

| SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30 | | | | 1. REQUISITION NUMBER DATA COMPRESSION | | PAGE 1 OF 31 | | | | | | |
|--|--|--|--|---|--|---|---|---|----------------|-----------------------------------|---|--|
| 2. CONTRACT NO. W91QUZ-11-A-0004 | | 3. AWARD/EFFECTIVE DATE 04-Feb-2011 | | 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 NATIONAL CAPITAL REGION CONTRACTING CTR 2461 EISENHOWER AVENUE ALEXANDRIA VA 22331-1700 TEL: FAX: | | | CODE W91QUZ | | 10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SB <input type="checkbox"/> HUBZONE SB <input type="checkbox"/> 8(A) <input type="checkbox"/> SVC-DISABLED VET-OWNED SB <input type="checkbox"/> EMERGING SB SIZE STD: \$25m NAICS: 511210 | | | 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP | | 12. DISCOUNT TERMS Net 30 Days | | |
| 15. DELIVER TO | | | CODE | | 16. ADMINISTERED BY | | | CODE | | | | |
| SEE SCHEDULE | | | SEE ITEM 9 | | | | | | | | | |
| 17a. CONTRACTOR/OFFEROR ALAMO CITY ENGINEERING SERVICES, INC. PIERRE SCOTT 6391 DEZAVALA RD STE 203A SAN ANTONIO TX 78249-2161 TEL. 210-379-0404 | | | CODE 1UAD6 | | 18a. PAYMENT WILL BE MADE BY SEE THE INDIVIDUAL ORDER SEE THE INDIVIDUAL ORDER N/A AA | | | | | CODE | | |
| FACILITY CODE | | | 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/> | | | | | | | | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM | |
| 19. ITEM NO. | | 20. SCHEDULE OF SUPPLIES/ SERVICES | | | | 21. QUANTITY | | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT | | |
| SEE SCHEDULE | | | | | | | | | | | | |
| 25. ACCOUNTING AND APPROPRIATION DATA | | | | | | | 26. TOTAL AWARD AMOUNT (For Govt. Use Only) | | | | | |
| | | | | | | | \$0.00 | | | | | |
| <input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input 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 <input type="checkbox"/> OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: | | | | | | |
| 30a. SIGNATURE OF OFFEROR/CONTRACTOR | | | | | 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) | | | 31c. DATE SIGNED | | | | |
| | | | | | <i>Donna S. Harris</i> | | | 04-Feb-2011 | | | | |
| 30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT) | | | 30c. DATE SIGNED | | 31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) DONNA S. HARRIS / CONTRACTING OFFICER TEL: 703-325-4625 EMAIL: donna.harris1@us.army.mil | | | | | | | |

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
(CONTINUED)**

| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/ SERVICES | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
|----------------------------|------------------------------------|--------------|----------|----------------|------------|
| <p>SEE SCHEDULE</p> | | | | | |

32a. QUANTITY IN COLUMN 21 HAS BEEN
 RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

| | | |
|--|-----------|---|
| 32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE | 32c. DATE | 32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE |
|--|-----------|---|

| | |
|--|---|
| 32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE | 32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE |
| | 32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE |

| | | | | |
|---|--------------------|---------------------------------|--|------------------|
| 33. SHIP NUMBER | 34. VOUCHER NUMBER | 35. AMOUNT VERIFIED CORRECT FOR | 36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | 37. CHECK NUMBER |
| <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | | | | |

| | | |
|------------------------|------------------------|-------------|
| 38. S/R ACCOUNT NUMBER | 39. S/R VOUCHER NUMBER | 40. PAID BY |
|------------------------|------------------------|-------------|

| | | | |
|---|-----------------------------------|--------------------------------------|-----------------------|
| 41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT | 42a. RECEIVED BY (<i>Print</i>) | | |
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER | 41c. DATE | 42b. RECEIVED AT (<i>Location</i>) | |
| | | 42c. DATE REC'D (<i>YY/MM/DD</i>) | 42d. TOTAL CONTAINERS |
| | | | |

Section SF 1449 - CONTINUATION SHEET

DOD ESI AGREEMENT

Blanket Purchase Agreement

DoD Enterprise Software Agreement (ESA)

In the spirit of the Federal Acquisition Streamlining Act, the Department of Defense (DoD) and Alamo City Engineering Services 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-0598S),

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.

