

# **U.S. Department of Homeland Security**



## **EAGLE II**

### **Information Technology Support Services**

International Business Machines Corporation (IBM)

Contract Number: HSHQDC-13-D-E2089

Department of Homeland Security  
Office of Procurement Operations  
Enterprise Acquisition Division  
Washington D.C.

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## **SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS**

### **B.1 General**

The Enterprise Acquisition Gateway for Leading Edge Solutions II (EAGLE II) is a Multiple Award, Indefinite-Delivery, Indefinite-Quantity (IDIQ) contract to provide information technology (IT) solutions through performance of a wide range of support services as broadly described in Section C, *Statement of Work*. The Contractor shall provide, in accordance with issued Task Orders (TOs), all management, supervision, labor, facilities, and materials necessary to perform IT support services on an IDIQ basis.

### **B.2 Base and Option Periods**

The term of the EAGLE II contract is a five (5) year base period and one (1) two-year option period. This is not a multi-year contract as defined in FAR Part 17.1, *Multiyear Contracting*. TOs may be issued at any time during the base and/or option period. The performance periods will be specified in the TOs and may include option periods which extend the TO up to twelve (12) months beyond the expiration date of this contract.

### **B.3 Indefinite-Delivery/Indefinite-Quantity (IDIQ)**

(a) The EAGLE II contract is structured and managed in accordance with the rules for TO contracts. In particular, TO awards issued against this contract will be placed using the “fair opportunity” procedures described in Section G, *Contract Administration Data*.

(b) The types of TOs issued against EAGLE II may be Cost Reimbursement, Time and Materials (T&M), Labor-Hour (L-H), and Firm-Fixed-Price (FFP) in accordance with Federal Acquisition Regulation (FAR) Part 16.5, *Indefinite-Delivery Contracts*, and as set forth in Section G, *Contract Administration Data*, and Section I, *Contract Clauses*.

(c) Indefinite-Delivery, Indefinite-Quantity (IDIQ), Blanket Purchase Agreements (BPAs), and Letter Contracts are **not** permissible TO types under the EAGLE II contract. Orders for which IT services outcomes are not the principal purpose, and orders for which supplies or software/hardware are the principal purpose are also **not** permissible TO types under the EAGLE II contract.

(d) Task Orders may include options as defined in FAR Part 17, *Special Contracting Methods*.

### **B.4 Contract Pricing**

#### **B.4.1 Time-and-Materials, Labor-Hour/Firm-Fixed-Price Pricing**

(a) All TOs issued on a T&M, L-H, or FFP basis will be subject to the pricing set forth in Section J – *List of Attachments*, Attachment B-1, *Labor Rate Tables*. The labor rates in this attachment reflect fully-burdened hourly rates for each labor category and will apply to all direct labor hours. The fully-burdened labor rates include all direct labor and indirect costs applicable to that direct labor (such as fringe benefits, overhead, G&A), and profit. These fixed hourly rates are ceiling rates and will apply to the prime contractor and core team members. The contractors

may elect to propose lower hourly rates on a task-by-task basis. For non-competitive task order awards in excess of [REDACTED], the Task Order Contracting Officer (TO CO) will require certified cost or pricing data in accordance with FAR 52.215-20, *Requirements for Certified Cost or Pricing Data or Data Other Than Cost or Pricing Data*. In any case, proposed rates for TOs shall not exceed the ceiling rates established in the contract.

The labor rate table shall include the prime contractor and each core team member's established accounting practices for recording uncompensated overtime. The accounting practices for each member shall be clearly identified (e.g., prime contractor records all hours; "Core Team Member A" records 40 hours per week; "Core Team Member B" records all hours, etc.). The descriptions of the methods will be incorporated into the contract and will be effective for T&M and labor-hour task orders.

The indirect rates applicable to direct materials, subcontracts for supplies, and other direct costs established in Attachment B-1, Labor Rate Tables, are ceiling rates and shall apply to the prime contractor only. There are no indirect ceiling rates for core team members. However, the contractor may elect to propose lower indirect rates on a task-by-task basis. **NO AMOUNTS WILL BE PAID FOR MATERIALS UNDER LABOR-HOUR ITEMS IN THIS CONTRACT OR ORDERS.**

**Core Teams:** The fixed hourly labor rates, in Attachment B-1, *Labor Rate Tables*, represent the blended hourly rates of the prime contractor and core team members in accordance with FAR 52.216-29 (modified). Subcontractors other than the core team members are to be proposed at the task order level and, therefore, not included in the EAGLE II contract. The blended rates apply for all core team members (including the Prime contractor). However, the individual core team members are not required to participate in all labor categories for the purposes of contract pricing and task order performance. The blended rates will not change after the contract award when a core team member is removed or added to the contract. If a new member is added, the new member will be termed as "subcontractor" and treated as such for the purposes of pricing and billing at the task order level (i.e., the new member cannot use the blended rates).

(b) The labor rates set forth in the table reflect fully-burdened rates for performance at a Government site and for performance at a Contractor site.

(1) Government Site Rates. When performing at Government sites, the Contractor shall furnish fully-burdened labor rates. The Government will provide office space, furniture and office equipment and supplies, as described in Section H.8, *Government Property, Information, and Workspace*, and as specified in the individual task orders.

