

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT - Continuation</b>			1. CONTRACT ID CODE	
2. AMENDMENT/MODIFICATION NO. P00001	3. EFF. DATE 03/28/2007	4. REQUISITION/PURCHASE REQ. NO. (b) (2)	PAGE OF 9	PAGES 18

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Government to specify, as Government Furnished Information, the specific items for which it requires technical data rights, and incorporated by full text at I.35 as follows:

52.227-21 Technical Data Declaration, Revision, and Withholding of Payment-Major Systems (Jan 1997)

(a) Scope of clause. This clause shall apply to all technical data (as defined in the Rights in Data-General clause included in this contract) that have been specified in this contract as being subject to this clause. It shall apply to all such data delivered, or required to be delivered, at any time during contract performance after acceptance of all items (other than technical data) delivered under this contract unless a different period is set forth herein. The Contracting Officer may release the Contractor from all or part of the requirements of this clause for specifically identified technical data items at any time during the period covered by this clause.

(b) Technical data declaration.

(1) All technical data that are subject to this clause shall be accompanied by the following declaration upon delivery:

Technical Data Declaration (Jan 1997)

The Contractor, \_\_\_\_\_, hereby declares that, to the best of its knowledge and belief, the technical data delivered herewith under Government contract No. \_\_\_\_\_ (and subcontract \_\_\_\_\_, if appropriate) are complete, accurate, and comply with the requirements of the contract concerning such technical data.

(End of declaration)

(2) The Government shall rely on the declarations set out in paragraph (b)(1) of this clause in accepting delivery of the technical data, and in consideration thereof may, at any time during the period covered by this clause, request correction of any deficiencies which are not in compliance with contract requirements. Such corrections shall be made at the expense of the Contractor. Unauthorized markings on data shall not be considered a deficiency for the purpose of this clause, but will be treated in accordance with paragraph (e) of the Rights in Data-General clause included in this contract.

(c) Technical data revision. The Contractor also agrees, at the request of the Contracting Officer, to revise technical data that are subject to this clause to reflect engineering design changes made during the performance of this contract and affecting the form, fit, and function of any item (other than technical

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data) delivered under this contract. The Contractor may submit a request for an equitable adjustment to the terms and conditions of this contract for any revisions to technical data made pursuant to this paragraph.

(d) Withholding of payment.

(1) At any time before final payment under this contract the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding \$100,000 or 5 percent of the amount of this contract, whichever is less, if in the Contracting Officer's opinion respecting any technical data that are subject to this clause, the Contractor fails to-

(i) Make timely delivery of such technical data as required by this contract;

(ii) Provide the declaration required by paragraph (b) (1) of this clause;

(iii) Make the corrections required by paragraph (b) (2) of this clause; or

(iv) Make revisions requested under paragraph (c) of this clause.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has delivered the data and/or has made the required corrections or revisions. Withholding shall not be made if the failure to make timely delivery, and/or the deficiencies relating to delivered data, arose out of causes beyond the control of the Contractor and without the fault or negligence of the Contractor.

(3) The Contracting Officer may decrease or increase the sums withheld up to the sums authorized in paragraph (d) (1) of this clause. The withholding of any amount under this paragraph, or the subsequent payment thereof, shall not be construed as a waiver of any Government rights.

(End of clause)

18. To relocate Clause 52.227-22 Major System-Minimum Rights (June 1987) from Section I, Contract Clauses, Clause I.2, 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued. Clause 52.227-22 is relocated, modified to require the Government to specify, as Government Furnished Information, the specific items for which it requires technical data rights, and incorporated by full text at I.36 as follows:

52.227-22 Major System-Minimum Rights (June 1987)

Notwithstanding any other provision of this contract, the Government shall have unlimited rights in any technical data, other than computer software, developed

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in the performance of this contract and relating to a major system or supplies for a major system procured or to be procured by the Government, to the extent that delivery of such technical data is required as an element of performance under this contract. The Government shall specify, as Government Furnished Information, the specific items for which it requires technical data rights. The rights of the Government under this clause are in addition to and not in lieu of its rights under the other provisions of this contract.

(End of clause)

19. To insert the following information into the blank at the end of paragraph (e) of Clause 52.244-2 Subcontracts (Aug 1998) in Section I, Contract Clauses, Clause I.2, 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued.) :  
"During the term of this contract, the Contractor shall obtain Contracting Officer written authorization (consent) prior to executing any subcontract pursuant to clause H.33 Environmental & Land Use Regulatory Activities."

