

SOLICITATION/CONTRACT/ORDER FOR COMMERICAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24 & 30				1. REQUISITION NUMBER	PAGE 1 OF 16
2. CONTRACT NO. N00104-08-A-ZF30	3. AWARD/EFFECTIVE DATE SEE BLOCK 31C	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME	b. TELEPHONE NUMBER (No collect calls)	8. OFFER DUE DATE/ LOCAL TIME	
9. ISSUED BY DEPARTMENT OF THE NAVY NAVSUP WEAPON SYSTEMS SUPPORT 5450 CARLISLE PIKE P. O. BOX 2020 MECHANICSBURG, PA 17055-0788 POC: TERRI BAXTER, CODE 0272.15 PHONE: (717) 605-2003 EMAIL: TERRI.BAXTER@NAVY.MIL		CODE N00104	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS Net 30		13a. THIS CONTACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>	
15. DELIVER TO SPECIFIED ON EACH ORDER		CODE	16. ADMINISTERED BY BASIC AGREEMENT – NAVSUP FLC NORFOLK CONTRACTING (N00189), MECHANICSBURG OFFICE, 5450 CARLISLE PIKE, P.O. BOX 2020, MECHANICSBURG, PA 17055-0788 (SEE MOD P00015) POC: TERRI BAXTER, CODE 215.1, (717) 605-2003 EMAIL: <u>TERRI.BAXTER@NAVY.MIL</u>		
17a. CONTRACTOR/ OFFEROR MINITAB, INC. 1829 PINE HALL RD STATE COLLEGE, PA 16801-3210 POC: JEFF ADAMS PHONE: (814) 753-3228 EMAIL: Jadams@minitab.com		CODE OHRH6	18a. PAYMENT WILL BE MADE BY SPECIFIED ON EACH ORDER		
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		18b. SUMMIT INVOICES TO ADDRESS SHOWN IN BLOCOK 18a UNLESS BLOCK CHECKED. <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE
	SEE ATTACHMENT A – PRODUCTS AND PRICING GSA SCHEDULE GS-35F-0144U APPLIES				
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.					
<input checked="" type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.					
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.			29. AWARD OF CONTRACT: REFERENCE OFFER <input type="checkbox"/> DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDES ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR /S/			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) /S/		
30b. NAME AND TITLE OF SIGNER (Type or Print)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or print)		31c. DATE SIGNED
JOHN M. TRZSUAK, SALES EXECUTIVE		5/8/08	R. L. KLINGER		5/8/08

**Blanket Purchase Agreement
DoD Enterprise Software Agreement (ESA)**

In the spirit of the Federal Acquisition Streamlining Act, the Department of Defense (DoD) and Minitab Inc. enter into an agreement to further reduce the administrative costs of acquiring commercial items from the General Service Administration (GSA) Federal Supply Schedule (FSS) Contract GS-35F-0144U.

FSS Contract Blanket Purchase Agreements (BPAs) reduce contracting and open market costs such as: search for sources, the development of technical documents, solicitations, and the evaluation of bids and offers.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the Government that works better and costs less.

The Enterprise Software Initiative (ESI) is a joint DoD project to develop and implement a DoD enterprise process. This BPA is issued in the spirit of the policy and guidelines provided in the Defense Federal Acquisition Regulation Supplement (DFARS) Section 208.74.

The following products and services are available under this BPA:

- SIN 132-32 – Term Software Licenses
- SIN 133-33 – Perpetual Software Licenses
- SIN 133-50 – Training Services

Attachments to this agreement are:

- Attachment A – BPA Product Price List & Discount Schedule
- Attachment B – Minitab Statistical Software License Agreement
- Attachment C – Report of Sales Format
- Attachment D – Fees and Payments
- Attachment E – ITEC Direct – Standard Format

A. TERMS AND CONDITIONS

1. Pursuant to GSA FSS Contract Number GS-35F-0144U, Minitab Inc. agrees to the following terms of a BPA with the NAVSUP Weapon Systems Support – Mechanicsburg, PA. All orders placed against this BPA are subject to the terms and conditions of the GSA FSS Contract. The items on this BPA are set forth in Attachment A and list only the “English” language. However, there are other languages available on Minitab’s GSA Schedule (i.e. German, French, Chinese, Korean and Japanese) that are available under this BPA upon request. BPA prices and discounts will be the same for any language purchased. License terms and conditions applicable to products acquired under this BPA are defined in the Minitab Inc. License Agreement included as Attachment B and the addendum terms incorporated herein. The Order of Precedence for resolving any inconsistency between the Commercial License and the GSA contract terms shall be as specified in the GSA contract’s Commercial Item clause, FAR 52.212-4, and the provisions of FAR 52.212-4 specified in FAR 12.302, as required by Federal law, shall prevail over any terms of the commercial license.

