of the technical data or computer software to be furnished with restrictions.* For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both the deliverable technical data and each such item, component, or process as specifically as possible (e.g., by referencing specific sections of the proposal, data item numbers or item numbers, or specific technology or components). For computer software or computer software documentation, identify the software or documentation by specific name or module or item number.

(4) *Detailed description of the asserted restrictions.* For each of the technical data or computer software identified above in paragraph (3), identify the following information:

(i) *Asserted rights.* Identify the asserted rights category for the technical data or computer software as specified in paragraph (b) of the applicable clauses:

(A) For non-commercial technical data or computer software, use the clause, **Rights in Technical Data and Computer Software – Noncommercial**, and

(B) For commercial technical data or computer software, use the clause, **Rights in Technical Data and Computer Software–Commercial**. (e.g., a standard commercial license, a negotiated license, or the government's minimum rights in computer software or technical data).

(ii) *Copies of negotiated, commercial, and other non-standard licenses.* Contractor shall provide copies of all proposed negotiated license(s), Contractor's standard commercial license(s), and any other asserted restrictions other than government purpose rights; limited rights; restricted rights; rights under prior government contracts, including SBIR data rights for which the protection period has not expired; or government's minimum rights as specified in the clause, **Rights in Technical Data and Computer Software–Commercial**.

(iii) *Specific basis for assertion.* Identify the specific basis for the assertion. For example:

(A) Development at private expense, either exclusively or partially. For technical data, development refers to development of the item, component, or process to which the data pertains. For computer software, development refers to the development of the software. Indicate whether development was accomplished exclusively or partially at private expense.

(B) Rights under a prior government contract, including SBIR data rights for which the protection period has not expired.

(C) Standard commercial license customarily provided to the public.

(D) Negotiated license rights (see paragraph (4)(ii) above).

(iv) *Entity asserting restrictions.* Identify the corporation, partnership, individual, or other person, as appropriate, asserting the restrictions.

(v) *Previously delivered technical data or computer software.*

(A) *Identification requirements.* The Contractor shall indicate the technical data or computer software that are identical or substantially similar to technical data or computer software that the Contractor has produced for, delivered to, or is obligated to deliver to the Government under any contract or subcontract.

(B) *Scope.* This requirement applies to:

- and
- (1) All noncommercial technical data and noncommercial computer software,
 - (2) Only those commercial technical data and commercial computer software that are subject to a negotiated license.

(vi) *Amendment or modification of pre-award assertions.* Indicate whether the asserted restrictions amend or affect any of the pre-award assertions on the list specified in paragraph (c). If so, specifically identify what information contained within the pre-award assertions is superseded by the amendments or modifications.

(5) *Signature(s).* The list of assertions must:

(i) Be signed and dated by:

- (A) An official authorized to contractually obligate the Contractor; and by
- (B) An official authorized to obligate each entity or person identified above in paragraph (4)(iv), except that no signature is required under this paragraph (B) when the item being provided is commercial technical data or commercial computer software and is being offered with the standard commercial license rights.

(ii) Include the printed name and title of each official.

(6) *Estimated Cost of Development.* The estimated cost of development for that technical data or computer software to be delivered with less than Unlimited Rights.

(g) *Supplemental information.* When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's original and additional assertions. Sufficient information should include, but is not limited to, the following:

- (1) The contract number under which the data or software were produced;
- (2) The contract number under which, and the name and address of the organization to whom, the data or software were most recently delivered or will be delivered; and
- (3) Any limitations on the Government's rights to access, use, modify, reproduce, release, perform, display, or disclose the data or software, including, when applicable, identification of the earliest date the limitations expire.

(h) *Withholding of payment.* A Contractor's failure to submit, complete, or sign the identifications and assertions required by paragraphs (c) and (e) of this clause with its performance may result in a withholding of payment under the clause, Withholding of Payment.

(i) *Applicability to subcontractors and suppliers.* Whenever any technical data or computer software will be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties as follows: references to the Government are not changed, and the subcontractor or supplier has all rights and obligations of the Contractor in the clause.

H.12 GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS

(a) *Definitions.* As used in this clause—

(1) "Contractor" includes a contractor's subcontractors, suppliers, or potential subcontractors or suppliers at any tier.

(2) "Owner-Licenser" means the person whose name appears in the restrictive legend or is otherwise identified as asserting restrictions on the access, use, modification, reproduction, release, performance, display, or disclosure of technical data or computer software.

(3) Other terms are defined in the following clause(s):

(i) Rights in Technical Data and Computer Software—Noncommercial; or

(ii) Technical Data and Computer Software—Commercial;

(b) *Attachment.* An attachment to the contract will identify—

(1) The technical data and computer software that the Government intends to furnish to the Contractor with restrictions on access, use, modification, reproduction, release, performance, display, or disclosure; and

(2) The specific conditions under which the Contractor authorized to access, use, modify, reproduce, release, perform, display, or disclose the following:

(i) Technical data subject to limited rights;

(ii) Computer software subject to restricted rights; and

(iii) Technical data or computer software subject to—

(A) Negotiated license rights; or

(B) Other license restrictions, including commercial license rights.

(c) *GFI provided with restrictions.* Technical data or computer software provided to the Contractor as Government furnished information (GFI) under this contract are subject to restrictions on access, use, modification, reproduction, release, performance, display, or disclosure as follows:

(1) GFI marked with government purpose rights legends or SBIR data rights legends. The Contractor shall access, use, modify, reproduce, release, perform, display, or disclose GFI marked with government purpose rights legends or SBIR data rights legends for government purposes only and shall not do so for any commercial purpose. The Contractor shall not, without the express written

permission of the Owner-Licensor, release or disclose such GFI to, or allow access by, a person other than its subcontractors, suppliers, or prospective subcontractors or suppliers, who require the GFI to submit offers for, or perform, subcontracts or supplier obligations under this contract. The contractor shall ensure compliance with paragraph (j) of this clause.

(2) GFI marked with limited rights legends. The Contractor shall access, use, modify, reproduce, perform, or display GFI marked with limited rights legends only in the performance of this contract, as specified in the attachment to this contract.

(i) The Contractor shall not, unless expressly authorized in the attachment to this contract or by express written permission of the Owner-Licensor, release or disclose such GFI to, or allow access by, any person. The contractor shall ensure compliance with paragraph (j) of this clause.

(ii) The Contractor shall promptly notify the Owner-Licensor of the execution of this contract and identify the Owner-Licensor's Data that has been or will be provided to the Contractor, the date and place the Data were or will be received, and the name and address of the Government office that has provided or will provide the Data.

(3) GFI marked with restricted rights legends. The Contractor shall access, use, modify, reproduce, release, perform, display, or disclose GFI marked with restricted rights legends only in the performance of this contract, as specified in the attachment to this contract. The Contractor shall not, unless expressly authorized in the attachment to this contract or by express written permission of the Owner-Licensor, release or disclose such GFI to, or allow access by, any person. The contractor shall ensure compliance with paragraph (j) of this clause.

(4) GFI marked with negotiated license rights legends. The Contractor shall access, use, modify, reproduce, release, perform, or display GFI marked with negotiated license rights legends only as permitted in the negotiated license, which is specified in the Attachment to this contract. The Contractor shall not, unless expressly authorized in the Attachment or by express written permission of the Owner-Licensor, release or disclose such GFI to, or allow access by, any person. The contractor shall ensure compliance with paragraph (j) of this clause.

(5) GFI marked with other restrictive legends, or otherwise subject to restrictions. The Contractor shall access, use, modify, reproduce, release, perform, display, or disclose GFI that are marked with other restrictive legends, or that are otherwise identified in the attachment as subject to restrictions, only as specified in the attachment to this contract. The contractor shall ensure compliance with paragraph (j) of this clause.

(d) *Contractor procedures for safeguarding, use, and handling of GFI*. Contractor shall adopt operating procedures and physical security measures sufficient to protect the GFI from unauthorized access, use, modification, reproduction, release, performance, display, or further disclosure.

(e) *Disclaimer of warranty*. Unless specifically stated elsewhere in this contract, the Government is providing the requested technical data and computer software to the recipient "as is" and free of all warranties and representations, including suitability for intended purpose.

(f) The Contractor may enter into any agreement directly with the Owner-Licensor with respect to the access, use, modification, reproduction, release, performance, display, or disclosure of these Data.

(g) *Indemnification and creation of third party beneficiary rights*. The Contractor agrees—

(1) To indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the unauthorized access, use, modification, reproduction, release, performance, display, or

disclosure of technical data or computer software received from the Government with restrictive legends by the Contractor or any person to whom the Contractor has released or disclosed such data or software; and

(2) That the party whose name appears on the restrictive legend, in addition to any other rights it may have, is a third party beneficiary who has the right of direct action against the Contractor, or any person to whom the Contractor has released or disclosed the GFI, for the unauthorized access, use, modification, reproduction, release, performance, display, or disclosure of GFI subject to restrictive legends.

(h) *Disposition of GFI.* Recipient agrees to destroy or return of all copies of the technical data or computer software released to the recipient within 30 days following the expiration of the use and non-disclosure agreement.

(i) *Survival of obligations.* The obligations imposed by this clause shall survive the expiration or termination of this contract.

(j) *Subcontractor flowdown and release or disclosure outside the Contractor's organization.* (1) The Contractor shall not release or disclose GFI to, or allow access by, any person outside the Contractor's organization unless the intended recipient is—

(A) Authorized to access or receive the GFI; and

(B) Subject to appropriate prohibitions on unauthorized access, use, modification, reproduction, release, performance, display, or disclosure, in accordance with paragraph (2).