(2) Contractor Site Rates. When performing at a Contractor site, the fully-burdened labor rates shall include applicable indirect costs for office space and all normal supplies and services required to support the work. This includes, but is not limited to, telephones, faxes, copiers, personal computers, postage, including courier services such as Federal Express, ordinary business software, such as word processing, spreadsheets, graphics, etc., normal copying and reproduction costs.

(c) Only Government-required labor categories are included in Attachment B-1, *Labor Rate Tables*. Additional labor categories may be proposed and added to meet specific TO requirements, in accordance with Section B.4.1.3(b), *Rate Refreshment*, and Section G.4.5(j), *Task Order Unique Labor Categories*.

(d) EAGLE II Program Management Support Costs. Contract-level program management support costs, to include the Program Manager and the Teaming Coordinator, encompass support for contract-level management, reporting requirements (See Section F, *Deliveries or Performance*) and related travel and meeting attendance costs associated with the Contractor's program management staff. This relates to overall management of the EAGLE II Program. As a result, these program management support costs shall be included within each fully burdened labor category rate, and shall not be proposed as separate labor categories.

The contract-level "program management" support costs are differentiated from individual task order "Task Order Manager" or "Project Manager" support costs, which are to specifically support project management for individual task orders. The "Task Order Manager" or "Project Manager" support labor hours are billed at hourly labor rates against individual task orders for direct support to the effort performed under those task orders. This will result in direct billings at the task order level.

#### **B.4.1.1 Firm- Fixed-Price (FFP) Task Orders**

For FFP type task orders, the quantity of each item or labor category ordered will be multiplied against the rate listed in this schedule, or as negotiated if lower rates are proposed for the TO; and the cumulative extended total of all items ordered will define the firm-fixed price for the TO. Travel and materials, if applicable, may be estimated for each TO, including applicable indirect costs, subject to the indirect ceiling rates established in the contract. Any amounts negotiated for travel and materials will be added to the extended price of all ordered items to arrive at the total firm-fixed price for the TO. Partial payment of FFP type TOs may be negotiated based on the completion of milestones/deliverables.

#### **B.4.1.2 Time and Material (T&M) Task Orders**

For T&M or L-H type task orders, the quantity of hours ordered from each labor category will be specified as deliverable hours billable at the ceiling rates specified in Attachment B-1, *Labor Rate Tables*, or as negotiated, if lower rates are proposed for the TO. Materials will be estimated for each TO and may include applicable indirect costs computed in accordance with the contractor's established accounting practices, subject to the indirect ceiling rates established in the contract. For T&M type task orders, profit on materials is not allowable. The cumulative extended total of all labor categories ordered plus materials/applicable indirect costs will define the TO ceiling price. TOs may authorize adjustments between labor category quantities of up to 10% within the established task labor ceiling price, without a formal modification. Reimbursement under the contract shall be governed by the clause at FAR 52.232-7, *Payments under Time and Materials and Labor-Hour Contracts*.

(a) Labor. Attachment B-1, *Labor Rate Tables*, shall include descriptions of the Prime contractor and each core team member's established accounting practices for recording and



billing for labor hours under task orders. The table lists the Prime contractor and each core team member separately to assure that the accounting practices for each are clearly identified (e.g., Prime contractor records all hours; “Core Team Member A” records forty (40) hours per week; “Core Team member B” records all hours, etc.). The descriptions are incorporated into the contract and orders and are effective for T&M and labor-hour task orders.

In the performance of T&M and labor-hour task orders, the hours billed shall show the labor hours performed by the prime contractor and each core team member separately. If the established accounting practices described in the contract are to record and bill a standard number of hours per week (e.g., forty (40) hours), the labor hours will be billed only on the basis of a standard number of hours. If the established accounting practices described in the contract are to record and bill all hours worked by employees, including uncompensated overtime, the labor hours billed will be based on all hours worked. If the contractor provides that its established accounting practices are to record and bill all hours worked but it is found after award that the established accounting practices at the time of award were not based on recording all hours worked by employees, the Government shall be entitled to a price adjustment on all payments for labor hours under the T&M and labor hour order. The amount of the price adjustment shall be the difference between the number of hours billed based on recording all hours worked and the hours that would have been recorded using a standard number of hours (e.g., forty (40) hours).

(b) Subcontractor Rates.

- (1) Competitive Task Orders. The TO CO will use competition to determine reasonableness of the subcontract rates. The numbered items below provide further guidance for competing TOs:

*The term “EAGLE II Prime” is defined as an EAGLE II Prime contractor submitting the proposal in response to a Task Order Request Package (TORP); and the term “EAGLE II Contract Holder” is defined as an EAGLE II Prime contractor that is functioning in the role as a subcontractor under another EAGLE II Prime.*