2. **Extent of Obligation.** The Government estimates, but does not guarantee, that the volume of purchases through this agreement will be \$8M. The Government is obligated only to the extent of authorized purchases actually made under this BPA.
3. **Funds Obligation.** The BPA does not obligate any funds. Funds will be obligated on each delivery order.
4. **BPA Term.** The BPA expires for ordering on **November 30, 2016**. This expiration is contingent upon the Contractor maintaining or renewing a GSA FSS Schedule. The BPA will be reviewed annually to ensure that it still represents a “best value”.
5. **Pricing Terms.** The unit prices under this BPA are based on the GSA FSS Contract pricing currently in effect at the time individual Delivery Orders are placed. GSA prices shall only escalate in accordance with the GSA Economic Price Adjustment (EPA) clause. If the GSA Contract unit prices are subject to an EPA increase, the same discount relationship (discount percentage off GSA Contract price) shall be maintained during the term of this BPA. Spot discounting is encouraged. The prices will be reviewed annually, or as required, to determine whether a reduction is appropriate in accordance with the price reduction provisions of the agreement. A 2.0% Acquisition, Contracting, and Technical (ACT) Fee shall be included in the prices. The contractor shall be responsible for the payment of all fees that are included in the product pricing (i.e. GSA IFF, ACT), as calculated on the customer orders, in accordance with Attachment D.
6. **Discount Terms and Conditions.** Attachment A provides the BPA products and prices (inclusive of the industrial & ACT funding fees) as of the effective date of this BPA. Volume level price discounts are discussed in paragraph 6.1 below. All discounts provided will be applied to the then current BPA price in effect at time of order placement.

6.1 Aggregate Transactional Discount Structure:

Transactional Discounts shall be applied to the cumulative BPA software and/or training price placed under a single Delivery Order in accordance with the discount level shown below. Orders for open market items not offered through the GSA FSS Contract are not counted toward the Aggregate Transactional Order amount for purposes of establishing the applicable discount level. The discount for each transactional order will be determined as follows:

- a. Establish product configuration for a single order
- b. Determine standard BPA prices for all products ordered under single order
- c. Calculate the total BPA order amount to determine applicable discount tier (see Table 1 below).
- d. Apply the applicable discount tier percentage to the then current BPA price for each individual product identified on the single order to determine your “Net” discounted BPA unit price.

A summary of the discount tier structure is provided in Table 1 below.

Table 1 – ESI Total Aggregate Discount Structure

<u>ESI Aggregate Transactional Discount Structure</u>	
Total Aggregate GSA Order Amount	ESI Discount Applied to GSA/BPA product Price List – Attachment A
\$0 - \$49,999	No Discount
\$50,000 – 249,999	3%
\$250,000 +	5%

7. **Reserved.**

8. **Price Reduction.**

8.1 **Most Favored Customer Prices.** The prices under this BPA shall be at least as low as the prices that Minitab Inc. has under any other contract instrument under like terms and conditions. If at any time the prices under any other contract instrument become lower than the prices in this BPA, this BPA will be modified to include the lower prices.

8.2 **SmartBUY Transition.** OMB has recently announced the SmartBUY initiative to maximize cost savings and achieve best quality when acquiring software. The GSA is the designated Executive Agent for SmartBUY. The initiative will establish software enterprise licensing on a government-wide basis. If during the term of this ESA, Minitab Inc. and its resellers enter into a government-wide agreement with the GSA under the SmartBUY Initiative, which includes pricing for the specific products or services under similar terms and conditions as those licensed by the DoD, neither Minitab Inc. or its resellers will preclude the DoD from licensing products or purchasing services under a SmartBUY agreement.

9. **License Agreement.** All licenses are subject to the provisions of Minitab Inc. License Agreement shown in Attachment B to this BPA, the terms and conditions of Minitab’s GSA Schedule contract and the addendum license terms and conditions provided herein. If there is a conflict between the terms of any “shrinkwrap” or “clickwrap” License Agreement included in any package, media, or electronic version of any Minitab Software purchased under this BPA, the Addendum terms and conditions provided herein shall take precedence.