Included within Alamo City Engineering Services Inc response "Blanket Purchase Agreement for Data Compression Software and Maintenance" Dated 15 Nov 2010:

Product and Price List

Report of Sales Format

Included within this document:

Fees and Payments

License Agreement

A. TERMS AND CONDITIONS

1. Pursuant to GSA FSS Contract Number GS-35F-0598S, Alamo City Engineering Services Inc. agrees to the following terms of a BPA with the Federal Government. All orders placed against this BPA are subject to the terms and conditions of the FSS Contract. 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 \$50,000,000.00. 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 60 months after award. 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.** Attachment A provides unit prices as explained below. Prices shall not escalate, and Attachment A is not subject to upward adjustment during the term of the 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, ACT), as calculated on the customer orders, in accordance with Attachment D.
6. **Discount Terms and Conditions.** A flat 5% off of approved GSA Schedule GS-35F-0598S is offered in support of this BPA opportunity. There is no additional discount offered.
7. **Out-Year Prices.** There are no discounts for Out-Year Pricing. Pricing will remain within the offering, GSA Schedule GS-35F-0598S plus a 5% discount.
8. **Price Reduction.** GSA Schedule GS-35F-0598S plus a 5% discount.

8.1 Most Favored Customer Prices. The prices under this BPA shall be at least as low as the prices that Alamo City Engineering Services 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 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, Alamo City Engineering Services 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 Alamo City Engineering Services Inc. or its resellers will preclude the DoD from licensing products or purchasing services under a SmartBUY agreement.

ATTACHMENT B LICENSE AGREEMENT

License Agreement.

BY INSTALLING, COPYING, DOWNLOADING, ACCESSING OR OTHERWISE USING THIS SOFTWARE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT AND THAT YOU AGREE TO BE BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL, COPY, DOWNLOAD, ACCESS OR OTHERWISE USE THE SOFTWARE.

1. Cilutions, Inc. ("Licensor ") grants you, during the term hereof, a non-exclusive, non-sublicensable right and license to use the software with which this license is distributed (the

Software) , including any documentation provided to you by Licensor (together with the Software, the Technology) , solely to test, evaluate and demonstrate the Software. You shall not exceed the scope of the license granted hereunder. Any rights not expressly granted hereunder by Licensor to you are reserved by Licensor, and all implied licenses are disclaimed.

2. You shall not assign, modify, create derivative works of, sublicense, market, copy, co brand, private label, permit any third party to use, sell, lease, loan, rent, distribute, convey, publish, publicly display or otherwise transfer, or pledge as security or otherwise encumber the Technology, any portion thereof, or any of the rights and license granted hereunder. You shall not reverse engineer, decompile, reverse compile, translate, adapt or disassemble or in any way attempt to reconstruct or discover any source code or algorithms of the Technology. You shall not cause, assist or permit any third party to do any of the foregoing. You shall not bypass, disable or reverse engineer any protections put in place by Licensor against unlicensed use of the Technology. You shall not remove any proprietary trademark or copyright markings incorporated in, marked on or affixed to any of the Technology.
3. You acknowledge that Licensor or its licensors or suppliers retain exclusive ownership of all right, title and interest in and to the Technology, including, but not limited to, copyrights, trademarks, service marks, patents and other proprietary rights, and no such rights are conveyed to you.
4. WARRANTY: The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this agreement. Notwithstanding any contrary provision in the underlying Federal Supply Schedule contract, any disclaimer of warranty provision is not applicable to this BPA.
5. LIMIT OF LIABILITY: The cumulative liability of Licensor for all claims arising from or relating to this agreement or the Technology, whether in contract, tort or otherwise, shall not exceed the greater of (a) total amount of license fees paid by you to Licensor within the twelve (12) month period prior to the date upon which such liability arises, or (b) Five Hundred Dollars (\$500) . In no event shall Licensor or its licensors or suppliers be liable to you for any incidental, indirect, special, consequential

or punitive damages, losses, costs or expenses (including, without limitation, lost profits) , even if Licensor has been advised of the possibility of such damages, losses, costs or expenses.

6. This agreement shall be effective on the Install Date and shall remain in full force and effect for a period of ninety (90) days from the Effective Date. All provisions hereof shall survive termination or expiration of this agreement.
7. You shall not export the Technology or information about the Technology without complying with all laws, regulations, orders, and other restrictions applicable to such exportation. You shall indemnify Licensor against all claims, losses, damages, liabilities, costs and expenses, including reasonable attorneys _ fees, to the extent such claims arise out of any breach of this paragraph.

9.1 Functionality Replacement and Extended Support. If the form, fit, or functionality contained in any 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. However, throughout the term of this agreement, the contractor will provide support services for a period of one year.

9.2 Rights of Survivorship of the Agreement. This Agreement shall survive unto Alamo City Engineering Services 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 Alamo City Engineering Services 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 this agreement at no additional cost.