(2) The Contractor shall either—

(A) Use this same clause (including the restrictions contained in the Attachment specified at paragraph (b) of this clause) in the subcontract or other contractual instrument with an intended recipient who is a subcontractor or supplier, and require that subcontractor or supplier to do so, without alteration except to identify the parties, as follows: references to the Government are not changed, and the intended recipient (subcontractor or supplier) has all rights and obligations of the Contractor in the clause; or

(B) Require the intended recipient to execute the standard use and nondisclosure agreement in accordance with Section J, Attachment 6, which shall incorporate the restrictions contained in the Attachment specified at paragraph (b) of this clause.

H.13 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all items (other than technical data or computer software) to be delivered under this contract or termination of this contract, whichever is later, delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date Contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(End of clause)

H.14 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE

(a) In addition to technical data or computer software specified elsewhere in this contract to be delivered, the Government may order any technical data or computer software developed in the performance of this contract or any subcontract hereunder.

(b) The Government's deferred ordering rights under paragraph (a) shall expire three (3) years after acceptance of all items (other than technical data or computer software) to be delivered under this contract, or the termination of this contract, whichever is later. However, the obligation to deliver technical data or computer software developed by a subcontractor shall expire three (3) years after the date the Contractor accepts the last delivery of that computer software, or the item to which the technical data pertains, from that subcontractor.

(c) When the technical data or computer software is ordered, the Contractor shall be compensated for converting the technical data or computer software into the prescribed form for reproduction and delivery.

(d) The Government's rights to access, use, modify, reproduce, release, perform, display, or disclose the delivered technical data or computer software shall be pursuant to the clause, Rights in Technical Data and Computer Software -- Noncommercial.

(End of clause)

H.15 OPEN ARCHITECTURE LIFE CYCLE SUPPORT DEPOSITORY

The Contractor shall deliver all technical data and computer software that is necessary for Open Architecture Life Cycle Support, as defined in H. 8 and 9, to a depository designated by the Contracting Officer. Delivery shall take place on a date mutually agreed to by the parties and shall include only that technical data and computer software which is identified by the parties. Any such technical data and computer software shall be marked appropriately. Only select designees of the Government shall have access to this depository and shall be subject to the terms of a non-disclosure agreement. The technical data and computer software which is delivered to this depository shall be used for:

(a) Feasibility studies to assess the use of open standards for key interfaces.

(b) Application of a standards selection process that gives preference to open standards.

(c) Standards selection for key interfaces that is based on application of specific criteria developed by the parties.

H.16 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA AND COMPUTER SOFTWARE

(a) *Definitions.*

(1) As used in this clause, unless otherwise specifically indicated, the term "Contractor" means the Contractor and its subcontractors, at any tier, or suppliers.

(2) The other terms used in this clause are defined in the Rights in Technical Data and Computer Software—Noncommercial Items clause of this contract.

(b) *Contracts for commercial items—presumption of development at private expense.* Under a contract for a commercial item, the Department of Homeland Security shall presume that a Contractor's asserted use or release restrictions are justified on the basis that the commercial item was developed exclusively at private expense. The Department shall not challenge such assertions unless information the Department provides demonstrates that the commercial item was not developed exclusively at private expense.

(c) *Justification.* Except under contracts for commercial items (including commercial computer software), the Contractor shall—

(1) Maintain records sufficient to justify the validity of any markings that assert restrictions on the Government's and others' right to access, use, modify, reproduce, perform, display, release, or disclose technical data or computer software delivered or required to be delivered under the contract or subcontract; and

(2) Be prepared to furnish to the Contracting Officer a written justification for such restrictive markings in response to a challenge under paragraph (e) of this clause or in response to a request for information under paragraph (d) of this clause.

(d) *Prechallenge request for information.*

(1) The Contracting Officer may request the Contractor to provide a written explanation for any asserted restriction sufficient to enable the Contracting Officer to evaluate the Contractor's asserted restrictions. Such written explanation shall be based upon the records required by this clause or other information reasonably available to the Contractor. In the case of commercial items, (including commercial computer software) the Contractor is not required to submit a written explanation.

(2) After review of the explanation submitted, the Contracting Officer may request the Contractor to furnish additional information. The Contractor shall submit such written explanation and additional information as requested by the Contracting Officer within the time required or such longer period as may be mutually agreed upon. In the case of commercial items, (including commercial computer software), the Contractor is not required to submit a written explanation.

(3) The Contracting Officer shall follow the procedures in paragraph (e) of this clause if a challenge is warranted under the criteria specified at paragraph (e)(1) and (2).

(4) Based upon the information provided, if the—

(i) Contractor agrees that an asserted restriction is not valid, the Contracting Officer may—

(A) Strike or correct the unjustified marking at the Contractor's expense; or

(B) Return the computer software or technical data to the Contractor for correction at the Contractor's expense. If the Contractor fails to correct or strike the unjustified restriction and return the corrected computer software or technical data to the Contracting Officer within sixty (60) days following receipt of the computer software or technical data, the Contracting Officer may correct or strike the markings at the Contractor's expense.

(ii) Contracting Officer concludes that the asserted restriction is appropriate for this contract, the Contracting Officer shall so notify the Contractor in writing.

(e) *Challenge.*

(1) Notwithstanding any provision of this contract concerning inspection and acceptance, the Contracting Officer may challenge the contractor's assertion of restrictions if, after reviewing the written data furnished pursuant to paragraph (d)(1) or any other available information pertaining to the validity of a restrictive marking, the Contracting Officer determines that—

(A) Reasonable grounds exist to question the current validity of the marking; and

(B) Continued adherence to the marking would make impracticable subsequent competitive acquisition of the computer software or item, component or process.

(2) Except in the case of commercial technical data and commercial computer software, the Contractor's failure to provide a timely response to a Contracting Officer's request for information or failure to provide sufficient information to enable the Contracting Officer to evaluate an asserted restriction shall constitute reasonable grounds for questioning the validity of an asserted restriction.

(3) The Contracting Officer shall send a written challenge notice to the Contractor asserting the restrictive markings. Such challenge shall—

(i) State the specific grounds for challenging the asserted restriction;

(ii) Require a response within sixty (60) days justifying and providing sufficient evidence as to the current validity of the asserted restriction;

(iii) State that it is a justification of the asserted restriction if --

(A) A DHS Contracting Officer's final decision issued pursuant to paragraph (g) of this clause, or action of a court of competent jurisdiction or Board of Contract Appeals, has sustained the validity of a restrictive marking identical to the asserted restriction;

(B) Such decision or action occurred within the three-year period preceding the challenge; and

(C) The validated restriction was asserted by the same Contractor (or any licensee of such Contractor) to which such notice is being provided

(iv) State that failure to respond to the challenge notice may result in issuance of a final decision pursuant to paragraph (f) of this clause.

(4) If the Contractor submits a written request showing the need for additional time to respond to the challenge notice, the Contracting Officer shall grant sufficient additional time to permit the response.

(5) The Contractor's written response that seeks to justify an asserted restriction on technical data and computer software shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601, et seq.), and shall be certified in the form prescribed at 33.207 of the Federal Acquisition Regulation, regardless of dollar amount.

(6) The Contracting Officer may request additional supporting documentation if, in the Contracting Officer's opinion, the Contractor's explanation does not provide sufficient evidence to justify the validity of the asserted restrictions. The Contractor agrees to promptly respond to the Contracting Officer's request for additional supporting documentation (unless the restrictions are being asserted to commercial technical data).

(7) Notwithstanding challenge by the Contracting Officer, the parties may agree on the disposition of an asserted restriction at any time prior to a Contracting Officer's final decision or, if the Contractor has appealed that decision, filed suit, or provided notice of an intent to file suit, at any time prior to a decision by a court of competent jurisdiction or Board of Contract Appeals.

(8) A Contractor receiving challenges to the same asserted restrictions from more than one Contracting Officer shall notify each Contracting Officer of the other challenges and identify which Contracting Officer initiated the first in time unanswered challenge. The Contracting Officer initiating the first in time unanswered challenge after consultation with the Contractor and the other Contracting Officers, shall formulate and distribute a schedule that provides the Contractor a reasonable opportunity for responding to each challenge.

(f) *Final decision when Contractor or subcontractor fails to respond.* If the Contractor fails to respond to the Contracting Officer's challenge notice under paragraph (e)(1) or request for additional information under paragraph (e)(4) the Contracting Officer shall issue a final decision, in accordance with the Disputes clause of this contract, pertaining to the validity of the asserted restriction. This final decision shall be issued as soon as possible after the expiration of the time period of paragraph (e)(1)(ii) or (e)(2) of this clause. Following issuance of the final decision, the Contracting Officer will comply with the procedures in paragraph (h) of this clause.

(g) *Final decision when Contractor responds.*

(1) If the Contracting Officer, after reviewing the written justification furnished pursuant to paragraph (e)(1) of this clause, or any other available information pertaining to the validity of an asserted restriction, determines that the asserted restriction has—

(i) Not been justified, the Contracting Officer shall issue a final decision, in accordance with the Disputes clause of this contract, denying the validity of the asserted restriction; or

(ii) Been justified, the Contracting Officer shall issue a final decision, in accordance with the Disputes clause of this contract, validating the asserted restriction, and stating that the Government will continue to be bound by the restrictive marking.

(2) Notwithstanding paragraph (e) of the Disputes clause, the final decision shall be issued within sixty (60) days after receipt of the Contractor's response to the challenge notice, or within such longer period that the Contracting Officer has notified the Contractor or subcontractor that the Government will require.