Software licenses available for purchase under this BPA are Multi-User (Term) software licenses (GSA SIN 132-32) and Single-User (Perpetual) software licenses (GSA SIN 132-33) and are set forth in Attachment A. During the installation process, customers will have the opportunity to download one of the following languages: English, Spanish, French, German, Japanese, Korean, and Simplified Chinese. BPA prices and discounts will be the same for any language that is selected.

Multi-User Term License (“per user”) is a license to use the software for a period of one (1) year up to a maximum number of simultaneous users. Minitab will provide licensed users with free technical support, upgrades to new releases that occur during the license term at no charge, access to “Meet Minitab” an on-line introductory manual, and one copy of the software on CD media or free electronic delivery. The number of licensed maximum simultaneous users of the Software may be increased during the current license term by paying the applicable user fees prorated for the time remaining in the then-current license term. The Software will cease to function after the one-year period unless the license is renewed for an additional one-year term by paying the then-current annual license fee for the current number of licensed

maximum simultaneous users of the Software. See Attachment A for products available for purchase under this BPA.

NOTE: All purchase orders for Multi-User Licenses must identify in the order a designated License Coordinator who must (a) provide all relevant contact information to Minitab, and (b) act as Minitab's primary contact for product information, renewals, and license file distribution.

Single-User license ("per copy") is a license to use the Software in perpetuity on only one computer and used by only one user at a time. If the computer on which this Software is loaded is attached to a network, this Software must not be accessible by any other user on such network. License includes free technical support for as long as the current Minitab Statistical Software release is generally distributed by Minitab, and one year thereafter, access to "Meet Minitab" an on-line introductory manual and one copy of the software on CD media or free electronic delivery. New releases of Minitab Software products occur approximately every three years. As of the date of Modification P00008 to this BPA, the current version available for purchase is Minitab Statistical Software, R16, which was released in May 2010, and Quality Companion, 3.2, which was released in October 2009. Upon release of a new software version, customers may continue to use their current version of the software, but will only receive free technical support for that version for a period of one year thereafter. Customers wanting to upgrade to the new version may purchase an upgrade license (refer to Attachment A). **NOTE:** Single-user copies which are purchased within the 30 days prior to a new release of the software will automatically be sent a free upgrade to the newer release.

Notwithstanding any provision to the contrary, the following addendum license terms and conditions shall apply to licenses purchased under this BPA and shall take precedence.

9.1 Transferability. All licenses are transferable within the authorized users as stated in paragraph B.1.

9.2 Third Party Outsourcing. Minitab will permit the use of the Software by third party outsourcing or facilities management contractors to operate the Software on Customer's behalf, provided that (a) Customer provides Minitab with prior written notice; (b) Customer is responsible for ensuring that any such contractor agrees to abide by and fully complies with the terms of this Agreement as they relate to the use of the Software on the same basis as applies to Customer; (c) such use is only in relation to Customer's direct beneficial business purposes as restricted herein; and (d) such use does not represent or constitute an increase in the scope or number of licenses provided hereunder.

9.3 Governing Law. This Agreement will be governed by the Federal Acquisition Regulations and the applicable Federal Government Contract laws of the United States.

9.4 Functionality Replacement and Extended Support. If the form, fit, or functionality contained in any perpetual licensed products acquired hereunder is substantially reduced or if the product is replaced, and/or (the contractor), provides this same or substantially similar functionality as a separate or renamed product, then the DoD is entitled to license such software at no additional licenses or maintenance fees. Minitab Inc. will provide to you, at no additional charge, reasonable amounts of technical support, routine maintenance and all program updates as they become available for so long as this current Software version is widely distributed by Minitab Inc., and for one (1) year thereafter.

9.5 Rights of Survivorship of the Agreement. This Agreement shall survive unto Minitab Inc., its Successor, rights and assigns. The software and agreement terms and conditions as covered under this agreement shall survive this agreement notwithstanding the acquisition or merger of Minitab Inc. by or with another entity. Any software name changes, re-packing or merger of similar products that carry forward the

same or similar function of the software shall be supported with updates, upgrades and new releases under the terms and conditions set forth in this agreement.

9.6 Audits. In lieu of any audit provisions in the license agreement, Licensee may perform an internal audit and will use its best efforts to keep full and accurate accounts that may be used to properly ascertain and verify numbers of licenses in use. Licensee may permit Minitab Inc. to have access to Licensee records and computer systems and the right to audit such systems to insure software use is in accordance with its license terms. All vendor personnel must have appropriate security clearances to gain access to Licensee site or data.