- (i) EAGLE II Prime subcontracts with the EAGLE II Contract Holder on competed orders and proposes rates that are “at or below” the EAGLE II Prime’s contract ceiling rates:  
If an EAGLE II Prime subcontracts with an EAGLE II Contract Holder, the EAGLE II Prime and the EAGLE II Contract Holder may propose up to the ceiling rate in their respective Attachment B-1, *Labor Rate Tables*, of their EAGLE II contract. If the rates proposed to DHS, inclusive of the EAGLE II Prime’s allocable indirect costs and a reasonable profit are *at or below* the EAGLE II Prime contract ceiling rates, the EAGLE II Prime would not have to disclose anything further in their proposal.
- (ii) EAGLE II Prime subcontracts with the EAGLE II Contract Holder on competed orders and proposes rates that are “above” the EAGLE II Prime’s contract ceiling rates:

If an EAGLE II Prime subcontracts with an EAGLE II Contract Holder, the EAGLE II Prime and the EAGLE II Contract Holder may propose up to its ceiling rate in their respective Attachment B-1, *Labor Rate Tables*, of their EAGLE II contract. If the rates proposed to DHS, inclusive of the EAGLE II Prime's allocable indirect costs and a reasonable profit are above the EAGLE II Prime's ceiling rates, the EAGLE II Prime will have to disclose the amount of the indirect costs and the amount of the profit that were added to the EAGLE II Contract Holder's proposed rate. A reasonable profit will be determined by the TO CO for the specific requirement.

(iii) *EAGLE II Prime subcontracts with non-EAGLE II contractors on competed orders and proposes rates that are "at or below" the EAGLE II Prime's contract ceiling rates:*

If an EAGLE II Prime contractor subcontracts with a non-EAGLE II contractor and the rates proposed to DHS, inclusive of the EAGLE II Prime's allocable indirect costs and a reasonable profit are at or below the EAGLE II Prime contract ceiling rates in Attachment B-1, *Labor Rate Tables*, of their EAGLE II contract, the EAGLE II Prime would not have to disclose anything further in their proposal.

(iv) *EAGLE II Prime subcontracts with non-EAGLE II contractors on competed orders and proposes rates that are "above" the EAGLE II Prime's contract ceiling rates:*

If an EAGLE II Prime contractor subcontracts with a non-EAGLE II contractor, the EAGLE II Prime may then include in its proposal, (i) the fully burdened rate proposed to the EAGLE II Prime by the Subcontractor, (ii) allocation of the EAGLE II Prime's indirect costs in accordance with established accounting practices, and (iii) a reasonable profit. If the rates proposed to DHS, inclusive of the EAGLE II Prime's allocable indirect costs and a reasonable profit are above the EAGLE II Prime's ceiling rates, the EAGLE II Prime must disclose the amount of the indirect costs, and the amount of the profit that were added to the Subcontractor's proposed rates. A reasonable profit will be determined by the TO CO for the specific requirement.

- (2) Non-Competitive Task Orders. For task orders in excess of [REDACTED], the TO CO will require certified cost or pricing data in accordance with FAR 52.215-20, *Requirements for Certified Cost or Pricing Data or Data other than Certified Cost or Pricing Data*. Documentation will include but not be limited to the agreement that the prime has obtained with the Subcontractor showing the rate being paid to the subcontractor for that labor category. The EAGLE II Prime shall include in their proposal (i) the allocation of the EAGLE II Prime's indirect costs in accordance with established accounting practices and (ii) a reasonable profit. A reasonable profit will be determined by the TO CO for the specific requirement.

(3) **Affiliate Rates.** The TO CO will require (a) certified cost or pricing data or (b) data other than certified cost or pricing data, whichever is appropriate, in accordance with the requirement for cost or pricing data described in FAR 15.404-3. The affiliate of the EAGLE II Prime shall not include profit (unless exempt under paragraph (d) of FAR 52.216-30) in the affiliate rates. However, the EAGLE II Prime may include an allocation of indirect costs and profit in accordance with their established accounting practices.

(4) **Addition of New Subcontractor After Task Order Award.** If an EAGLE II Prime adds a new subcontractor after task order award, the subcontractor must have a separate set of fixed hourly rates. The task order will be modified, and the EAGLE II Prime will have to provide (1) agreement between Prime and subcontractor on the subcontractor rates; and (2) documentation showing whether the subcontract rate was determined competitively or single/sole source. If subcontract rates were determined competitively, no further cost information will be required. If subcontract rates were based on sole source, the TO CO will require certified cost or pricing data if the result will be a task order modification exceeding \$700,000, in accordance with FAR 52.215-20, *Requirements for Certified Cost or Pricing Data or Data Other Than Certified Cost or Pricing data*. The subcontract rates must not exceed applicable ceilings if the subcontractor is an EAGLE II contract holder. The EAGLE II Prime may include an allocation of indirect costs in accordance with their established accounting practices plus a reasonable profit.

(c) **Materials.** Materials are defined in the clause at FAR 52.232-7, *Payments Under Time and Materials and Labor Hour Contracts* (AUG 2012).

*Materials* means—

- Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the Contractor under a common control;
- Subcontracts for supplies and incidental services for which there is no labor category specified in the contract;
- Other direct costs (*e.g.*, incidental services for which there is no labor category specified in the contract, travel, computer usage charges, etc.); and,
- Applicable indirect costs.