(h) *Contractor appeal.*

(1) The Government agrees that, notwithstanding a Contracting Officer's final decision denying the validity of an asserted restriction and except as provided in paragraph (h)(3) of this clause, it will honor the asserted restriction—

(i) For a period of ninety (90) days from the date of the Contracting Officer's final decision to allow the Contractor to appeal to the appropriate Board of Contract Appeals or to file suit in an appropriate court;

(ii) For a period of one year from the date of the Contracting Officer's final decision if, within the first ninety (90) days following the Contracting Officer's final decision, the Contractor has provided notice to the Contracting Officer of an intent to file suit in an appropriate court; or

(iii) Until final disposition by the appropriate Board of Contract Appeals or court of competent jurisdiction, if the Contractor has:

(A) appealed to the Board of Contract Appeals or filed suit in an appropriate court within ninety (90) days; or

(B) submitted, within ninety (90) days, a notice of intent to file suit in an appropriate court and filed suit within one year:

(2) The Contractor agrees that the Government may strike, correct, or ignore the restrictive markings if the Contractor fails to—

(i) Appeal to a Board of Contract Appeals within ninety (90) days from the date of the Contracting Officer's final decision;

(ii) File suit in an appropriate court within ninety (90) days from such date; or

(iii) File suit within one year after the date of the Contracting Officer's final decision if the Contractor had provided notice of intent to file suit within ninety (90) days following the date of the Contracting Officer's final decision.

(3) *Exception for urgent and compelling circumstances.*

(i) The agency head, on a nondelegable basis, may determine that urgent or compelling circumstances do not permit awaiting the filing of suit in an appropriate court, or the rendering of a decision by a court of competent jurisdiction or Board of Contract Appeals. In that event, the agency head shall notify the Contractor of the urgent or compelling circumstances. The agency head's determination may be made at any time after the date of the Contracting Officer's final decision and shall not affect the Contractor's right to damages against the United States, or other relief provided by law, if its asserted restrictions are ultimately upheld.

(ii) Notwithstanding paragraph (h)(1) of this clause, the Contractor agrees that the agency may access, use, modify, reproduce, release, perform, display, or disclose computer software or technical data as necessary to address the urgent and compelling circumstances.

(iii) The Government agrees not to release or disclose Contractor's restrictively marked technical data or computer software unless, prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at Section J, Attachment 6, or is a Government contractor receiving access to the data or software for performance of a Government contract that contains the clause, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(i) *Final disposition of appeal or suit* If the Contractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is—

(1) Sustained—

(i) Any restrictive markings on the technical data or computer software shall be cancelled, corrected or ignored; and

(ii) If the restrictive markings are found not to be substantially justified, the Contractor shall be liable to the Government for payment of the cost to the Government of reviewing the restrictive markings and the fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Government in challenging the marking, unless special circumstances would make such payment unjust.

(2) Not sustained—

(i) The Government shall continue to be bound by the restrictive markings; and

(ii) The Government shall be liable to the Contractor for payment of fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Contractor in defending the marking, if the challenge by the Government is found not to have been made in good faith.

(j) *Duration of right to challenge.* The Government has the right to challenge the validity of any Contractor asserted restrictions on technical data or computer software delivered or to be delivered under a contract or otherwise provided to the Government in the performance of this contract. The Contracting Officer may exercise this right during the period within three (3) years of final payment on a contract or within three (3) years of delivery of the technical data or computer software to the Government, whichever is later. The Government may, however, challenge a restriction on the release, disclosure or use of technical data and computer software at any time if such technical data or computer software—

(1) Is publicly available;

(2) Has been furnished to the United States without restriction; or

(3) Has been otherwise made available without restriction.

(k) *Decision not to challenge.* A decision by the Government, or a determination by the Contracting Officer, to not challenge the restrictive marking or asserted restriction shall not constitute "validation." Only a Contracting Officer's final decision or an action of an agency Board of Contract Appeals or a court of competent jurisdiction that sustains the validity of an asserted restriction constitutes validation of the restriction.

(l) *Privity of contract.* The Contractor agrees that the Contracting Officer may transact matters under this clause directly with subcontractors or suppliers at any tier that assert restrictive markings. However, neither this clause nor any action taken by the Government under this clause creates or implies privity of contract between the Government and subcontractors or suppliers for matters not covered by this clause.

(m) *Flowdown.* The Contractor agrees to insert this clause in contractual instruments with its subcontractors or suppliers at any tier requiring the delivery of technical data or computer software.

H.17 CONTRACTOR KEY PERSONNEL

(a) The key personnel whom the Contractor shall furnish for the performance of this contract are as follows:

ASP Program Manager
 Name: { b(4) }
 Title: { b(4) }

Production Management Leader

Name: (b(4))
Title: (b(4))

Design and Engineering Management Leader

Name: (b(4))
Title: (b(4))

Fixed Variant Product Line Manager

Name: (b(4))
Title: (b(4))

Mobile Variants Product Line Manager

Name: (b(4))
Title: (b(4))

Deployment and Field Services Manager

Name: (b(4))
Title: (b(4))

The personnel specified above are considered to be essential to the work being performed hereunder. Prior to replacing any of the specified individuals, the Contractor shall immediately notify both the Contracting Officer and DHS Contracting Officer's Technical Representative reasonably in advance and shall submit written justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No replacement of key personnel shall be made by the Contractor without the written consent of the Contracting Officer.

**H.18 ACCESS TO GOVERNMENT FACILITIES UNDER THE COGNIZANCE OF
DHS BY FOREIGN NATIONALS****UNCLASSIFIED FOREIGN VISITS AND ASSIGNMENTS**

For the purposes of the Notice, a Foreign National is defined as any person who is not a U.S. national or is a stateless person. An immigrant alien is considered a foreign national. Foreign nationals sponsored for visits or assignments may include, among others:

- (1) Officials or other persons employed by foreign governments or other foreign institutions, who may or may not be involved in cooperation under international agreements;
- (2) Foreign students at U.S. institutions;
- (3) Employees of DHS or other U.S. Government agencies or their contractors, of universities, of companies (professional or service staff), or of other institutions; and

(4) Prospective employees of DHS or DHS contractors.

Unless excluded from this Notice, all visits and assignments require communication with the Program Manager.

The Program Manager shall be notified in advance of any proposed visit or assignment that involves access to a US Government site/location.

H.19 RESERVED

H.20 SECURITY REQUIREMENT

General

The efforts described in this SOW will be unclassified, but may contain work categorized as For Official Use Only (FOUO). Contractors will utilize the Joint CBP/DOE Classification Guide for Nuclear Smuggling Information (CG-SMG-2), December 2003, for this effort. CG-SMG-2 will be made available to the successful Offeror(s) upon award. For material determined to be FOUO, contractor shall follow Department of Homeland Security procedures for processing, transmitting, and storing said material. These procedures are outlined in the Department of Homeland Security Management Directive System MD Number 11042, Issue Date: 5/11/2004, SAFEGUARDING SENSITIVE BUT UNCLASSIFIED (FOR OFFICIAL USE ONLY) INFORMATION.

H.21 INSURANCE

Prior to award of this contract, the contractor shall obtain and provide proof of insurance in the types and amounts specified in FAR 28.307-2 except as noted.

H.22 GOVERNMENT FURNISHED PROPERTY

Government Furnished Material (GFM), including Government Furnished Equipment (GFE), is Government Furnished Property which is, or will be delivered as, a part of Contract Line Item (CLIN) deliverable. For the Advanced Spectroscopic Program, the list identifies GFE to support CLIN 0003 and Section C Statement of Work paragraph 3.2.1 and the optional GFE which may be provided to support the assembly, test, and delivery of optional CLIN items identified in Section B, Table B.2.1 in the column with the header "SYSTEM WITH GFM-GFE" and in the CLIN pricing tables for each year with the "WITH GFM-GFE" identifier in the CLIN title.

GFM-GFE ITEM	NAME	QTY	APPLICABLE CLIN(S) (THE "-0", "-1", "-2", "-3", "-4" ORDER YEAR INDICATORS ARE NOT SHOWN HERE FOR SIMPLICITY)	ESTIMATED DELIVERY

GFM-GFE ITEM	NAME	QTY	APPLICABLE CLIN(S) (THE "-0", "-1", "-2", "-3", "-4" ORDER YEAR INDICATORS ARE NOT SHOWN HERE FOR SIMPLICITY)	ESTIMATED DELIVERY
G001	ASP VARIANT C. 2 X 1 X 2-SIDED (STANDARD CARGO) PROTOTYPE		CLIN 0003 IAW SECTION C SOW PARAGRAPH 3.2.1	
G002	ASP VARIANT C. 2 X 1 X 2-SIDED (STANDARD CARGO) PROTOTYPE		CLIN 0003 IAW SECTION C SOW PARAGRAPH 3.2.1	
G003A	THALLIUM ACTIVATED SODIUM IODIDE NUCLEAR DETECTOR ASSEMBLY, 2 INCH X 4 INCH X 16 INCH *		CLINS A100G, A200G, B100G, C100G, D100G, E100G, F100G, G100G, H100G, J100G, K100G, K200G, K300G, L100G, M100G, N100G	
G003B	THALLIUM ACTIVATED SODIUM IODIDE NUCLEAR DETECTOR ASSEMBLY, 4 INCH X 4 INCH X 16 INCH *	B(4)	CLINS A100G, A200G, B100G, C100G, D100G, E100G, F100G, G100G, H100G, J100G, K100G, K200G, K300G, L100G, M100G, N100G	b(4)
G003C	THALLIUM ACTIVATED SODIUM IODIDE NUCLEAR DETECTOR ASSEMBLY, 6 INCH DIAMETER X 6 INCH LONG *		CLINS A100G, A200G, B100G, C100G, D100G, E100G, F100G, G100G, H100G, J100G, K100G, K200G, K300G, L100G, M100G, N100G	
G003D	THALLIUM ACTIVATED SODIUM IODIDE NUCLEAR DETECTOR ASSEMBLY, SIZE TO BE SPECIFIED *		CLINS A100G, A200G, B100G, C100G, D100G, E100G, F100G, G100G, H100G, J100G, K100G, K200G, K300G, L100G, M100G, N100G	