9.7 Portable or Home Computer Use. The primary user of the computer on which a Single-User (perpetual) license is loaded may be granted permission to install a second copy of such software for his or her exclusive use on either a portable computer or a computer located at his or her home, provided that the software on the portable or home computer is not used at the same time as the software on the primary computer. Requests for home use on a single home computer solely by the Single-User may be granted by contacting Minitab Sales at 814-238-3280.

Portable or Home Computer use of a Multi-User license shall be managed by the designated License Coordinator identified in the applicable purchase order.

9.8 Proof of License. For Single-User licenses, the delivery order constitutes “proof of license”. Each delivery order shall designate the end-user license point of contact(s) that will be responsible for receiving and distributing license software CD media and the enclosed activation code.

For Multi-User licenses, the delivery order constitutes “proof of license” for the annual license period. Each delivery order shall designate a single point of contact “License Coordinator”. The contractor will furnish an email notice with the Entitlement ID information, deployment instructions, and correspondence regarding the next annual renewal period with the single point of contact “License Coordinator”.

10. Software Delivery. The software is currently available for delivery by either electronic download or physical media. One copy of software media is provided for each Single-User license ordered unless customer requests electronic delivery. One copy of software media is provided per order for each Multi-User license ordered unless customer request electronic delivery. Requests for electronic download must be made at time of order. Electronic download instructions will be provided by email to the End-User Licensee (Single Use License) or the License Coordinator (Multi-User License) following receipt and processing of the order by Minitab Inc.

Physical media will be shipped within 3 business days after order processing using a delivery provider chosen by Minitab Inc. Request for expedited shipping or multiple ship-to destinations can be accommodated for an additional fee to be determined at time of order.

11. Software Upgrades and Technical Support.

11.1. Multi-User (Term) Licenses (SIN 132-32) – Software upgrades and technical support is provided free for all currently licensed users, and for as long as the current Minitab Statistical Software release is generally distributed by Minitab, and one year thereafter. Software upgrades to new releases are provided at no charge to the customer and include fixes to problems discovered after the software has been released and improve existing functionality.

11.2. **Single-User (Perpetual) Licenses (SIN 132-33)** – Maintenance Updates and technical support is provided free for all currently licensed users, and for as long as the current Minitab Statistical Software release is generally distributed by Minitab, and one year thereafter. Software Maintenance Updates are provided at no charge to the customer and include fixes to problems discovered after the software has been released and improve existing functionality. One year after a new software release has been announced (Upgrade) single-user customers can choose to remain at their current version perpetually or purchase an upgrade license to get the new released version for a low upgrade fee. Minitab will provide upgrades from any previous release. See Attachment A for upgrade license pricing.

12. **Training.** The terms and conditions stated in GSA FSS Contract (SIN 132-50) apply to the training courses offered by Minitab under this BPA and must comply with FAR and DFARS regulations. See Attachment A for applicable training products. Note: There is a maximum class size of 20 students for On-site training classes and no minimum.

13. **Technology Improvement.** The Government may solicit and the BPA holder is encouraged to propose independently, technology improvements to the BPA. Proposals shall be submitted by the BPA holder and include a description of the products and/or services, an electronic copy of the GSA pricing tables, technical literature that describes the products and/or services, and evidence of inclusion on GSA schedule. Discounts shall be applied at the same or greater discount level as the original BPA product prices.

14. **Substitution and Technology Refreshment.** If at any time during the life of this BPA, the original manufacturer of the equipment (includes software, hardware and firmware) schedules the products for discontinuation, improvement and/or replacement, the BPA holder shall provide a proposal to include the new or revised products on the BPA under the appropriate line items. Proposed prices for new or revised products shall be constructed in accordance with paragraph 8 of this BPA for most favored prices. Discounts shall be at the same or greater discount level as the original BPA product prices. Proposals shall be submitted to the Contracting Officer within seven (7) days of the BPA holder's awareness of the OEM's intent. Improvement of product includes new releases, updates, upgrades including additional features and functionality, and successor or upgrade products.

B. AUTHORIZED USERS AND POINTS OF CONTACT

1. **Authorized Users.** The BPA is open for ordering by all Department of Defense (DoD) Components. For the purposes of this agreement, a DoD component is defined as: the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense (DoD IG), the Defense Agencies, the DoD Field Activities, the U. S. Coast Guard, NATO, the Intelligence Community and FMS with a Letter of Authorization. GSA or other applicable ordering organizations/agencies are authorized to place orders under this BPA on behalf of DoD end users and must comply with DFARS 208.7400. This BPA is also open to DoD Contractors authorized to order in accordance with the FAR Part 51.