Indirect costs allocated to any direct materials and other direct costs shall be proposed consistent with the payment requirements of FAR Clause 52.232-7, *Payments Under Time and Materials and Labor–Hour Contracts*, paragraph (b)(5), as follows:

“The Contractor may include allocable indirect costs and other direct costs to the extent they are—

- (i) Comprised only of costs that are clearly excluded from the hourly rate;

- (ii) Allocated in accordance with the Contractor's written or established accounting practices; and
- (iii) Indirect costs are not applied to subcontracts that are paid at the hourly rates.”

Indirect costs allocated to any direct materials and other direct costs shall be proposed consistent with FAR 52.216-7, *Allowable Cost and Payment* clause.

The cost of general purpose items required for the conduct of the Contractor's normal business operations are not allowable materials in the performance of task orders under this contract. See also Section G and Section H for additional limitations on materials and mandatory support documentation.

Profit is not allowed on materials under a T&M type task order.

(d) Travel (all order types). If authorized in the task order, travel will be reimbursed at actual direct costs in accordance with the limitations set forth in FAR 31.205-46, *Travel Costs*. No profit is allowed for travel. Subject to the ceiling rates in the table, indirect costs may be applied to travel in accordance with the Contractor's established accounting practices consistent with FAR 31.2, *Contracts with Commercial Organizations*. Travel will be a separate Not-To-Exceed CLIN on orders.

#### **B.4.1.3 Rate Refreshment**

(a) The labor rates are fixed ceiling rates for all contract year periods; however, the Contractor may submit a proposal reducing the fixed hourly rates and/or indirect rates applicable to materials at any time during the life of this contract. The Government will review these proposals and determine if the revised rates are realistic and in the best interests of the Government. If the rates are accepted, the Government will modify the contract by incorporating the new rates into Attachment B-1, *Labor Rate Tables*.

(b) At any time and throughout the life of the contract, at the request of either the Contractor or the Government, the Contractor may propose additional labor categories, rates and descriptions in addition to the Government labor categories. These additional Task Order Unique labor categories, rates, and descriptions will be negotiated on a case-by-case basis (See Section G.4.5(e), *Cost/Price Proposals*, for process).

#### **B.4.2 Work Outside the Contiguous United States (OCONUS)**

It is anticipated that there may be minimal work under this contract outside the Contiguous United States. It is anticipated that any OCONUS work will not have a materially significant impact on the contract. Rates for OCONUS work will be negotiated on a TO by TO basis and may exceed the established ceiling rates. The Government reserves the right to make determinations of fair and reasonable pricing at the TO level.

#### **B.4.3 Cost Reimbursement Pricing**

All TOs issued on a Cost Reimbursement basis will be priced in accordance with approved DCAA/DCMA (or FAR Part 31, *Contract Cost Principles and Procedures*) rates.

Direct and indirect cost rates will be established on a TO basis. For Cost Reimbursement Task Orders, the Contractor will provide complete supporting schedules identifying all applicable direct and indirect rate estimates building up to the TO cost. Contractors should submit their most recent DCAA approved provisional indirect billing rates, if available, and actual rates for both direct and indirect rates. Contractors without audited rates shall propose indirect rates in accordance with FAR Part 31, *Contract Cost Principles and Procedures*. The fee will be negotiated for each TO consistent with statutory limitations.

If the TO type is to be Cost-Plus Award Fee (CPAF), the fixed portion of fee and the award portion will be clearly differentiated. Payment from the award fee pool will be based on the standards and procedures outlined in Section I.7, *Determination of Award Fee*, Section I.8, *Performance Evaluation Plan* and I.9, *Distribution of Award Fee*. Unawarded fees shall not be rolled over into another performance period.

#### **B.4.4 Total Cost of Ownership Pricing**

Individual TOs may require the Contractor to structure its price proposal to provide for the total cost of ownership. For example, instead of, or in addition to, providing a cost proposal based on fixed hourly rates, specific task orders may require pricing on a per seat/workstation, usage rates, or other similar basis to determine the total life cycle cost.

#### **B.4.5 Labor Subject to the Service Contract Act (SCA)**

(a) The contract labor categories are considered bona fide executive, administrative, professional labor, and generally exempt from the SCA if used to perform professional IT services, and not the work of general service employees.

(b) If the principal purpose of a task order is to furnish services in the United States through the use of service employees and to the extent that any labor is subject to the SCA and within scope of an EAGLE II task order and the EAGLE II contract, the Contracting Officer must identify such work under a separate CLIN on the order, and apply wages in accordance with FAR 22.10, *Service Contract Act of 1965, as Amended*.

(c) The EAGLE II contract does not include all applicable flow-down clauses for labor categories subject to the SCA. Each task order must be tailored to include the appropriate clauses.

**(End of Section B)**

## **SECTION C – STATEMENT OF WORK**

### **C.1 General**

#### **C.1.1 Objective**

Information Technology (IT) support services represent a significant portion of the DHS' IT budget. The primary goal of this acquisition is to establish the next generation of the EAGLE suite of IDIQ contracts for IT support services that will enable DHS business and program offices to accomplish their mission objectives. The acquisition, and resulting multiple award contracts will collectively be referred to as EAGLE II, and are designed to offer a broad range of services, solutions, and contract types to fulfill the majority of component and departmental IT services needs. This Statement of Work (SOW) defines the comprehensive functional service categories for EAGLE II. Specific requirements will be further identified and defined at the TO level.