GFM-GFE ITEM	NAME	QTY	APPLICABLE CLIN(S) (THE "-0", "-1", "-2", "-3", "-4" ORDER YEAR INDICATORS ARE NOT SHOWN HERE FOR SIMPLICITY)	ESTIMATED DELIVERY
V001	VEHICLE FOR ASP VARIANT H. 2 X 1 X 1-SIDED MOBILE	|	CLIN H100G	b(4)
V002	VEHICLE FOR ASP VARIANT L. 1/2 PANEL INTERNAL MOUNT (MOBILE SUV-BASED)	b(4)	CLIN L100G	
M002	MISCELLANEOUS MATERIALS FROM THE ASP PROTOTYPE PROGRAM	|	CLIN 0003 AND IAW SECTION C SOW PARAGRAPH 3.2.1	

* The thallium activated sodium iodide (NaI) nuclear detector assembly consists of, but is not limited to: the NaI crystal; optical lens; grease for the optical lens; crystal housing; and a photomultiplier tube (PMT).

H.23 GOVERNMENT FURNISHED ACCESS

DHS intends to provide the Contractor with access after contract award to the Nevada Test (NTS) to conduct data collection against a variety of radiation sources in support of the development of the ASP systems. The Contractor shall coordinate with the appropriate NTS personnel to provide the necessary documentation, personnel information, equipment lists, infrastructure requirements, equipment hazards, and other site requirements prior to the scheduled event.

H.24 SAFETY ACT INFORMATION

DHS has determined that the product(s) or service(s) to be acquired from the successful Offeror(s) pursuant to this action will be a Qualified Anti-terrorism Technology as that term is defined by the Support Anti-terrorism by Fostering Effective Technologies Act of 2002, sections 441-444 of title 6, United States Code (the "SAFETY Act") and the SAFETY Act implementing regulations, provided (i) the product(s) or service(s) substantially conform to the ASP Performance Specification, DNDO-PS-100220, as set forth herein (and verified by DNDO in

consultation with the SAFETY Act Office); and (ii) the successful Offeror(s) maintains insurance in accordance with 6 U.S.C. §443(a)(1).

SAFETY Act protections are not a requirement of this procurement. Whether an Offeror has previously obtained SAFETY Act protections will not be evaluated as part of this procurement. Offerors are not required to seek SAFETY Act protections in order to submit an offer or to receive an award. Whether to seek the liability protections of the SAFETY Act for a proposed product or service is entirely up to the Offeror. Additional information about the SAFETY Act may be found at the SAFETY Act website at <http://www.SAFETYAct.gov>. Proposals in which pricing or any other term or condition is contingent upon SAFETY Act protections of the proposed product(s) or service(s) will not be considered for award.

Determinations by DHS to accord SAFETY Act protections are based on the criteria set forth in the SAFETY Act and are made independent of the specific terms, conditions, specifications, statements of work, or evaluation factors set forth in the solicitation.

H.25 PRE-AWARD IDENTIFICATION AND ASSERTION OF LICENSE RESTRICTIONS —TECHNICAL DATA AND COMPUTER SOFTWARE.

Under Solicitation HSHQDC-05-R-00009

Submitted by Thermo Electron Corp.

May 22, 2006

Required notice: The Offeror asserts for itself, or the persons identified below, that the Government's rights to access, use, modify, reproduce, release, perform, display, or disclose only the following technical data or computer software should be restricted.

Rights in Technical Data and Computer Software--Commercial

The following items are commercial products offered by Thermo Electron Corp. or a third party. The Government will be issued a standard commercial license as required by Clause H.9. Copies of these standard commercial licenses are attached hereto. The Commercial Software proposed is of widespread availability, consistent with Open Architecture Life Cycle Support. These programs facilitate a modular architecture and affordable interoperability; allow for affordable support; and mitigate risks associated with technology obsolescence. SOW section 3.2 states that the Contractor's approach must "facilitate integration with other variants and use of commercial products from multiple sources both in the initial design and in future enhancements." Our approach facilitates the integration of these commercial products.

Technical Data or Computer Software	Asserted Rights	Person Asserting Restrictions
Linux Operating System – GNU General Public License	Commercial	Free Software Foundation
Microsoft – (all products) End-User License Agreement	Commercial	Microsoft Corporation

To the extent Thermo is required to deliver or supply the commercial software noted in Attachment 10, section 7.3.14, "Commercial Software Design Requirements," Thermo will deliver that software pursuant to the respective standard commercial licenses for:

1. Microsoft® Windows® 2000 and Windows XP Operating System.
2. Roxio Easy Media Creator™ 7 Digital Media Suite.
3. Microsoft Outlook e-mail or equivalent.
4. Pretty Good Privacy (PGP) encryption software or equivalent.

**Rights in Technical Data and Computer Software--Noncommercial
Limited or Restricted Rights**

(b(4))

Open Architecture Rights

Consistent with contract clauses H.8 and H.9, items designated with the notation OAR are offered with Open Architecture Life Cycle Support Rights. The following items were or will be developed at private expense and were previously offered with "Limited Rights" for technical data or "Restricted Rights for computer software.

(b(4))

Technical Data or Computer Software	Asserted Rights	Basis	Person Asserting	Previously Delivered?
b(4)				

b(4)				
------	--	--	--	--

(b(4))

(b(4))

Technical Data or Computer Software	Asserted Rights	Basis	Person Asserting Restrictions	Previously Delivered?
b(4)				

b(4)				

[b(4)]
(b(4))

* As required by contract clause H.8(b)(6), these materials are designated as government purpose rights data, consistent with their designation under the HSARPA Prototype award. Thermo recognizes that, notwithstanding this designation, under contract clause H.8(b)(1), the Government may acquire unlimited rights to these materials as "technical data or computer software necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data)."

Unlimited Rights

The following items, not previously delivered, are offered by Thermo Electron with Unlimited Rights as required by the Solicitation Clause H.8(b)(1), subject to any negotiated rights that may alter this designation.

Technical Data or Computer Software	Asserted Rights	Basis
b(4)		

[END OF THIS SECTION]

PART II CONTRACT CLAUSES**SECTION I CONTRACT CLAUSES****I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://arnet.gov/far/>

[Applicability of contract clauses is dependent on Contract Type (CPAF or FFP).]

NUMBER	TITLE	DATE
	FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)	
52.202-1	DEFINITIONS	DEC 2001
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	JUL 1995
52.203-7	ANTI-KICKBACK PROCEDURES	JUL 1995
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	JUN 2003
52.204-2	SECURITY CLAUSE REQUIREMENT	AUG 1996
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	JAN 2005
52.211-5	MATERIAL REQUIREMENTS	AUG2000
52.215-2	AUDIT AND RECORDS--NEGOTIATION	JUN 1999
52.215-8	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT	OCT 1997
52.215-11	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS	OCT 1997
52.215-12	SUBCONTRACTOR COST OR PRICING DATA	OCT 1997

52.215-14	INTEGRITY OF UNIT PRICES	OCT 1997
52.215-17	WAIVER OF FACILITIES CAPITAL	OCT 1997
52.215-19	NOTIFICATION OF OWNERSHIP CHANGES	OCT 1997
52.216-7	ALLOWABLE COST AND PAYMENT	DEC 2002
52.217-7	OPTION FOR INCREASED QUANTITY – SEPARATELY PRICED LINE ITEMS	MAR1989
52.217-8	OPTION TO EXTEND SERVICES	NOV 1999
52.217-9	OPTION TO EXTEND THE TERM OF THE CONTRACT	MAR 2000
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	MAY2004
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN ALTERNATE II (OCT 2001)	JAN 2002
52.219-16	LIQUIDATED DAMAGES -- SUBCONTRACTING PLAN	JAN 1999
52.219-25	SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM--DISADVANTAGED STATUS AND REPORTING	OCT 1999
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES	FEB 1997
52.222-2	PAYMENT FOR OVERTIME PREMIUMS	JUL 1990
52.222-3	CONVICT LABOR	JUN 2003
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-22	PREVIOUS CONTRACTS AND COMPLIANCE REPORTS	FEB 1999
52.222-26	EQUAL OPPORTUNITY	APR 2002
52.222-29	NOTIFICATION OF VISA DENIAL	JUN 2003
52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND OTHER ELIGIBLE VETERANS	JUN 1998
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	DEC 2001
52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS	DEC 2001
52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS	DEC 2001
52.222-41	SERVICE CONTRACT ACT OF 1965, AS AMENDED	JUL 2005
52.223-6	DRUG-FREE WORKPLACE	MAY2001
52.225-1	BUY AMERICAN ACT-SUPPLIES	JUN 2003
52.225-5	TRADE AGREEMENTS	JAN 2005
52.225-8	DUTY-FREE ENTRY	FEB 2000
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	MAR2005
52.227-1	AUTHORIZATION AND CONSENT UL with Alternate 1 (APR 1984)	1997
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT	AUG 1996
52.227-9	REFUND OF ROYALTIES	APR 1984
52.227-10	FILING OF PATENT APPLICATION-CLASSIFIED SUBJECT MATTER	APR 1984
52.227-12	PATENT RIGHTS-RETENTION BY THE CONTRACTOR (LONG FORM)	JAN 1997
52.228-7	INSURANCE--LIABILITY TO THIRD PERSONS	MAR1996
52.230-2	COST ACCOUNTING STANDARDS	APR 1998
52.230-3	DISCLOSURE AND CONSISTENCY OF COST	APR 2998