9.3 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 Alamo City Engineering Services 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.

10. **Media.** Depending upon the level of support chosen, the DMB Sender and Receiver software can be installed in a variety of ways. Our Platinum level of support provides for complete installation and testing of all software components by Alamo City Engineering Services Inc. Our Gold and Silver level of support offer a downloadable image which can be installed by the user. With any level of support, the software is available on hard copy media.

11. **Support and Maintenance.**

11.1. **Support.** The software product under this BPA includes standard installation support for the first 30 days after product delivery.

Platinum Plan

- 108 hours of Engineering Services/month
- 8 hour response time
- 24 hour diagnosis with restoration of service
- Daily proactive monitoring of supported platforms
- Any required development needed given the highest priority
- Web accessible performance reports and documentation repository
- On line Problem Reporting and tracking

Gold Plan

- 54 hours of Engineering Services/month
- 24 hour response time
- 48 hour diagnosis with restoration of service
- Weekly proactive monitoring of supported platforms
- Any required development needed given the medium priority

- On line Problem Reporting and tracking

Silver Plan

- 27 hours of Engineering Services/month
- 48 hour response time
- 72 hour diagnosis with restoration of service
- Bi-weekly monitoring of supported platforms
- Any required development needed in timely manner

11.2. **Maintenance.** There is a 15% maintenance fee (renewed annually) for automatic new releases of the DMB Sender and Receiver software. There are no additional terms for out-year maintenance.

12. **Professional Services.** Professional Services will be provided in accordance with GSA Schedule GS-35F-0598S at the agreed to discounts.

13. **On-Site Training.** As necessary, Alamo City Engineering Services Inc. is available for any on-site training and support.

14. **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 pricing tables, technical literature that describes the products and/or services, and evidence of inclusion on GSA schedule. Discounts shall be at the same or greater discount level as the original BPA product prices.

15. **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:

a. 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 Unified 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.

b. 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.

c. Government contractors performing work for a DoD end user (as defined above) may place Delivery Orders under this BPA on behalf of and for the benefit of the DoD entity if authorized by their cognizant Contracting Officer in accordance with the requirements of FAR 51 and/or DFARS 251 as appropriate.

d. (*For SmartBUY agreements use the following:* This has been designated as a DoD ESI and GSA SmartBUY Contract and is open for ordering by all United States Federal Agencies, Department of Defense (DoD) Components, and authorized contractors.)

e. N/A

BPA Points of Contact:

a. Contracting Office:

Point of Contact:

Army Contracting Command, National Capital Region
2461 Eisenhower Avenue
Alexandria, VA 22331-1700

Procuring Contracting Officer (PCO):

Donna S. Harris
(703) 325-4625
donna.s.harris@us.army.mil

POC: Calvin Artis

Phone: 703-325-3305

Email: calvin.artis1@conus.army.mil

b. Software Product Manager (SPM):

Software Product Manager (SPM):

Computer Hardware, Enterprise Software
And Solutions

<https://chess.army.mil/ascp/commerce/index.jsp>

SPM: Rick Klemincic

Phone: 703-806-4947

Fax: (732)532-5185

Email: rick.klemincic@us.army.mil

c. Customer Point of Contact: (To be specified on each order.)**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 applicable 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> and is publicly accessible. The Government will also post this contract to <https://chess.army.mil/ascp/commerce/index.jsp> .

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, on an authorized form such as a Standard Form (SF) 1449 or Department of Defense (DD) Form 1155 or by logging on to the (*enter vendor name*) purchasing page at (*enter web site*) .

Notice to Ordering Offices: This is a multiple award BPA established 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.

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

5. **Delivery Schedule.** The Contractor shall make available the current version of software via electronic download within one day of receipt of order.

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 and three copies (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. 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, educating the sales force and submission of monthly/quarterly reports and approved fee payments.

2. **Report of Sales.** 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 monthly reporting period, 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, sales leakage, 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:

<https://acc.dau.mil/CommunityBrowser.aspx?id=153210&lang=en-US>.

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 shall certify applications are fully functional and operate correctly as intended on systems using the Federal Desktop Core Configuration (FDCC). This includes Internet Explorer 7 configured to operate on Windows XP and Vista (in Protected Mode on Vista). For the Windows XP settings, see: http://csrc.nist.gov/itsec/guidance_WinXP.html, and for the Windows Vista settings, see: http://csrc.nist.gov/itsec/guidance_vista.html. The standard installation, operation, maintenance, updates, and/or patching of software shall not alter the configuration settings from the approved FDCC configuration. The information technology should also use an installer service for installation to the default "program files" directory and should be able to silently install and uninstall. Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

Publisher shall also certify that any subsequent product/module for the life of the agreement is/are fully functional and operate correctly as intended on systems using Federal Desktop Core Configuration (FDCC) prior to any product/module revisions being made available for Government use. Further, the Publisher shall maintain operability with FDCC standards as they evolve.