#### **C.1.2 Scope**

The Contractor shall provide the full range of IT services, technical and management expertise, and solution-related enabling products in one of the functional categories (FCs) to meet the mission needs of the DHS. As identified in individual task orders, information technology solutions/capabilities will support DHS on a world-wide basis. The Contractors shall furnish the necessary personnel, materials, equipment, facilities, travel, and other services required to satisfy the ordered IT capabilities and solutions. While the SOW identifies the functional categories, the suite of resulting contracts is intended to satisfy the full range of IT related requirements. With the pace of change it is impossible to anticipate how IT requirements and individual programs will evolve over the life of the contracts. It is intended that the EAGLE II contract remains current and continues to provide the full range of IT capabilities/solutions and emerging technologies throughout its life. The scope of each individual IDIQ contract will be based upon the functional category for which the Contractor proposed and is selected with specific tasks to be set forth in the TOs.

#### ***Unrestricted Track and Small Business Track:***

- FC1 – Service Delivery (including Integration, Software Design/Development, and Operations and Maintenance)
- FC2 – Information Technology Program Support Services
- FC3 – Independent Test, Validation, Verification, and Evaluation (IV&V)

#### **C.1.3 Contract and Task Order Management**

Contract and TO management is a mandatory element for all task orders placed under the EAGLE II contract. The objective of contract and TO management is to provide the program management, project control and contract administration necessary to manage a high volume, multiple contract type TO process for a large, diversified team so that the cost, schedule and quality requirements of each order are tracked, communicated to the Government, and ultimately attained. The use of commercially available automated tools and the application of expertise on processes and metrics that support task order management is encouraged to achieve the above



objectives. The objective of the tools is to provide quicker access, improved accuracy, and enhanced accessibility for Contractors/clients, real-time monitoring of status/deliverables, tracking the quality of work products and gauging overall customer satisfaction.

## **C.2 Functional Categories (FC)**

The Contractor shall furnish the full range of solutions and services necessary to meet requirements of this contract and individual TOs as related to the functional categories described below. All solutions and services must meet DHS policies, standards, and procedures as identified by individual TOs (e.g. enterprise architecture, information assurance, and personnel, physical and system security).

### **C.2.1 Functional Category 1 – Service Delivery**

The purpose of FC1 is to provide a full range of services and products in support of developing, implementing, and maintaining technology to support the DHS mission and business functions across the entire lifecycle of a program. Services include:

#### **C.2.1.1 System Design, Development, Implementation, and Integration**

The Contractor shall provide any and all phases of system design and development through deployment to ensure DHS IT solutions will enable users to meet mission goals and objectives. These efforts include the full range of infrastructure engineering design, development, implementation and integration, including, but not limited to, concept development, planning, requirements definition and analysis, systems design and development, integration, implementation, deployment, connectivity, wiring and cabling.

#### **C.2.1.2 Software Design and Development**

The Contractor shall provide any and all phases of software design and development including deployment to ensure DHS applications and databases will enable users to meet mission goals and objectives. These efforts include the full range of software design, development, implementation and integration, including, but not limited to, concept development, planning, requirements definition and analysis, software design and development, coding and testing, production, deployment, implementation, integration, and software application maintenance.

#### **C.2.1.3 Operations and Maintenance**

The Contractor shall provide any and all operations and maintenance (O&M) solutions, processes, and procedures necessary to sustain systems within the DHS Enterprise at the highest levels of service and availability consistent with cost, schedule, and performance objectives. These solutions may be required across the DHS Infrastructure, to include, but not limited to, the following operational areas: Help Desk and Field Support Services (e.g., Desk-side support and LAN Administration), Network and Security Operations, and Collaboration Services (e.g., E-mail, Voice, Video Services, Wiring and Cable). This requirement includes the full range of O&M solutions, from maintaining and upgrading individual pieces of hardware and software to full managed service solutions.

### **C.2.2 Functional Category 2 – Information Technology Program Support Services**

The Contractor shall provide the full range of business and technical management services in support of DHS offices or programs. These services encompass all areas of IT policy and planning including, but not limited to, capital planning, strategic planning, workforce planning, budget execution, performance management, enterprise architecture, data management, information sharing, information security, training, enterprise resource management, business process re-engineering, IT transformation and strategy, organizational change management, and program management office support.

### **C.2.3 Functional Category 3 – Independent Test, Validation, Verification, and Evaluation (IV&V)**

The Contractor shall provide independent test, validation, verification, and evaluation solutions to ensure that all IT products and services meet DHS standards, and are performing to defined design, cost, schedule and performance specifications/capabilities. The Contractor shall provide best practices, technologies, tools, and support to quality and operational assessments, integration testing and system test and evaluation, including security certification and accreditation, for IT systems. The Contractor shall also provide independent verification and validation through the monitoring and evaluation of projects through activities such as, but not limited to, assessments, process and procedure audits, project and performance management, and systems analysis and design.