	ACCOUNTING PRACTICES	
52.230-6	ADMINISTRATION OF COST ACCOUNT STANDARDS	APR 2005
52.232-1	PAYMENTS	APR 1984
52.232-8	DISCOUNTS ON PROMPT PAYMENT	FEB 2002
52.232-9	LIMITATION ON WITHHOLDING OF PAYMENTS	APR 1984
52.232-11	EXTRAS	APR 1984
52.232-17	INTEREST	JUN 1996
2.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-22	LIMITATION OF FUNDS	APR 1984
52.232-23	ASSIGNMENT OF CLAIMS	JAN 1986
52.232-25	PROMPT PAYMENT	FEB 2002
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACT REGISTRATION	OCT 2003
52.232-35	DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION	MAY1999
52.233-1	DISPUTES	JUL 2002
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.237-9	WAIVER ON LIMITATION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS ALTERNATE I (JUN 1985)	AUG 2003
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS	APR 1984
52.242-2	PRODUCTION PROGRESS REPORTS	APR 1991
52.242-3	PENALTIES FOR UNALLOWABLE COSTS	MAY2001
52.242-10	F.O.B. GOVERNMENT BILLS OF LADING OR PREPAID POSTAGE	APR 1984
52.242-13	BANKRUPTCY	JUL 1995
52.243-1	CHANGES - FIXED PRICE ALTERNATE I	AUG 1987 APR 1984
52.243-2	CHANGES--COST REIMBURSEMENT ALTERNATE I (APR 1984)	AUG 1987
52.243-7	NOTIFICATION OF CHANGES	APR 1984
52.244-2	SUBCONTRACTS ALTERNATE II (MAR 2005)	AUG 1998
52.244-5	COMPETITION IN SUBCONTRACTING	DEC 1996
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS	DEC 2004
52.245-2	GOVERNMENT PROPERTY[FIXED-PRICED CONTRACTS]	MAY2004
52.245-5	GOVERNMENT PROPERTY[COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS]	MAY2004
52.246-23	LIMITATION ON LIABILITY	FEB 1997
52.246-25	LIMITATION OF LIABILITY SERVICES	FEB 1997
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICED)	MAY2004
52.249-6	TERMINATION (COST-REIMBURSEMENT)	MAY2004
52.249-8	DEFAULT (FIXED PRICE SUPPLY AND SERVICE)	APR 1984
52.249-14	EXCUSABLE DELAYS	APR 1984
52.253-1	COMPUTER GENERATED FORMS	JAN 1991

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3052.211-70	INDEX FOR SPECIFICATIONS
3052.215-70	KEY PERSONNEL OR FACILITIES
3052.216-71	DETERMINATION OF AWARD FEE
3052.216-72	PERFORMANCE OF EVALUATION PLAN
3052.216-73	DISTRIBUTION OF AWARD FEE
3052.219-70	SMALL BUSINESS SUBCONTRACTING PROGRAM REPORTING
3052.219-71	DHS MENTOR-PROTÉGÉ PROGRAM
3052.222-70	STRIKES OR PICKETING AFFECTING TIMELY COMPLETION OF THE CONTRACT WORK
3052.222-71	STRIKES OR PICKETING AFFECTING ACCESS TO A DHS FACILITY
3052.223-70	REMOVAL OR DISPOSAL OF HAZARDOUS SUBSTANCES-APPLICABLE LICENSES AND PERMITS
3052.228-70	INSURANCE
3052.237-70	QUALIFICATIONS OF CONTRACTOR EMPLOYEES
3052.237-71	INFORMATION TECHNOLOGY SYSTEMS ACCESS FOR CONTRACTORS
3052.237-72	CONTRACTOR PERSONNEL SCREENING FOR UNCLASSIFIED INFORMATION TECHNOLOGY ACCESS.
3052.242-71	DISSEMINATION OF CONTRACT INFORMATION
3052.242-72	CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE
3052.245-70	GOVERNMENT PROPERTY REPORTS

I.2 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, _____ * days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the *Code of Federal Regulations*, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall—

- (1) Be submitted in writing;
 - (2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and
 - (3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.
- (c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.
- (d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(End of clause)

I.3 3052.204-70 SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES (JUN 2006)

- (a) The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location. This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission.
- (b) The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract.
- (1) Within 90 days after contract award, the contractor shall submit for approval its IT Security Plan, which shall be consistent with and further detail the approach contained in the offeror's proposal. The plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document.
 - (2) The Contractor's IT Security Plan shall comply with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.); the Government Information Security Reform Act of 2000; and the Federal Information Security Management Act of 2002; and with Federal policies and procedures that include, but are not limited to, OMB Circular A-130.

(3) The security plan shall specifically include instructions regarding handling and protecting sensitive information at the Contractor's site (including any information stored, processed, or transmitted using the Contractor's computer systems), and the secure management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems.

(c) Examples of tasks that require security provisions include—

(1) Acquisition, transmission or analysis of data owned by DHS with significant replacement cost should the contractor's copy be corrupted; and

(2) Access to DHS networks or computers at a level beyond that granted the general public (e.g., such as bypassing a firewall).

(d) At the expiration of the contract, the contractor shall return all sensitive DHS information and IT resources provided to the contractor during the contract, and certify that all non-public DHS information has been purged from any contractor-owned system. Organizational elements shall conduct reviews to ensure that the security requirements in the contract are implemented and enforced.

(e) Within 6 months after contract award, the contractor shall submit written proof of IT Security accreditation to DHS for approval by the DHS Contracting Officer. Accreditation will proceed according to the criteria of the DHS Sensitive System Policy Publication, 4300A (Version 2.1, July 26, 2004) or any replacement publication, which the Contracting Officer will provide upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document. The contractor shall comply with the approved accreditation documentation.

(End of clause)

I.4 3052.209-70 PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES (JUN 2006)

(a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

(b) Definitions. As used in this clause:

Expanded Affiliated Group means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except 06-01-2006 HSAR 52-8 that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

Foreign Incorporated Entity means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

Inverted Domestic Corporation. A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Person, domestic, and foreign have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) *Certain Stock Disregarded.* For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition

described in subsection (b)(1) of Section 835 of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) *Plan Deemed In Certain Cases.* If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) *Certain Transfers Disregarded.* The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) *Special Rule for Related Partnerships.* For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

- (i) warrants;
- (ii) options;
- (iii) contracts to acquire stock;
- (iv) convertible debt instruments; and
- (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) *Disclosure.* The offeror under this solicitation represents that [Check one]:

it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73;

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it has submitted a request for waiver pursuant to 3009.104-74, which has not been denied; or

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.104-70 through 3009.104-73, but it plans to submit a request for waiver pursuant to 3009.104-74.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

(End of provision)

I.5 3052.209-72 DISCLOSURE OF CONFLICTS OF INTEREST [DEC 2003]

The Department of Homeland Security (DHS) will award contracts only to those Offerors whose objectivity is not impaired by conflicting interests. Based on this policy—

(a) The Offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization whose interests may be substantially affected by Departmental activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors for more than 20% of the work and key personnel of the Offeror and any subcontractor accounting for more than 20% of the contract. Past interest shall be limited to within one year of the date of the Offeror's technical proposal. Key personnel, for purposes of this clause, shall include any person owning more than 20% interest in the company, and the company's corporate officers, its senior managers and any employees responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The Offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner. 52-8 HSAR 12-04-03

(c) In the absence of any relevant interest identified in (a) above, the Offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The Offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the Offeror. All such information, and any other relevant information known to DHS, will be used to determine whether an award to the Offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the Offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the Offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the Offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If, after award, the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

(End of clause)

PART III LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J LIST OF ATTACHMENTS

ATTACHMENT 1 MATERIAL INSPECTION AND RECEIVING REPORT

ATTACHMENT 2 GLOSSARY

ATTACHMENT 3 CONTRACT DATA DELIVERABLES & SCHEDULE

ATTACHMENT 4 AWARD FEE PLAN

ATTACHMENT 5 [NOT USED]

ATTACHMENT 6 NON-DISCLOSURE AGREEMENT

ATTACHMENT 7 [NOT USED]

ATTACHMENT 8 [NOT USED]

ATTACHMENT 9 NOTIONAL TECHNICAL INSTRUCTION (TI) #1

ATTACHMENT 10 PERFORMANCE SPECIFICATION (SEPARATE DOCUMENT)

ATTACHMENT 11 [NOT USED]

ATTACHMENT 12 NOTIONAL ASP SCHEDULE (SEPARATE DOCUMENT)