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 (*enter web site*).

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.

<http://www.acq.osd.mil/dpap/dars/dfars/index.htm>

<http://acquisition.gov/comp/far/index.html>

<http://farsite.hill.af.mil/>

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 (APR 2008)

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 (JAN 2009)

(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.

_____ 252.203-7000 Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

_____ 252.205- Provision of Information to Cooperative Agreement

| | | |
|-------|--------------|---|
| _____ | 252.225-7028 | Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755). |
| _____ | 252.225-7036 | (i) Buy American Act--Free Trade Agreements--Balance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note). (ii) _____ Alternate I (OCT 2006) of 252.225-7036. |
| _____ | 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 | <p>(i) Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).</p> <p>(ii) _____ Alternate I (MAR 2000) of 252.247-7023.</p> <p>(iii) _____ Alternate II (MAR 2000) of 252.247-7023.</p> <p>(iv) _____ Alternate III (MAY 2002) of 252.247-7023.</p> |
| _____ | 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). |

| ITEM NO | SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---------|--|----------|------|------------|--------|
| 0001 | Software Support and Maintenance FFP Data Compression Software and Maintenance. See the attached Price List. FOB: Destination PURCHASE REQUEST NUMBER: DATACOMPRESSION | | | | \$0.00 |
| NET AMT | | | | | \$0.00 |

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

| CLIN | INSPECT AT | INSPECT BY | ACCEPT AT | ACCEPT BY |
|------|-------------|------------|-------------|------------|
| 0001 | Destination | Government | Destination | Government |

DELIVERY INFORMATION

| CLIN | DELIVERY DATE | QUANTITY | SHIP TO ADDRESS | UIC |
|------|---------------|----------|-----------------|-----|
| 0001 | N/A | N/A | N/A | N/A |

ATTACHMENT A DOD PRICE LIST

Price

GSA Price 5% Discount Price

Digital Media Bridge Sender, Enterprise Edition \$23,929.47 \$22,733.00

Digital Media Bridge Receiver (Windows, Linux, Mac) \$94.76 \$90.03

Team ACES Principal Engineer \$153.15/hour

\$145.50/hour

Unused services expire 180 days after purchase.

ATTACHMENT C REPORT OF SALES

REPORT OF SALES ATTACHMENT C

** See Attached Excel Spreadsheet**

ATTACHMENT D FEES AND PAYMENT

FEES AND PAYMENTS

1. GSA Industrial Funding Fee (IFF). The BPA unit prices include the applicable GSA IFF. The contractor shall be responsible for all required filings to GSA and for payment of this fee in accordance with applicable GSA instructions.

2. Acquisition, Contracting, and Technical (ACT) Fee. The cost of awarding, administering and managing this BPA is included in the prices charged to ordering activities. The ACT fee is 2%. The contractor shall remit the ACT fee on a calendar quarterly basis (i.e. January – March, April – June, July – September, and October – December) or as otherwise requested by the Software Product Manager (SPM). Payment is due thirty (30) days following approval of the Report of Sales for the completed quarter. ACT fees that have not been paid within the prescribed thirty (30) days shall be considered a debt to the United States Government under the terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payments and interest on the debt (see contract FAR clause 52.232-17, Interest). Failure of the Contractor to pay the ACT Fee in a timely manner may result in termination of the BPA.

3. Fee Distribution. The Army, DLA, DISA and Navy are participating in a fee-sharing program. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. Fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Army, DLA, DISA, Navy or DOD as appropriate. Marine Corps sales are reported under the Navy designation. Fee checks shall not be issued until written approval is received for the Report of Sales.

(For a SmartBUY agreement, use the following: The Army, DLA, DISA, Navy and GSA (for SmartBUY Federal government Civilian Agency orders) are participating in an ACT fee-sharing program. For orders within DoD, the 2% ACT fee is split equally between the DoD Component whose customer places the order and the Component that manages the contract. The Contractor shall collect the 2% ACT fee and distribute in accordance with the following procedures. ACT fee sharing shall be determined by the End User Agency or Service identified in the monthly Report of Sales. This field shall be notated Army, DLA, DISA, Navy, DoD or Non-DoD as appropriate. In the case of SmartBUY orders (Federal Government Civilian Agencies) non-DoD orders and non DoD support contractor orders, excluding the Intelligence Community and non Coast Guard orders or support vendors to same, the 2% ACT fee is split equally between the Agency that manages the contract and GSA SmartBUY Program Management Office.)