The Contractor shall provide independent test, validation, verification, and evaluation solutions to ensure that all IT products and services meet DHS security standards, and are tested and evaluated in accordance with all Federal security requirements, e.g., Defense Information Technology Security Certification & Accreditation Process (DITSCAP), National Information Assurance Certification and Accreditation (NIACAP), National Industrial Security Program Operating Manual (NISPOM), Department of Justice (DOJ) Directives, National Institute of Standards and Technology (NIST), etc. The Contractor shall also provide independent verification and validation for all aspects of systems security as it relates to Government practices, policies, and procedures, such as risk analysis and the development of recommendations and implementations, as well as plans for new procedures and changes to existing systems. Areas may include development and implementation, transition and verifications, testing plans for installing new security-related products within the existing client organization technology infrastructure, and mitigation strategies and mitigation activities for residual risks identified for specific organizations or systems.

**(End of Section C)**



## **SECTION D - PACKAGING AND MARKING**

### **D.1 Packing, Packaging, Marking and Storage of Equipment**

Unless otherwise specified, all items to be delivered under this contract shall be preserved, packaged, and packed in accordance with normal commercial practices to meet the packing requirements of the carrier and ensure safe delivery at destination.

All initial packing, marking and storage incidental to shipping of equipment to be provided under this contract shall be at the Contractor's expense. The Contractor shall supervise the packing of all acquired equipment furnished by the Contractor and shall supervise the unpacking of equipment to be installed.

### **D.2 Markings**

All deliverables submitted to the EAGLE II CO, EAGLE II Program Manager (PM), TO CO and TO Contracting Officer Representative (COR) shall be accompanied by a packing list or other suitable shipping document that shall clearly indicate the following:

- (a) Contract number;
- (b) Task order number;
- (c) Name and address of the consignor;
- (d) Name and address of the consignee;
- (e) Government bill of lading number covering the shipment (if any); and
- (f) Description of the item/material shipped, including item number, quantity, number of containers, and package number (if any).

Specific marking requirements may be addressed in individual TOs.

### **D.3 Equipment Removal**

All Contractor-owned equipment, accessories, and devices located on Government property shall be dismantled and removed from Government premises by the Contractor, at the Contractor's expense, within ninety (90) calendar days after contract expiration, or as mutually agreed by the Government and the Contractor. Exceptions to this requirement shall be mutually agreed upon and written notice issued by the TO CO. Specific requirements will be addressed in individual TOs.

**(End of Section D)**

## SECTION E - INSPECTION AND ACCEPTANCE

### E.1 Clauses Incorporated by Reference

(FAR 52.252-2) (FEB 1998)

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text can be accessed electronically at the following internet address:

<http://www.acquisition.gov/far>.

FAR Clause No.	Title and Date
52.246-2	Inspection of Supplies – Fixed Price (AUG 1996)
52.246-3	Inspection of Supplies – Cost Reimbursement (MAY 2001)
52-246-4	Inspection of Services—Fixed Price (AUG 1996)
52.246-5	Inspection of Services – Cost Reimbursement (APR 1984)
52.246-6	Inspection of Services – Time and Material or Labor-Hour (MAY 2001)
52.246-16	Responsibility for Supplies (APR 1984)

### E.2 Inspection and Acceptance

(a) Inspection and acceptance of all work and services performed under each TO will be in accordance with the FAR clauses incorporated at Section E, *Clauses Incorporated by Reference*, as applicable.

(b) Final acceptance of all deliverables and or services performed as specified under each task order will be made in writing, at destination by the TO COR, or as detailed in individual TOs.

### E.3 Scope of Inspection

(a) All deliverables will be inspected for content, completeness, accuracy, and conformance to task order requirements by the TO COR, or as detailed in individual task orders. Inspection may include validation of information or software through the use of automated tools and/or testing of the deliverables, as specified in the task order. The scope and nature of this testing must be negotiated prior to TO award and will be sufficiently comprehensive to ensure the completeness, quality and adequacy of all deliverables.

(b) The Government requires a period not to exceed thirty (30) calendar days after receipt of final deliverable items for inspection and acceptance or rejection unless otherwise specified in the TO. For periods exceeding thirty (30) days, it is the responsibility of the contractor to confirm receipt and acceptance of the deliverable(s).

#### **E.4 Basis of Acceptance**

(a) The basis for acceptance shall be compliance with the requirements set forth in the statement of work, the TO, the Contractor's proposal and other terms and conditions of this contract. Deliverable items rejected under any resulting task order shall be corrected in accordance with the applicable clauses.

(b) Commercial and non-developmental hardware items, software items, pre-packaged solutions, and maintenance and support solutions will be accepted within thirty (30) calendar days of delivery when performance is in accordance with delivery requirements. For periods exceeding thirty (30) days, it is the responsibility of the contractor to confirm receipt and acceptance of the deliverable(s).

(c) Custom services and cost reimbursable items such as travel and Other Direct Costs (ODCs) will be accepted upon receipt of proper documentation as specified in the order. If custom services are provided as part of a FFP TO, acceptance will be as specified for the milestone with which they are associated. If custom services are for software development, the final acceptance of the software program will occur when all discrepancies, errors or other deficiencies identified in writing by the Government have been resolved, either through documentation updates, program correction, or other mutually agreeable methods.