**ATTACHMENT 13 (SEPARATE DOCUMENT) ASP WORK BREAKDOWN
STRUCTURE**

MATERIAL INSPECTION AND RECEIVING REPORT						Form Approved OMB No. 0704-0248
The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0248), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.						
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ADDRESS. SEND THIS FORM IN ACCORDANCE WITH THE INSTRUCTIONS CONTAINED IN THE DFARS, APPENDIX F-401.						
1. PROCUREMENT INSTRUMENT IDENTIFICATION (CONTRACT) NO.		ORDER NO.	6. INVOICE NO./DATE		7. PAGE OF	8. ACCEPTANCE POINT
2. SHIPMENT NO.	3. DATE SHIPPED	4. B/L TCN		5. DISCOUNT TERMS		
9. PRIME CONTRACTOR CODE		10. ADMINISTERED BY CODE				
11. SHIPPED FROM (If other than 9) CODE		FOB:	12. PAYMENT WILL BE MADE BY CODE			
13. SHIPPED TO CODE		14. MARKED FOR CODE				
15. ITEM NO.	16. STOCK/PART NO. <i>(Indicate number of shipping containers - type of container - certifier number.)</i>	DESCRIPTION	17. QUANTITY SHIP/REC'D*	18. UNIT	19. UNIT PRICE	20. AMOUNT
21. CONTRACT QUALITY ASSURANCE a. ORIGIN <input type="checkbox"/> CQA <input type="checkbox"/> ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.			b. DESTINATION <input type="checkbox"/> CQA <input type="checkbox"/> ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents.		22. RECEIVER'S USE Quantities shown in column 17 were received in apparent good condition except as noted.	
DATE _____ SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____ TYPED NAME: _____ TITLE: _____ MAILING ADDRESS: _____ COMMERCIAL TELEPHONE NUMBER: _____			DATE _____ SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____ TYPED NAME: _____ TITLE: _____ MAILING ADDRESS: _____ COMMERCIAL TELEPHONE NUMBER: _____		DATE RECEIVED _____ SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____ TYPED NAME: _____ TITLE: _____ MAILING ADDRESS: _____ COMMERCIAL TELEPHONE NUMBER: _____ * If quantity received by the Government is the same as quantity shipped, indicate by (X) mark; if different, enter actual quantity received below quantity shipped and encircle.	
23. CONTRACTOR USE ONLY						

ATTACHMENT 2 GLOSSARY

Glossary of Acronyms

ADT	Algorithm Spiral Development Team
ANSI	American National Standards Institute
ASP	Advanced Spectroscopic Portal
CBP	Customs and Border Protection
CDR	Critical Design Review
CDRL	Contract Data Requirements List
CFE	Contractor Furnished Equipment
CLIN	Contract Line Item Number
CMTB	Countermeasures Test Bed
CMR	Contractor Management Representative
CNWDI	Critical Nuclear Weapon Design Information
COTR	Contracting Officer's Technical Representative
CPR	Cost Performance Report
DAC	Days After Contract award
DAL	Data Accession List
DHS	Department of Homeland Security
DNDO	Domestic Nuclear Detection Office
ECCF	Express Consignment Courier Facility
EVMS	Earned Value Management System
GAT	Government Acceptance Testing
GFE	Government Furnished Equipment
HDD	Hardware Design Data
IDD	Interface Design Data
IND	Improvised Nuclear Device
IPT	Integrated Project Team
LCEDS	Life Cycle and Engineering Development Site
MAC	Months After Contract award
MIPS	Master Integrated Program Schedule
MIRR	Material Inspection and Receiving Report
MTEP	Master Test and Evaluation Plan
NaI	Sodium Iodide
NLT	No Later Than
NRE	Non-Recurring Engineering
NTS	Nevada Test Site
PDR	Preliminary Design Review
PM	Program Manager
PMP	Project Management Plan
PMR	Program Management Review
PMT	Program Management Team
POE	Port of Entry
POV	Privately Owned Vehicle
PRR	Production Readiness Review
QA	Quality Assurance
RDD	Radiological Dispersive Devices
RFP	Request For Proposal
RPM	Radiation Portal Monitor
SCR	System Configuration Review

SDD	Software Design Data
SME	Subject Matter Expert
SNM	Special Nuclear Material
SOW	Statement of Work
SQT	System Qualification Testing
SRD	System Requirements Document
SRR	Systems Readiness Review
SRVM	System Requirements Verification Matrix
SVD	Software Version Description
T&E	Test and Evaluation
TDP	Technical Design Package
TI	Technical Instruction
TMT	Technical Management Team
TPM	Technical Performance Measures
TPWG	Test Planning Working Group
TRR	Test Readiness Review
VSEL	Venue-Specific Equipment List
WBS	Work Breakdown Structure

[END OF SECTION]

ATTACHMENT 3 CONTRACT DATA DELIVERABLES AND SCHEDULE**Contract Data Deliverables and Schedule**

The contractor shall provide data deliverables in electronic formats produced in MS Office (Excel 2000, Word 2000, PowerPoint 2000, Access 2000, Visio 2000, and Project 2000), or AutoCAD compatible files, or other format as specifically agreed upon. The contractor shall also provide source files for all *.pdf documents produced. The data shall be delivered by posting to the Central Data Server, except as otherwise specified.

Attachment 3, ASP Contract Data Requirements List, DNDO-PS-100870, is in a separate file.

[END OF SECTION]

ATTACHMENT 4 AWARD FEE PLAN**ADVANCED SPECTROSCOPIC PORTAL (ASP) PROGRAM****INTRODUCTION**

This award fee plan will be the basis for the evaluation of the Contractor's performance on the Advanced Spectroscopic Portal (ASP) Program contract, for the purpose of presenting an assessment of that performance to the Fee Determining Official (FDO). Award fee deals with those areas under the control of the Contractor which are amenable to qualitative and subjective evaluation. This award fee plan is intended as a proactive management tool to incentivize the Contractor to execute the ASP program and assess the Contractor's performance on specific technical instructions. The award fee pool will be allocated into an initial, eight (8) month period (to align the subsequent fee periods with the Government fiscal year) followed by nine (9) semi-annual periods. Contained in those periods are TBD # of events and significant accomplishments with defined accomplishment criteria (TBD as negotiated with the Government) which will be considered when determining award fee. The specific criteria and procedures used to assess contractor performance and to determine the amount of award fee earned are described herein. The award fee earned and payable will be unilaterally determined by the FDO based upon review of the Contractor's performance against these criteria. The award fee amount and the award fee determination methodology are unilateral decisions made solely at the discretion of the Government. The award fee will be provided to the Contractor through contract modifications and is in addition to the cost plus provisions of the contract.

ORGANIZATION AND RESPONSIBILITIES**2.1 ORGANIZATION**

The ASP FDO is the Director, Office of Systems Development and Acquisition (OSDA). The FDO will establish an Award Fee Review Board (AFRB), chaired by the ASP Program Manager and made up of Government personnel (see Appendix A). The AFRB will assist the FDO by making award fee and rollover recommendations. These AFRB members also function as performance monitors, and perform an initial evaluation of the contractor's efforts based upon specific performance categories and evaluation criteria. Non-AFRB personnel, as well as various Government and Government SETA technical and functional experts, will serve the AFRB as non-voting but contributing performance monitors/advisors. After the FDO has been presented the AFRB's recommendations and made his/her final determinations, the Contracting Officer (CO) will implement the required award fee contractual actions. The process whereby award fee determinations are made is presented in more detail in paragraph 3.

2.2 RESPONSIBILITIES

a. **Fee Determining Official.** The FDO is responsible for ensuring the integrity of the award fee process. The FDO approves this award fee plan and authorizes any substantive changes. The FDO formally appoints the AFRB Chairperson and approves the AFRB membership. The FDO will review the award fee and rollover recommendations of the AFRB, consider all appropriate data, and advise the Contractor and CO of the final award fee and rollover determinations.

b. **Award Fee Review Board Chairperson.** The Chairperson is the ASP Program Manager, and is responsible for conducting the AFRB deliberations in accordance with this plan. He/she nominates members to the AFRB so as to ensure the board membership represents all appropriate aspects of the contract. The Chairperson ensures the Contractor's performance against the award fee evaluation criteria is adequately and fairly evaluated. He/she briefs the AFRB's evaluation of the Contractor's performance and its award fee and rollover recommendations to the FDO. The Chairperson will conduct a debriefing which will enable the Contractor to understand the evaluation and improve performance in subsequent award fee periods. Lastly, the Chairperson may approve minor changes to the award fee plan, and transmits recommendations for significant changes to the FDO.

c. **Award Fee Review Board.** AFRB members are responsible for continuous monitoring and feedback of the Contractor's performance during each evaluation period, both across the entire contract and in their area(s) of responsibility. Each member will provide to the Recorder a written evaluation of that performance at the end of each period based on all pertinent information. The evaluations will both qualitatively and subjectively score the Contractor in each performance category, covering both strengths and weaknesses. The board will convene to arrive at award fee and rollover recommendations to be given to the FDO by the AFRB Chairperson. The AFRB members will then assist the Recorder in preparing the Chairperson's briefing to the FDO supporting the recommendations. Finally, the AFRB may recommend changes to the award fee plan.

d. **Recorder.** The Recorder is a non-voting member of the AFRB and is responsible for coordinating the administrative actions required by the award fee plan. This includes: 1) the receipt and distribution of the Contractor's self-evaluation to the AFRB members; 2) the receipt, processing and compilation of evaluation inputs from all AFRB members; 3) scheduling and conducting the AFRB meetings; 4) scheduling and preparation of the Chairperson's award fee recommendation briefings to the FDO; 5) drafting the FDO's award fee decision letters; 6) scheduling and preparing the debriefing to the Contractor; and 7) maintaining all appropriate files documenting the award fee process and results.

e. **Procuring Contracting Officer.** The CO is responsible for all contractual actions required by this plan. This includes: 1) notifying the Contractor in writing of any changes to the award fee plan; 2) transmitting the FDO's award fee decision letters to the Contractor; 3) preparing and distributing the contract modifications awarding the fee authorized by the FDO; and 4) being responsible for all award fee documentation maintained in the official contract file.