20. To delete Clause 52.246-19 Warranty Of Systems And Equipment Under Performance Specifications Or Design Criteria (May 2001) from Section I, Contract Clauses, Clause I.2, 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued. Clause 52.246-19 is relocated, incorporated by full text at I.37, and is completely replaced by the following:

I. 35 52.246-19 Warranty of Systems and Equipment Under Performance Specifications or Design Criteria (MAY 2001) Modified

(a) Definitions. As used in this clause:

"Acceptance" or "Accept" means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, as partial or complete performance of the task order.

"Defect" or "Defective" means any condition or characteristic in any supplies furnished by the Contractor under the task order that is not compliance with the requirements of the task order.

"Supplies" means the end items furnished by the Contractor required under this task order listed in the "Products Deliverables List" in the Performance Work Statement (PWS) that is not otherwise covered by a standard commercial warranty provided by the end item supplier. Contractor shall flow-through all standard commercial warranties to the Government for items not covered under this clause.

(b) Contractor's obligations.

(1) The Contractor's warranties under this clause shall apply only to those defects discovered by either the Government or the Contractor within one year of acceptance of the supplies. The warranty period shall apply to each end item

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individually, if accepted individually by the Government, or to a cluster of supplies if accepted as a group (i.e., all towers, Rapid Response Transports, Mobile C3 Unites, etc. associated with a given deployment and accepted by the Government as such).

(2) If the Contractor becomes aware at any time before acceptance by the Government (whether before or after tender to the Government) that a defect exists in any supplies, the Contractor shall (i) promptly correct the defect or (ii) promptly notify the Contracting Officer, in writing, of the defect, using the same procedures prescribed in (b) (3) of this clause.

(3) If the Contracting Officer determines that a defect exists in any of the supplies accepted by the Government under this task order, the Contracting Officer shall promptly notify the Contractor of the defect, in writing, within 30 days of discovery of the defect. Upon timely notification of the existence of a defect, or if the Contractor independently discovers a defect in accepted supplies, the Contractor shall submit to the Contracting Officer, in writing, within 30 days a recommendation for corrective actions, together with supporting information in sufficient detail for the Contracting Officer to determine what corrective action, if any, shall be undertaken.

(4) The Contractor shall promptly comply with any timely written direction from the Contracting Officer to correct or partially correct a defect, at no increase in the task order price.

(5) The Contractor shall also prepare and furnish to the Contracting Officer data and reports applicable to any correction required under this clause (including revision and updating of all other affected data called for under this task order) at no increase in the task order price.

(6) In the event of timely notice of a decision not to correct or only to partially correct, the Contractor shall submit a technical and cost proposal within 30 days to amend the task order to permit acceptance of the affected supplies in accordance with the revised requirement, and an equitable reduction in the task order price shall promptly be negotiated by the parties and be reflected in a supplemental agreement to this task order.

(7) Any supplies or parts thereof corrected or furnished in replacement shall also be subject to the conditions of this clause to the same extent as supplies initially accepted. The warranty, with respect to these supplies or parts, shall be the balance of warranty as set forth in paragraph (b) (1) of this clause (excluding any out of service time), and shall run from the date of delivery of the corrected or replaced supplies.

(8) The Contractor shall not be responsible under this clause for the correction of defects in Government-furnished property.

(9) The Contractor shall be liable for transportation of warranted items. The Contractor shall also bear the responsibility for the supplies while in transit.

(10) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation under this task order.

(c) Remedies available to the Government.

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(1) The rights and remedies of the Government provided in this clause -  
i. Shall not be affected in any way by any terms or conditions of this task order concerning conclusiveness of inspection and acceptance; and  
ii. Are in addition to, and do not limit, any rights afforded to the Government by any other clause of this task order.

(2) Within 30 days after receipt of the Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, using sole discretion, shall give the Contractor written notice not to correct any defect, or to correct or partially correct any defect within a reasonable time in accordance with and at the location proposed by the Contractor in its recommendations for corrective action, or as otherwise agreed.

(3) In no event shall the Government be responsible for any extension or delays in the scheduled deliveries or periods of performance under this task order as a result of the Contractor's sole obligation to correct defects, nor shall there be any adjustment of the delivery schedule or period of performance as a result of the correction of defects unless provided by a supplemental agreement with adequate consideration.