(d) Reports, documents and narrative type deliverables will be accepted when all discrepancies, errors or other deficiencies identified in writing by the Government have been corrected.

(e) Non-conforming products or services will be rejected. Unless otherwise agreed by the parties, deficiencies will be corrected within thirty (30) calendar days of the rejection notice. If the deficiencies cannot be corrected within thirty (30) days, the Contractor will immediately notify the TO CO of the reason for the delay and provide a proposed corrective action plan within ten (10) working days.

#### **E.5 Review of Deliverables**

(a) The Government will provide written acceptance, comments and/or change requests, if any, within fifteen (15) business days from receipt by the Government of the initial deliverable, or as specified in individual task orders. For periods exceeding fifteen (15) days, it is the responsibility of the contractor to confirm receipt and acceptance of the deliverable(s).

(b) Upon receipt of the Government comments, the Contractor shall have fifteen (15) business days to incorporate the Government's comments and/or change requests and to resubmit the deliverable in its final form.

(c) If written acceptance, comments and/or change requests are not issued by the Government within thirty (30) calendar days of submission, or as specified in individual task order, it is the responsibility of the contractor to confirm receipt and acceptance of the deliverable(s).

## **E.6 Written Acceptance/Rejection by the Government**

The Government shall provide written notification of acceptance or rejection of all final deliverables within thirty (30) calendar days, or as specified in individual task order. Absent written notification, for periods exceeding thirty (30) days, it is the responsibility of the contractor to confirm receipt and acceptance of the deliverable(s). All notifications of rejection will be accompanied with an explanation of the specific deficiencies causing the rejection.

**(End of Section E)**

## SECTION F - DELIVERIES OR PERFORMANCE

### F.1 Clauses Incorporated by Reference

(FAR 52.252-2) (FEB 1998)

This contract incorporates the following clauses by reference with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text can be accessed electronically at the following internet address:

<http://www.acquisition.gov/far/>.

FAR Clause No.	Title and Date
52.242-15	Stop-Work Order (AUG 1989)(for other than cost reimbursement task orders) and ALT I (APR 1984) (for Cost Reimbursement task orders)
52.242.17	Government Delay of Work (APR 1984)
52.247-34	F.O.B. Destination (NOV 1991)
52.247-35	F.O.B. Destination, Within Consignee's Premises (APR 1984)

### F.2 Term of the Contract

The term of this IDIQ contract is a five (5) year base period and one (1) two-year option period. This is not a multi-year contract as defined in FAR Part 17.1, *Multiyear Contracting*.

### F.3 Task Orders Performance Period and Pricing

TOs may be issued at any time during the base and/or option periods. The performance period will be specified in the TO and may include option periods which extend the TO up to twelve (12) months beyond the expiration date of this contract. TOs shall be priced using the rates provided in Section B, *Supplies or Services and Price/Costs*, that will be applicable to the TO's anticipated period of performance.

### F.4 Option to Extend the Term of the Contract

(FAR 52.217-9)(MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor at any time within the term of the contract, provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed eighty-four (84) months.

## **F.5 Delivery**

The services required under each individual TO shall be delivered and received at destination within the time frame specified in each order.

## **F.6 Place of Performance**

Place of performance shall be set forth in individual TOs.

## **F.7 Notice to the Government of Delays**

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with the contract delivery schedule or completion date, or as soon as the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the TO CO and the TO COR, in writing. This notification shall give pertinent details and this data shall be informational only in character; this provision shall not be construed as a waiver by the Government of any delivery schedule or date, or any rights or remedies provided by law or under this contract.

## **F.8 Deliverables**

(a) All applicable TO deliverables, their required delivery dates, destination of delivery, and schedule for completion of work to be performed will be specified in TOs issued under this contract, as applicable.

(b) For purposes of delivery, all deliverables shall be made by close of business (COB) 4:30 P.M. local time (Washington, DC) at destination, Monday through Friday, unless stated otherwise in the TO.

(c) All deliverables submitted in electronic format shall be free of any known computer virus or defects. If a virus or defect is found, the initial deliverable will not be accepted. The replacement file shall be provided within two (2) business days after notification of the presence of a virus.

(d) Each contract-level and TO-level deliverable shall be accompanied by a cover letter from the Contractor on Company letterhead. Multiple deliverables may be delivered with a single cover letter describing the contents of the complete package.

(e) In the event the Contractor anticipates difficulty in complying with any contract-level delivery schedule, the Contractor shall immediately provide written notice to the EAGLE II CO, COR, and the Program Manager (PM). For any task order level deliverable, the Contractor shall provide written notification immediately to the TO CO and TO COR. Each notification shall give pertinent details, including the date by which the Contractor expects to make delivery; provided that this data shall be informational only in character and that receipt thereof shall not be construed as a waiver by the Government of any contract delivery schedule, or any rights or remedies provided by law or under this contract.

(f) In the event that a Contractor is non-compliant in submission of deliverables, the Government will reflect the non-compliance in the Contractor’s past performance report.

(g) The following table provides a summary of the EAGLE II reporting requirements.