3. AWARD FEE PROCESS

a. AFRB members, with the assistance of the non-voting performance monitors/advisors, will continually monitor and provide feedback on the Contractor's performance during each evaluation period, both across the entire contract and in their area(s) of responsibility. They will maintain written records as necessary documenting the Contractor's performance.

b. Within five (5) working days after period close-out, the Contractor will submit to the CO a written self-evaluation of their performance during the period. This self-evaluation will be in Contractor format but will not exceed 20 pages in length. No formal self-evaluation briefing will be given to the CO.

c. Not later than fifteen (15) calendar days after a period close-out, the AFRB will complete its formal evaluation process. AFRB members will evaluate both the Contractor's overall performance during the period defined above, as well as his performance in completing all events and significant accomplishments during the period identified in Appendix E. Members will subjectively assign point scores for the Contractor's efforts in each performance category noted in Appendix B, based on the evaluation criteria listed in Appendix C. AFRB members will then combine their individual scores with the relative weighting factors for each performance category (see Appendix D) to arrive at individual performance scores for the period. Members will provide the scores and written comments supporting the scores to the Recorder (note - scores in each performance category will reflect each AFRB member's assessment of the Contractor's performance across the entire ASP contract during the fee period being evaluated, whereas their individual written comments detailing the Contractor's strengths and weaknesses will be confined to each AFRB member's area of responsibility. This will obviate the need to weight AFRB members' scores based on the perceived criticality of their functional or technical areas to the ASP contract). The Recorder will call a formal AFRB meeting (note - a quorum of 90% of the AFRB is needed for the meeting to be "official"). At the AFRB meeting, individual member scores will be reviewed, discussed, re-evaluated if necessary, then averaged to arrive at the final performance score and grade to be recommended to the FDO. The award fee formulae from Appendix D will be applied to the AFRB's final performance score to calculate the amount of periodic fee to recommend to the FDO. At the formal AFRB meeting, any fee rollover recommendation will also be decided. Following the meeting, the Recorder will

prepare a briefing for the AFRB Chairperson to give to the FDO explaining and supporting the periodic fee and any rollover recommendations. The Recorder will also draft a final fee decision letter for the FDO's signature.

d. Within twenty-five (25) calendar days of period close-out, the AFRB Chairperson will brief the FDO on the evaluation of the Contractor's performance during the period and the AFRB's recommendation of award fee amount to be paid and fee to be rolled over (if any).

e. The FDO will determine the award fee and any fee rollover and sign the fee decision letter. The letter will inform the Contractor of the amounts of award fee earned, fee to be rolled over (if any), and address the Contractor's strengths and weaknesses for the evaluation period. Within thirty (30) calendar days after each evaluation period, the CO will forward the decision letter to the Contractor on behalf of the FDO.

f. The CO will complete all contractual actions, including modifications, required to implement the FDO's award fee determination within five (5) calendar days after the FDO decision (i.e., NLT thirty-five (35) calendar days after period close-out). The Contractor may bill for the award fee immediately upon receipt of the authorizing modification.

g. The Chairperson will give a debriefing of the Contractor's performance to the Contractor.

4. PERFORMANCE CATEGORIES AND EVALUATION CRITERIA

For the initial evaluation period, the performance categories with their corresponding percentage weightings are set forth in Appendix B. These categories will be judged against evaluation criteria contained in Appendix C. During subsequent award fee periods however, performance category weightings and/or their evaluation criteria are expected to change as program priorities are altered. The preceding period's weightings and evaluation criteria will apply if the CO does not give specific, written notice to the Contractor of any unilateral changes prior to the start of a new period.

5. AWARD FEE DOLLAR AMOUNTS

5.1 EARNED AWARD FEE

The award fee for the ASP contract will consist of (b(4)
(b(4)) award fee pool allocated by fee period is shown in Appendix E. The Contractor will earn periodic award fees based on the FDO's approved final performance score and the award fee formulae set forth in Appendix D.

5.2 ROLLOVER

Award fee dollars associated with events, significant accomplishments, etc., scheduled for completion in one period but subsequently rescheduled to future periods may be forwarded to those future periods (i.e., rolled over) at the discretion of the FDO. The primary factor in any rollover decision will be the degree to which the slippage is outside the control of the Contractor. The AFRB will judge that degree of Contractor responsibility and recommend any rollover to the FDO. Any rollover of award fee will be targeted towards specific Program Manager concerns or issues requiring the Contractor's attention. Unearned award fee from completed fee periods or associated with completed events, significant accomplishments, etc., may never be rolled over.

6. FREQUENCY OF AWARD FEE DETERMINATIONS

As shown in Appendix E, award fee evaluations will begin with an initial, TBD period, which will align the subsequent fee periods with the Government fiscal year. The remaining evaluations will be conducted semi-annually through TBD. As a result, there will be no formal interim evaluations on the ASP contract, although the Program Manager may issue informal feedback during the periods.

7. CONTRACT TERMINATION

In the event of a termination of the ASP contract for the convenience of the Government, an AFRB will be convened to evaluate the Contractor's performance during the current, open period and determine the earned award fee. This evaluation will be conducted in accordance with this plan.

8. CHANGES TO THE AWARD FEE PLAN

The Government will discuss proposed changes to the award fee plan with the Contractor and will solicit the Contractor's views on those changes. However, the Government reserves the right to make unilateral changes to this award fee plan prior to the start of an evaluation period. These changes may include revisions to performance category weightings, evaluation criteria, or award fee pool dollars allocated to the remaining periods. The CO will advise the Contractor in writing of any such changes not less than thirty (30) days prior to the start of the affected period. Subsequent to the commencement of an affected period, changes may only be made by mutual agreement of the parties. The FDO will approve any significant changes, whereas the AFRB Chairperson may approve minor modifications.

9. AWARD FEE INTEGRITY

The award fee process is recognized as qualitative and subjective in nature, but every effort will be made to ensure fairness. The written records of the AFRB members and the Contractor's self-evaluation assist in providing the checks and balances necessary to ensure award fee integrity.

AWARD FEE PLAN APPENDIX A - AWARD FEE REVIEW BOARD MEMBERSHIP

ASP Program Manager (Award Fee Review Board Chairperson)

- TBD
- TBD
- TBD
- TBD
- TBD

AWARD FEE PLAN APPENDIX B - PERFORMANCE CATEGORIES

PERFORMANCE CATEGORY WEIGHTING

Category A: Cost

Category B: Schedule

Category C: Technical Quality

Category D: Program Management

b(4)

PERFORMANCE CATEGORY DESCRIPTIONS

Category A: Cost

This category evaluates the contractor team's performance as compared against their earned value baseline, including IPT/budget allocations. This also assesses the contractor's ability to identify potential cost problems early, recovery from actual cost problems, and indirect cost control management.

Category B: Schedule

This category evaluates the contractor team's performance as compared against their earned value baseline. It also assesses the contractor's ability to identify potential schedule problems early, recovery from actual schedule problems, and the projection of the impact of near-term schedule impacts on long-term events. This category also assesses the contractor's implementation of schedule management tools, critical path network, and metrics. Items to be considered include the extent to which the Contractor holds reviews as scheduled, provides the data needed for the review in a timely manner and in accordance with the contract, submits data deliverables to the Contractor Information Management System (CIMS) on schedule, and timeliness of response and completion of deployment support activities.

Category C: Technical Quality

This category assesses the progress and quality of the development, integration, and verification of the ASP systems, with respect to meeting program requirements. This category assesses the contractor team's performance associated with all tasks in the SOW. This also includes integration of specialty engineering disciplines, and integrated (system, hardware, software) metrics system.

Category D: Program Management

This category assesses the contractor's overall program management performance, to include developing/maintaining the organization, ensuring personnel are empowered with the necessary tools/authority to accomplish their mission. Program control includes budget execution/planning, funding, cost estimating, program schedules, cost/schedule/performance analysis, programming/planning/financial guidance and policy, and subcontract management. Items to be evaluated will include manning of teams for execution of the program; subcontractor management to program goals, milestones, performance, and budget; proper emphasis on risk identification and mitigation efforts; and emphasis on ensuring all management systems are responsive, accurate, and operating within a reasonable period following contract award, the extent to which data deliverables which include data from subcontractors is delivered as coherent, integrated packages.