(4) This clause shall not be construed as obligating the Government to increase the task order price.

(5) (i) The Contracting Officer shall give the Contractor a written notice specifying any failure or refusal of the Contractor to:

- (A) Present a detailed recommendation for corrective action as required by paragraph (b) (3) of this clause;
- (B) Correct defects as directed under paragraph (b) (4) of this clause;
- (C) Prepare and furnish data and reports as required by paragraph (b) (5) of this clause.

(ii) The notice shall specify a period of time following receipt of the notice by the Contractor in which the Contractor must remedy the failure or refusal specified in the notice.

(6) If the Contractor does not comply with the Contracting Officer's written notice in paragraph (c) (5) (i) of this clause, the Contracting Officer may by contract or otherwise -

- (i) Obtain detailed recommendations for corrective action and either:
  - (A) Correct the supplies; or
  - (B) Replace the supplies, and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Government is entitled to reimbursement from the Contractor, or from the proceeds, for the reasonable expenses of care and disposition, as well as for excess costs incurred or to be incurred;
- (ii) Obtain the applicable data and reports, and
- (iii) Charge the Contractor for the costs incurred by the Government.

(d) Exclusions

(1) The Contractor shall not be required to correct or replace any supplies identified by the Government for which the Government disassembled or otherwise

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modified the Contractor provided supplies.

(2) The Contractor shall not be required to perform maintenance as a warranty repair, on any supplies accepted by the Government under this clause.

(3) Normal wear and tear, associated with the conditions under which the supplies will be utilized, are excluded from the provisions of this clause.

(4) All items covered under a standard commercial warranty provided by the end item supplier and flowed through to the Government.

21. Delete the following clauses from Section I, Contract Clauses, Clause I.2, 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued:

- 52.215-2 Jun 1999 Audits and Records Negotiation Alternate I (Jan 1997)
- 52.215-17 Oct 1997 Waiver of Facilities Capital Cost of Money
- 52.216-6 Oct 1997 Price Redetermination--Retroactive
- 52.216-11 Apr 1984 Cost Contract-No Fee
- 52.216-15 Apr 1998 Predetermined Indirect Cost Rates
- 52.222-4 Jul 2005 Contract Work Hours and Safety Standards
- 52.222-41 Jul 2005 Service Contract Act of 1965, As Amended
- 52.222-43 May 1989 Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts)
- 52.222-44 Feb 2002 Fair Labor Standards Act and Service Contract Act-Price Adjustment
- 52.222-48 Jun 2006 Exemption From Application Of Service Contract Act Provisions-Contractor Certification
- 52.227-3 Apr 1984 Patent Indemnity
- 52.227-11 Jun 1997 Patent Rights-Retention By The Contractor (Short Form)
- 52.227-17 Jun 1987 Rights In Data-Special Works
- 52.227-18 Jun 1987 Rights In Data-Existing Works
- 52.243-6 Apr 1984 Change Order Accounting
- 52.245-17 May 2004 Special Tooling
- 52.246-20 May 2001 Warranty of Services

22. To insert the following clauses Section I, Contract Clauses, Clause I.2 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued:

- 52.209-3 Sep 1989 First Article Approval-Contractor Testing Alternate II
- 52.209-4 Sep 1989 First Article Approval-Government Testing Alternate II
- 52.215-16 Jun 2003 Facilities Capital Cost Of Money
- 52.215-21 Oct 1997 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data-Modifications Alternate I
- 52.216-9 Mar 1997 Fixed Fee-Construction
- 52.222-6 Jul 2005 Davis Bacon Act
- 52.222-27 Feb 1999 Affirmative Action Compliance Requirements For Construction
- 52.222-30 Dec 2001 Davis Bacon Act-Price Adjustment (None or Separately Priced