2. **BPA Points of Contact:**

a. **Contracting Office:**

Primary Point of Contact:
 FLC Norfolk – Mechanicsburg Office
 Code 215.1, Building 407
 5450 Carlisle Pike
 Mechanicsburg, PA 17055-0788

Alternate Point of Contact:
 FLC Norfolk – Mechanicsburg Office
 Code 215.1, Building 407
 5450 Carlisle Pike
 Mechanicsburg, PA 17055-0788

POC: Terri Baxter
Phone: (717) 605-2003
Fax: (717) 605-7295
Email: Terri.Baxter@navy.mil

PCO: Amy Rich
Phone: (717) 605-3711
Fax: (717) 605-7295
Email: Amy.Rich@navy.mil

b. Software Product Manager (SPM):

Software Product Manager (SPM):
SPAWAR Systems Center Pacific
Code 55350, Bldg 81
53560 Hull Street
San Diego, CA 92152-5001

SPM: Thao Vu
Phone: (619) 553-1065
Fax: (619) 524-9678
Email: Thao.Vu@navy.mil

or Alternate Point of Contact:
SPAWAR Systems Center Pacific
Code 55350, Bldg 81
53560 Hull Street
San Diego, CA 92152-5001

POC: Nina Diep
Phone: (619) 553-1023
Fax: (619) 524-9678
Email: Nina.Diep@navy.mil

c. Customer Point of Contact: (To be specified on each order.)

NOTE: Multi-User orders must include complete contact information of a "License Coordinator". The License Coordinator will be responsible for receiving and distributing license entitlement files and correspondence regarding the annual renewal of the license.

C. ORDERING

1. DFARS Section 208.74 directs DoD software buyers and requiring officials to check the DoD ESI website for DoD inventory or an ESA before using another method of acquisition. These steps for the buyer are summarized from the DFARS:

- a. Check the Enterprise Agreement Summary Table to determine if software rights or maintenance have already been purchased and are available from DoD inventory. If they are available, purchase the designated software from DoD inventory and reimburse the SPM.
- b. If the required software rights or maintenance are not available from inventory or from an ESA, you may use an alternate method of acquisition, subject to laws and policy.
- c. If the required software rights or maintenance are not available from inventory but are available from an ESA, you must follow the procedure in the DFARS Section 208.74.
- d. If you must obtain the software or software maintenance outside the DoD ESA, you may seek a waiver from a management official designated by your DoD Component.

This BPA will be posted to the DoD ESI website as part of the ESI program. The web site can be viewed at <http://www.esi.mil>.

2. **Delivery Orders.** The scope of this effort is worldwide. Delivery requirements and administration will be stipulated on Delivery Orders. Ordering via this BPA is decentralized. Orders are prepared by an authorized Government Ordering Officer, in accordance with the terms and conditions of this BPA and the

GSA Schedule, or prime contractor authorized by a Government Contracting Officer in accordance with FAR Part 51. Orders may be placed by EDI, credit card, facsimile, or on an authorized form such as a Standard Form (SF) 1449 or Department of Defense (DD) Form 1155.

Notice to Ordering Offices: This is a single award BPA established non-competitively against GSA Schedule. It is the responsibility of the Ordering Officer to --

- a. Comply with the ordering procedures of FAR 8.4 and DFARS 208.4
- b. Obtain competition and/or execute brand name or limited source justifications as applicable;
- c. Ensure compliance with all fiscal laws prior to issuing an order under this BPA;
- d. Incorporate into the order any regulatory and statutory requirements that are applicable to the agency for which the order is placed, if pertinent requirements are not already included in this BPA; and,
- e. Ensure the vendor selected for the order represents the best value and the lowest overall cost alternative.