AWARD FEE PLAN APPENDIX C - EVALUATION CRITERIA

MODEL GRADING TABLE		
ADJECTIVAL GRADE	DESCRIPTION	PERFORMANCE POINT RANGE
EXCELLENT	Of exceptional merit; responsive far beyond contract requirements; achievement of distinguished results and effectiveness in a highly efficient and cost-effective manner. Very few, very minor deficiencies with minimal adverse effect on overall performance.	91-100
VERY GOOD	Very effective performance; responsive beyond contract requirements; exemplary performance in a timely, efficient and economical manner; few deficiencies with little identifiable adverse effect on overall performance.	81-90
GOOD	Effective performance; responsive to contract requirements; adequate results; reportable deficiencies, but with little identifiable adverse effect on overall performance.	71-80
MARGINAL	Meets or slightly exceeds minimum acceptable standards; useful levels of performance, but suggest remedial action. Reportable deficiencies which adversely effect overall performance.	61-70
SUBMARGINAL	Below minimum acceptable standards; poor performance; inadequate results; requires prompt remedial action. Significant deficiencies that adversely effect overall performance.	60 or Below

AWARD FEE PLAN APPENDIX D - AWARD FEE FORMULAE

Final Performance Score Grade Description

- 91 - 100 Excellent
- 81 - 90 Very Good
- 71 - 80 Good
- 61 - 70 Marginal
- 01 - 60 Submarginal

Formulae:

\$ Fee = 0, for final performance scores \leq 70

\$ Fee = [(final performance score/100) x fee pool available during period], for final scores > 70

AWARD FEE PLAN APPENDIX E - AWARD FEE PERIODS, EVENTS & SIGNIFICANT ACCOMPLISHMENTS, AND ALLOCATIONS

Close-Out Events & Award Fee

Start Date Date Significant Accomplishments Allocation

PERIOD 1: TBD

PERIOD 2: TBD

PERIOD 3: TBD

PERIOD 4: TBD

PERIOD 5: TBD

PERIOD 6: TBD

PERIOD 7: TBD

PERIOD 8: TBD

PERIOD 9: TBD

PERIOD 10: TBD

[END OF SECTION]

ATTACHMENT 6 NON-DISCLOSURE AGREEMENT

DEPARTMENT OF HOMELAND SECURITY
NON-DISCLOSURE AGREEMENT

I, _____, an individual official, employee, consultant, or subcontractor of or to _____ (the Authorized Entity), intending to be legally bound, hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain information, specified below, that is owned by, produced by, or in the possession of the United States Government.

(Signer will acknowledge the category or categories of information that he or she may have access to, and the signer's willingness to comply with the standards for protection by placing his or her initials in front of the applicable category or categories.)

Initials: Protected Critical Infrastructure Information (PCII)

I attest that I am familiar with, and I will comply with all requirements of the PCII program set out in the Critical Infrastructure Information Act of 2002 (CII Act) (Title II, Subtitle B, of the Homeland Security Act of 2002, Public Law 107-296, 196 Stat. 2135, 6 USC 101 et seq.), as amended, the implementing regulations thereto (6 CFR Part 29), as amended, and the applicable PCII Procedures Manual, as amended, and with any such requirements that may be officially communicated to me by the PCII Program Manager or the PCII Program Manager's designee.

Initials: Sensitive Security Information (SSI)

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.

Initials: Other Sensitive but Unclassified (SBU)

As used in this Agreement, sensitive but unclassified information is an over-arching term that covers any information, not otherwise indicated above, which the loss of, misuse of, or unauthorized access to or modification of could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under Section 552a of Title 5, as amended, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy. This includes information categorized by DHS or other government agencies as: For Official Use Only (FOUO); Official Use Only (OUO); Sensitive Homeland Security Information (SHSI); Limited Official Use (LOU); Law Enforcement Sensitive (LES); Safeguarding Information (SGI); Unclassified Controlled Nuclear Information (UCNI); and any other identifier used by other government agencies to categorize information as sensitive but unclassified.

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of the information to which I am granted access as cited in this Agreement and in accordance with the guidance provided to me relative to the specific category of information.

I understand and agree to the following terms and conditions of my access to the information indicated above:

- 1. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of information to which I have been provided conditional access, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.
2. By being granted conditional access to the information indicated above, the United States Government has placed special confidence and trust in me and I am obligated to protect this information from unauthorized disclosure, in accordance with the terms of this Agreement and the laws, regulations, and directives applicable to the specific categories of information to which I am granted access.
3. I attest that I understand my responsibilities and that I am familiar with and will comply with the standards for protecting such information that I may have access to in accordance with the terms of this Agreement and the laws, regulations, and/or directives applicable to the specific categories of information to which I am granted access. I understand that the United States Government may conduct inspections, at any time or place, for the purpose of ensuring compliance with the conditions for access, dissemination, handling and safeguarding information under this Agreement

4. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Should situations arise that warrant the disclosure or release of such information I will do so only under approved circumstances and in accordance with the laws, regulations, or directives applicable to the specific categories of information. I will honor and comply with any and all dissemination restrictions cited or verbally relayed to me by the proper authority.

5. (a) For PCII - (I) Upon the completion of my engagement as an employee, consultant, or subcontractor under the contract, or the completion of my work on the PCII Program, whichever occurs first, I will surrender promptly to the PCII Program Manager or his designee, or to the appropriate PCII officer, PCII of any type whatsoever that is in my possession.

(2) If the Authorized Entity is a United States Government contractor performing services in support of the PCII Program, I will not request, obtain, maintain, or use PCII unless the PCII Program Manager or Program Manager's designee has first made in writing, with respect to the contractor, the certification as provided for in Section 29.8(c) of the implementing regulations to the CII Act, as amended.

(b) For SSI and SBU - I hereby agree that material which I have in my possession and containing information covered by this Agreement, will be handled and safeguarded in a manner that affords sufficient protection to prevent the unauthorized disclosure of or inadvertent access to such information, consistent with the laws, regulations, or directives applicable to the specific categories of information. I agree that I shall return all information to which I have had access or which is in my possession 1) upon demand by an authorized individual; and/or 2) upon the conclusion of my duties, association, or support to DHS; and/or 3) upon the determination that my official duties do not require further access to such information.

6. I hereby agree that I will not alter or remove markings, which indicate a category of information or require specific handling instructions, from any material I may come in contact with, in the case of SSI or SBU, unless such alteration or removal is consistent with the requirements set forth in the laws, regulations, or directives applicable to the specific category of information or, in the case of PCII, unless such alteration or removal is authorized by the PCII Program Manager or the PCII Program Manager's designee. I agree that if I use information from a sensitive document or other medium, I will carry forward any markings or other required restrictions to derivative products, and will protect them in the same matter as the original.

7. I hereby agree that I shall promptly report to the appropriate official, in accordance with the guidance issued for the applicable category of information, any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violation, I have knowledge of and whether or not I am personally involved. I also understand that my anonymity will be kept to the extent possible when reporting security violations.

8. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to the information covered by this Agreement. This may serve as a basis for denying me conditional access to other types of information, to include classified national security information.

9. (a) With respect to SSI and SBU, I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of the information not consistent with the terms of this Agreement.

(b) With respect to PCII I hereby assign to the entity owning the PCII and the United States Government, all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of PCII not consistent with the terms of this Agreement.

10. This Agreement is made and intended for the benefit of the United States Government and may be enforced by the United States Government or the Authorized Entity. By granting me conditional access to information in this context, the United States Government and, with respect to PCII, the Authorized Entity, may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I understand that if I violate the terms and conditions of this Agreement, I could be subjected to administrative, disciplinary, civil, or criminal action, as appropriate, under the laws, regulations, or directives applicable to the category of information involved and neither the United States Government nor the Authorized Entity have waived any statutory or common law evidentiary privileges or protections that they may assert in any administrative or court proceeding to protect any sensitive information to which I have been given conditional access under the terms of this Agreement.

11. Unless and until I am released in writing by an authorized representative of the Department of Homeland Security (if permissible for the particular category of information), I understand that all conditions and obligations imposed upon me by this Agreement apply during the time that I am granted conditional access, and at all times thereafter.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. My execution of this Agreement shall not nullify or affect in any manner any other secrecy or non-disclosure Agreement which I have executed or may execute with the United States Government or any of its departments or agencies.

14. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958, as amended; Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 USC 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including Sections 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Act of 1950 (50 USC 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.

15. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

16. I represent and warrant that I have the authority to enter into this Agreement.

17. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me any laws, regulations, or directives referenced in this document so that I may read them at this time, if I so choose.

DEPARTMENT OF HOMELAND SECURITY
NON-DISCLOSURE AGREEMENT
Acknowledgement

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:

I make this agreement in good faith, without mental reservation or purpose of evasion.

Signature:

WITNESS:

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:

Signature:

This form is not subject to the requirements of P.L. 104-13, "Paperwork Reduction Act of 1995" 44 USC, Chapter 35.

[END OF SECTION]

ATTACHMENT 7 (Not Used)

[END OF SECTION]

ATTACHMENT 8

[Not Used]

**ATTACHMENT 9 (SEPARATE DOCUMENT) NOTIONAL TECHNICAL
INSTRUCTION (TI) #1**

**Notional Technical Instruction #1
(Separate Document)**

Attachment 9, ASP Technical Instruction #1, DNDO-PS-100270, is in a separate file.

ATTACHMENT 10 (SEPARATE DOCUMENT) PERFORMANCE SPECIFICATION

Performance Specification
(Separate Document)

Attachment 10, ASP Performance Specification, DNDO-PS-100220, is in a separate file.

Enclosure 1 (ANSI 42.38 D6 Draft) to the ASP Performance Specification, DNDO-PS-100220, is in a separate file.

Enclosure 2 (ANSI 42.42 V14 Draft) to the ASP Performance Specification, DNDO-PS-100220, is in a separate file.

[END OF SECTION]

ATTACHMENT 12 (SEPARATE DOCUMENT) NOTIONAL ASP SCHEDULE

NOTIONAL ASP Schedule
(Separate Document)

Attachment 12, Notional ASP Schedule, DNDO-PS-101140, is in a separate file.

[END OF SECTION]

ATTACHMENT 13 (SEPARATE DOCUMENT) ASP WORK BREAKDOWN STRUCTURE

ASP WORK BREAKDOWN STRUCTURE
(Separate Document)

Attachment 13, ASP Work Breakdown Structure, DNDO-PS-100860, is in a separate file.