3.1 ALL SALES:

The 2% ACT fee is split equally between the DoD Component whose customer places the order and the DoD Component that manages the ESI agreement. The Navy will retain the entire 2% fee under orders issued for Navy activities or those activities that do not collect a fee under the ESI agreements managed by the Navy. The contractor is responsible for distributing the ACT fee to all applicable Services in accordance with the instructions herein. The amount of ACT Fee due the Navy shall be calculated at 1% for Army sales, 1% for DLA sales, 1% for DISA sales and 2% for all other sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". No transmittal letter is required with submission of Navy fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA (W91QUZ-11-A-0004)

DoD (Data Compression) Enterprise Software Agreement

ACT Fee

For US Postal Service mail or USPS Express Mail:

SPAWARSYSCEN PACIFIC

Code 55190, Bldg. 91

Attn: Henry Ingorvate

53560 Hull Street

San Diego, CA 92152-5001

For Federal Express, United Parcel Service, DHL or Other Courier Services:

SPAWARSYSCEN PACIFIC

Shipping and Receiving

Receiving Officer (OT 7)

Attn: Henry Ingorvate

Code 55190, Bldg. 91

4297 Pacific Hwy.

San Diego, CA 92110

Email a copy of the ACT Fee remittance check to the SPM.

3.2 ARMY SALES:

The amount of ACT Fee due the Army shall be calculated at 1% of all Army sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". Checks must be notated with the following information:

BPA (W91QUZ-11-A-0004)

SCP Fee Reimbursement

***Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

Project Director, Computer Hardware, Enterprise Software and Solutions (PD CHESS)

PEO Enterprise Information Systems

SFAE-PS-SCP (Attn: Margaret Kirsch)

Squier Hall, Bldg. 283

Fort Monmouth, NJ 07703

Email a copy of the check and letter to: MONM-EISASCPVndrRpts@Conus.army.mil

3.3 DLA SALES

The amount of ACT Fee due DLA shall be calculated at 1% of all DLA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashier's check made payable to "Treasurer of the United States". No transmittal letter is required with submission of DLA fee checks.

Checks must include the following information to ensure proper crediting of the payment:

BPA (W91QUZ-11-A-0004)

DoD (Data Compression) Enterprise Software Agreement

Quarterly ACT Fee

Send check to:

Defense Logistics Agency

DES Acquisition Staff Directorate

Attn: Connie House, DES-A

8725 John J. Kingman Road, Room 1145

Fort Belvoir, VA 22060-6220

Mail a copy of the check to:

Defense Logistics Agency

Attn: Susan Lizzi, J-654

8725 John J. Kingman Road

Fort Belvoir, VA 22060-6221

Or email a copy of the check to:

Email: Susan.Lizzi@dla.mil

3.4 DISA SALES

The amount of ACT Fee due DISA shall be calculated at 1% of all DISA sales.

The contractor shall remit ACT Fee to the address provided below by corporate or cashiers check made payable to “Treasurer of the United States”. Checks must be notated with the following information:

BPA (W91QUZ-11-A-0004)

DoD (Data Compression) Enterprise Software Agreement

Quarterly ACT Fee

****Checks must be accompanied by a transmittal letter (format to be provided) that cites the applicable accounting data to ensure proper crediting of the payment.

Send check and transmittal letter to:

DFAS-CO

Finance and Accounting Office

Attn: Disbursement Office (Tom Triplett)

3990 East Broad St., Bldg. 21

Columbus, Ohio 43213

Direct questions to Jonnice Medley, 703-681-2091

Provide copies of this letter and check to: jonnice.medley@disa.mil.

For SmartBUY agreements add the below:

3.5 GSA SALES

GSA SALES

The amount of ACT Fee due GSA shall be calculated at 1% of all Civilian agency sales. Remit ACT Fee by electronic payment using pay.gov([ww.pay.gov](http://www.pay.gov)). Payments can be made via Automated Clearing House (ACH) and credit cards. For technical assistance with pay.gov, please contact pay.gov on (800) 624-1373, (216) 579-2112, or pay.gov.clev.frb.gov. To access pay.gov - 1. Go to the pay.gov website located at www.pay.gov. 2. Under the heading "Find Public Forms" - select by Agency Name. 3. Select "G" 4. Select General Services Administration. 5. Select Smart. BUY. 6. Complete the forms and submit your payment to pay.gov. Send an email notification of payment to pebble.randoph@gsa.gov.