3. **Users' Ordering Guide.** The Contractor shall develop a Users' Ordering Guide in coordination with the Government that will be posted to the Contractor web site and various Government sites. The Ordering Guide shall be submitted to the SPM and PCO within thirty (30) days of BPA issuance and made available on the Contractor's home page upon written approval. This guide shall be continuously updated as required. The guide shall contain all information necessary for geographically dispersed activities to place orders, including, as a minimum:

- a. URL where a complete list of products available, with appropriate contract line item numbers (CLINs) and associated prices can be found
- b. Government and Contractor Points of Contact
- c. Description of the ordering process
- d. Program Terms and Conditions
- e. License Terms and Conditions
- f. Information such as CAGE, DUNS, TIN, Business Size, etc. necessary to complete a Contract Action Report (CAR) in the FPDS-NG system
- g. Range of discounts
- h. Links to DoD ESI and the Government web sites

4. **E-Commerce Site.** It is the intention of the Government to use existing and future capability of the DoD Standard Procurement System, Electronic Data Interchange (EDI) capability, Government procurement card, and vendor electronic ordering capability to create a paper-less ordering, invoicing and payment process. During the term of the BPA, the Contractor shall participate to achieve this objective.

On-line ordering can also be accomplished at <http://www.itec-direct.navy.mil>. ITEC Direct is the Navy's World Wide Web accessible shopping and order processing tool. The following requirements apply to this BPA:

- a. This BPA may be placed in the Department of the Navy's (DON) ITEC Direct system as part of the DON Information Technology Electronic Commerce (ITEC) Direct Project. If placed in ITEC Direct, the contractor shall insure that the data and information obtained through ITEC Direct is current, accurate, complete, in the standard format enabling expedient data loading and relevant to the acquisition vehicle. The standard format is provided in Attachment E.
- b. The Contractor shall maintain a database of prices with the required and relevant information and links to technical specifications to be accessible by ITEC Direct in a distributed database environment.
- c. The Contractor shall maintain coordinated and integrated hypertext links to ITEC Direct from their World Wide Web site(s) to the ITEC Direct site and shall insure the integrity of any data and information posted on their web sites or in the ITEC Direct web site for their acquisition vehicle. This effort may require the Contractor to adapt their practices so that electronic commerce can be conducted through ITEC Direct to the vendor.
- d. The Contractor shall provide EC/EDI capabilities and accept and respond to secure on-line orders and customer requests consistent with the terms of this acquisition vehicle.
- e. The Contractor shall use its commercially reasonable business efforts to adapt its business processes as the ITEC Direct technical requirements, environment and architecture evolve.

This BPA may also be loaded into the electronic catalog systems of other DoD agencies.

5. **Delivery Schedule.** Minitab Inc. will process orders for delivery within 2 business days of acceptance of an order. Electronic delivery instructions will be provided immediately upon order processing. Physical product deliveries will ship within 10 days after order acceptance.

6. **Delivery Notice.** Unless otherwise agreed to, all deliveries ordered under this BPA must be accompanied by a delivery notice, ticket or sales slips that must contain at a minimum the following information:

- a. Name of Contractor
- b. GSA Contract Number
- c. BPA Number
- d. Product Description/Model numbers
- e. Delivery order number
- f. Date of purchase
- g. Quantity, unit price and extension of each item (unit prices need not be shown when incompatible with the use of automated systems; provided that the invoice is itemized to show the information)
- h. Date of shipment

7. **Suspension.** There may be occasions where the Government may suspend ordering (by CLIN up to and including the entire BPA.) If a suspension is announced, the Contractor shall adhere to this suspension by not accepting/processing delivery orders for the suspended item(s).

D. INVOICING AND PAYMENT

1. **Invoicing.** The requirements of a proper invoice are as specified below as required by FAR 52.212-4 in the Federal Supply Schedule contract. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil/>. The contractor shall submit an original invoice (or electronic invoice, if authorized), to the address specified on the delivery orders issued against the BPA. An invoice must include --

- a. Name and address of the Contractor;
- b. Invoice date and number;
- c. Contract number, contract line item number and, if applicable, the order number;
- d. Description, quantity, unit of measure, unit price and extended price of the items delivered;
- e. Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- f. Terms of any prompt payment discount offered;
- g. Name and address of official to whom payment is to be sent;
- h. Name, title, and phone number of the person to be notified in event of defective invoice;
- i. Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract; and
- j. Electronic funds transfer (EFT) banking information.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125. Prompt Payment Contractors are encouraged to assign an identification number to each invoice.

2. **Fast Payment Procedure.** The provisions of FAR 52.213-1 FAST PAYMENT PROCEDURE (MAY 2006) are incorporated in this BPA by reference and pertain to Credit Card purchases or other applicable order deliveries. Fast Payment procedures may be used when the conditions of FAR 13.402 are met and the delivery order authorizes Fast Payment. Full text of this clause can be found on the web at URL: <http://farsite.hill.af.mil>.