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- 52.222-31 Dec 2001 Davis Bacon Act-Price Adjustment (Percentage Method)
- 52.222-32 Dec 2001 Davis Bacon Act-Price Adjustment (Actual Method)
- 52.227-12 Jan 1997 Patent Rights-Retention By The Contractor (Long Form)
- 52.227-14 Jun 1987 Rights in Data-General Alternates I, II, and III
- 52.232-5 Sep 2002 Payments Under Fixed-Price Construction Contracts
- 52.232-20 Apr 1984 Limitation of Costs
- 52.232-27 Sep 2005 Prompt Payment For Construction Contracts
- 52.236-2 Apr 1984 Differing Site Conditions
- 52.236-3 Apr 1984 Site Investigation and Conditions Affecting The Work
- 52.236-5 Apr 1984 Material and Workmanship
- 52.236-6 Apr 1984 Superintendence By The Contractor
- 52.336-7 Nov 1991 Permits And Responsibilities
- 52.236-8 Apr 1984 Other Contracts
- 52.236-9 Apr 1984 Protection Of Existing Vegetation, Structures, Equipment, Utilities, And Improvements
- 52.236-10 Apr 1984 Operations and Storage Areas
- 52.236-11 Apr 1984 Use And Possession Prior to Completion
- 52.236-12 Apr 1984 Cleaning Up
- 52.236-13 Nov 1991 Accident Prevention
- 52.236-17 Apr 1984 Layout Of Work
- 52.236-18 Apr 1984 Work Oversight In Cost-Reimbursement Construction Contracts
- 52.236-19 Apr 1984 Organization And Direction Of The Work
- 52.236-21 Feb 1997 Specifications and Drawings For Construction and Alternate I (Apr 1984)
- 52.246-21 Mar 1994 Warranty Of Construction
- 52.248-3 Feb 2000 Value Engineering-Construction
- 52.249-10 Apr 1984 Default (Fixed Price Construction)

23. To replace in its entirety Section I, Contract Clauses, Clause I.2 52.252-2 Clauses Incorporated by Reference (Feb 1998)-Continued with Attachment (1). The flow-down clauses in Section I impact all types of delivery and task orders contemplated under the contract. This change is to structure the clauses in such a way that the reader can easily identify the applicability of a particular clause to a fixed-price or a cost-type delivery or task order. Section I has been re-formatted to identify which flow-down clauses apply to all delivery and task orders and which flow-down clauses apply to a particular type of delivery or task order.

24. To correct Section I, Contract Clauses, Clause I.7 52.216-22 Indefinite Quantity (Oct 1995). Replace the date "March 2012" in paragraph (d) with "September 2013."

25. Since Clause H.33 has been added, to modify the Concept of Operations Indefinite Delivery Indefinite Quantity (IDIQ) Statement of Work, Attachment 01

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to Part III-List of Documents and Other Attachments, Section J, List of Attachments to delete Sections 6.4.2.1.1, Land-Use Regulatory Activities (1.1.6, 1.2.1.9) and 6.4.3, Environmental (1.1.6, 1.2.1.9).

26. To modify the Concept of Operations Indefinite Delivery Indefinite Quantity (IDIQ) Statement of Work, Attachment 01 to Part III-List of Documents and Other Attachments, Section J, List of Attachments to add the following to Section 7.2 Constraints, B. Security:

5. Physical access will be needed to TS/SCI classified spaces and information for the purpose of collaborating with intelligence community counterparts. Participants will be required to evaluate intelligence information systems, C3I applications and the declassification policies and procedures process for merging intelligence community information with Customs and Border Protection intelligence information. No TS/SCI information will be generated; however, there may be a need for limited and occasional TS/SCI storage at a Government facility.

In accordance with the National Industrial Security Program Operating Manual, DoD 5220.22-M in order to be granted a final government security clearance, contractor personnel must have a bona fide need to know, a requirement to perform the technical efforts specified above, and a genuine need to access TS/SCI information and classified spaces.

27. To modify the Concept of Operations Indefinite Delivery Indefinite Quantity (IDIQ) Statement of Work, Attachment 01 to Part III-List of Documents and Other Attachments, Section J, List of Attachments to delete Sections 6.4.2.1.1 Land-Use Regulatory Activities (1.1.6, 1.2.1.9) and 6.4.3 Environmental (1.1.6, 1.2.1.9) and replace them with the following:

6.4.2.1.1 Land-Use Regulatory Activities (1.1.6, 1.2.1.9)

The Contractor shall, in support of the Government, be required to perform, for each task order involving land-use regulatory activities, specified tasks. Such tasks shall include, but not necessarily be limited to:

- (i) Preparing project descriptions;
- (ii) Identifying land that is to be used for a project or task order;
- (iii) Identifying affected stakeholders and formulating communication strategies;
- (iv) Formulating land use regulatory compliance strategies;
- (v) Developing preliminary and final schedules for land use regulatory activities; and
- (vi) Developing or supplying information or data for use with land-use and other studies, reports, and/or analyses.

The Contractor shall appoint a principal representative or representatives who