3. **Precedence.** The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of the BPA and the Contractor's invoice, the provisions of the BPA will take precedence.

E. BPA MANAGEMENT AND OVERSIGHT

1. **BPA Administration.** The Contractor must provide centralized administration, in the form of a Program Manager, in support of all work performed under this BPA. The Program Manager, at a minimum, is required to participate in periodic program management reviews (which may require travel to a Government named site). Additional functions would include customer service, periodic program management reviews, invoicing, payment and submission of monthly and quarterly reports.

2. **Report of Sales.** Consistent with Clause C.22 of the GSA Schedule, a Report of Sales as described herein shall accompany the remittance of the ACT Fees to enable verification of the fee amounts rendered. Submission of the Report of Sales shall be submitted to the SPM and the PCO in electronic format within fifteen (15) days following the completion of the **quarterly** reporting period (**i.e. October – December, January – March, April – June and July – September**), or as otherwise requested by the SPM. The report shall be submitted in the standard format shown in Attachment C. Negative reports are required. The SPM or PCO shall provide written approval of each report. At the end of each calendar quarter, the written approval provided to the contractor will be accompanied by a request to remit ACT fees. The SPM or PCO will provide copies of the Report of Sales on a quarterly basis to the DoD Components participating in fee sharing.

3. **United Nations Standard Products and Services Code.** The United Nations Standard Products and Services Code (UNSPSC) is a required field of the Report of Sales found in Attachment C. The UNSPSC code permits software asset management through a standard coding structure. The UNSPSC is a coding system used to classify both products and services for use throughout the global marketplace. The management and development of the UNSPSC Code is coordinated by GS1 US. The current version is available free as a download at <http://www.unspsc.org>.
4. **Records.** The Contractor shall maintain archival copies of all orders for the life of the BPA. Copies shall be made available to the Government upon request.
5. **Program Management Reviews (PMR).** The Contractor shall participate in regular reviews of the progress of the BPA. Reviews shall be held at least twice yearly as scheduled by the Software Product Manager. During these reviews the Contractor shall report on among other things, status of BPA sales, marketing and any outstanding issues concerning the BPA. PMR agenda and presentation format shall be provided prior to each PMR. Travel expenses are the responsibility of the contractor.
6. **Sales Leakage.** The goals of the ESI Program can only be realized through cooperation between the Government and the Contractor to direct appropriate sales through the ESI vehicles. The Contractor shall ensure that all sales personnel are aware of the ESI Program and enforce the policy that this BPA is the preferred procurement vehicle for the products within. The Contractor shall also establish a process to regularly audit sales to Government buyers, determine where sales outside the ESI vehicle are occurring, and take appropriate action to direct further sales through the ESI vehicle. Results of these audits will be presented as an agenda item during PMRs.
7. **Marketing.** The Contractor shall dedicate reasonable resources to this effort and work to market and advertise this agreement. Desired actions include: advertising resultant vehicles on the contractor's Internet site and advertising the agreement at relevant trade shows, participation in DoD Component sponsored events and news media geared to Government/DoD IT people.
8. **Enterprise Integration Toolkit.** The Enterprise Integration Toolkit is a program developed by the Assistant Deputy Under Secretary of Defense (L&MR) Logistics Systems Management (LSM) to assist DoD Program Managers, Contracting Officers and members of the Integrated Project Team (IPT) in the acquisition and implementation of Commercial Off The Shelf (COTS) Business Systems software.
- The Toolkit provides guidance, processes and tools to define program needs and determine how to best meet these needs through an external acquisition via a three-tiered Roadmap to guide the entire life-cycle from problem definition to solution roll-out. It provides a collection of best practice tools adopted from the commercial industry, and includes more than 100 best practice templates, guides, checklists, and samples.
- Because the Toolkit is not vendor specific and may be applied across a variety of COTS software package implementations, including this BPA, the Contractor, shall be familiar with the Toolkit and include as part of the Marketing effort required above, a description of the Toolkit for their customers, and a link to the Enterprise Toolkit web site at: <http://www.eitoolkit.com>.

F. Standards.

1. **YEAR 2000 Compliance.** All products provided under this BPA shall be Y2K compliant as defined in FAR 39.002.
2. **DISR Compliance.** All products offered shall comply with appropriate standards enumerated in the DoD IT Standards Repository (DISR). The DISR is maintained by the DoD Executive Agent for IT Standards, and the mandated compendium can be obtained from Mr. Dave Brown 703-681-2645; dave.brown@disa.mil. The DoD IT standards management tool, DISRonline is available for use by CAC-equipped authorized parties and can be accessed for account requests at <https://disronline.disa.mil>.
3. **Common Security Configurations.** The provider of information technology (IT), at no additional cost to the Government, shall ensure applications are fully functional and operate correctly as intended on systems using the Federal Desktop Core Configuration (FDCC). The FDCC includes Internet Explorer 7 configured to operate on Windows XP and Vista (in Protected Mode on Vista). IAW OMB memorandum M-07-18, "Ensuring New Acquisitions Include Common Security Configurations," a virtual machine has been established to provide IT providers access to FDCC Windows XP and Vista images. These virtual machine images can be found at: <http://csrc.nist.gov/fdcc>. The National Institute of Standards and Technology (NIST) also established a Security Content Automation Protocol (S-CAP) to help IT providers make self-assessments of their products. IT providers must use S-CAP validated tools, as they become available, to certify their products do not alter the virtual machine configurations. Links to the S-CAP tools, and additional information about the S-CAP process can be found at: <http://nvd.nist.gov/scap.cfm>
4. **Net-Centricity.** The Department of Defense is transforming the way information is managed to accelerate decision-making, improve joint warfighting and create intelligence advantages. To reach this "Net-Centric" state, DoD must exploit advancing technologies that move the enterprise from an application centric to a data-centric paradigm. DoD ESI vendor partners are encouraged to use the OSD NII DCIO Net-Centric Checklist, located at http://www.defenselink.mil/cio-nii/docs/NetCentric_Checklist_v2-1-3_.pdf , to provide information on the Net-Centric posture of their IT products and services.
5. **Section 508 of the Rehabilitation Act Compliance.** All products provided under this BPA must meet the applicable accessibility standards at 36 CFR Part 1194 as required by FAR Case 1999-607. General information regarding the Section 508 Act can be found at the web site www.section508.gov. The Contractor's Section 508 compliancy information can be found at: <http://www.minitab.com/support/answers/answer.aspx?log=0&id=2362>
6. **Additional Clauses.** Orders issued against this BPA are subject to the clauses included in the underlying GSA Schedule and the additional DFARS clauses listed below that are incorporated by reference in this BPA. Ordering Offices should consider the requirements of DFARS and the FAR supplement of the end user component, as it applies to commercial item acquisition and use of GSA schedules, in determining what additional clauses may be required for incorporation in the delivery order issued by the Ordering Office.

The following FAR/DFARS clauses and provisions are hereby incorporated by reference with the same force and effect as if it was 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 these addresses:

<http://www.acq.osd.mil/dpap/dars/dfars/index.htm>
<http://acquisition.gov/comp/far/index.html>
<http://farsite.hill.af.mil/>

- 252.204-7000 Disclosure of Information (DEC 1991)
- 252.204-7004 Alternate A (SEP 2007) - substitute paragraph (a) of this clause for paragraph (a) of the clause at FAR 52.204-7 -Central Contractor Registration (JUL 2006)
- 252.209-7004 Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (DEC 2006)
- 252.232-7009 Mandatory Payment by Governmentwide Commercial Purchase Card (DEC 2006)
- 252.232-7010 Levies on Contract Payments (DEC 2006)
- 252.246-7000 Material Inspection and Receiving Report (MAR 2008)
- 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (MAR 2008)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause, which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses, which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

- 252.204-7012 Safeguarding of Unclassified Controlled Technical Information (NOV 2013).
- 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- 252.219-7003 Small Business Subcontracting Plan (DoD Contracts) (APR 2007) (15 U.S.C. 637).
- 252.219-7004 Small Business Subcontracting Plan (Test Program) (APR 2007) (15 U.S.C. 637 note).
- 252.225-7001 Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O. 10582).
- 252.225-7012 Preference for Certain Domestic Commodities (MAR 2008) (10 U.S.C. 2533a).
- 252.225-7014 Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).

- 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).
- 252.225-7021 Trade Agreements (MAR 2007) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- 252.225-7036 Buy American Act--Free Trade Agreements--Balance of Payments Program (MAR 2007) (Alternate I) (OCT 2006) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- 252.225-7038 Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.232-7003 Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).
- 252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (Alternate I) (MAR 2000) (Alternate II) (MAR 2000) (Alternate III) (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- | | |
|--------------|--|
| 252.225-7014 | Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a). |
| 252.237-7019 | Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375). |
| 252.247-7023 | Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631). |
| 252.247-7024 | Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631). |