<b>Report Description</b>	<b>Number of Copies</b>	<b>Due Dates</b>
<b>Contract Status Report</b> (Monthly Task Order Activity Report) (Section F.8.1)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR 1- Strategic Sourcing Program Office	15 <sup>th</sup> calendar day of each month
<b>Task Order Status Report</b> (Section F.8.2)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR	As specified in the individual task orders
<b>Individual Subcontracting Report</b> (Section F.8.3)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR	As specified in Section F.8.3
<b>Summary Subcontract Report</b> (Section F.8.3.2)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR 1-OSDBU	As specified in Section F.8.3.2
<b>Annual Small Business 50% Report</b> (Section F.8.4)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR	As specified in Section F.8.4
<b>Re-representation of Small Business Size Status Report</b> (Section F.8.5)	1-EAGLE II CO 1-EAGLE II PM 1-EAGLE II COR	As specified in Section F.8.5

### **F.8.1 Contract Status Report (Monthly Task Order Activity Report)**

The Contractor shall provide a Monthly Task Order Activity Report, which documents the Contractor’s task order awards and modifications received during the period to be reported. The report is due by the 15<sup>th</sup> calendar day of each month comprised of activity from the previous month. (For example: The report due February 15<sup>th</sup> is to cover the activity – new task orders awarded and new modifications received - for the period January 1<sup>st</sup> through January 31<sup>st</sup>. If the 15<sup>th</sup> calendar day falls on a weekend or holiday, the report is due the following business day. If there is no activity during the reporting period, “no activity” shall be annotated in the monthly report and submitted. The Monthly Task Order Activity Report shall be provided in Microsoft Excel format, as specified in Section J – *List of Attachments*, Attachment F-1 *EAGLE II Monthly Contract Status Report* in accordance with the instructions and example provided within the spreadsheet. A finalized version of the report will be provided with instructions by the effective date of contract award.

Additionally, the Contractor shall include copies of all TOs, including TO modifications that have been issued within the monthly reporting period. For purposes of this requirement, a task order will consist of the obligation document and work statement.

Monthly Task Order Activity Reports and copies of all basic TOs, including TO modifications shall be provided in electronic format and emailed to the EAGLE II CO at [DHSEAGLEIIADMIN@dhs.gov](mailto:DHSEAGLEIIADMIN@dhs.gov); the PM at [DHSEAGLEIIPM@hq.dhs.gov](mailto:DHSEAGLEIIPM@hq.dhs.gov); and the EAGLE II COR. The subject line of the email notice presenting the submission of the monthly report shall be annotated with - **Contractor Name - Monthly Task Order Activity Report (state the month and year)**.

### **F.8.2 Task Order Status Reports**

EAGLE II requires TO Status Reports for all TOs. The type of status report may vary by the type of TO issued. The status report recipients, content, and due dates will be identified in individual task orders. The TO Status Report shall contain data at the task order level unless a lower Work Breakdown Structure (WBS) level of reporting is explicitly required and stated in the task order.

### **F.8.3 Subcontracting Plan Reports**

Large Businesses shall submit periodic reports which show compliance with their EAGLE II subcontracting plan. The Contractor shall submit its report via the electronic Subcontracting Reporting System (eSRS) in accordance with the instructions on the website. The Contractor shall ensure that their Subcontractors agree to submit its report via the eSRS when applicable. The Individual Subcontracting Report (ISR) and the Summary Subcontracting Report (SSR) are available online at <http://www.esrs.gov>.

The work of the small businesses identified in the Subcontracting Plan shall be tracked against the Prime's proposed goals.

#### **F.8.3.1 Individual Subcontracting Report (ISR)**

(a) The Contractor shall submit the Individual Subcontracting Report (ISR) electronically via the eSRS within thirty (30) calendar days after the close of each calendar period as follows: (1) April 30th, for the period October 1st, through March 31st; and (2) October 30th, for the period April 1st, through September 30th. Each semi-annual ISR reflects cumulative task order subcontracting accomplishments from the inception of the contract through the relevant ISR reporting period.

(b) One (1) ISR is required at the contract level for all subcontract awards accomplished, (which is a roll-up of all task order awards) and submitted to the EAGLE II CO via eSRS for review and acceptance. When failure to meet the goals of the small business subcontracting plan as stated in Section H.19 (e), *Subcontracting*, of the contract, the Contractor shall state in the report (either remarks field or separate letter) what good faith effort has been made to meet the goals; and/or future plan on how to improve small business opportunities for future task orders.

(c) No separate ISR submission at the task order level is required via eSRS. However, when the TO CO determines that the subcontracting status report is necessary to measure the extent of compliance by the Contractor, the Contractor shall manually submit



periodic subcontracting status reports (DD-294) to the TO CO based on mutual agreement by both parties.

### **F.8.3.2 Summary Subcontract Report (SSR)**

The Contractor shall submit the SSR electronically via the eSRS. The report is due October 30th for the calendar period October 1 through September 30. The SSR shall be submitted to the Office of Small and Disadvantaged Business Utilization (OSDBU) to [Kyle.Groome@hq.dhs.gov](mailto:Kyle.Groome@hq.dhs.gov).

### **F.8.4 Annual Small Business 50% Report**

*(Applicable to Small Business Track)*

For firms that have received awards on the 8(a) and general small business set-aside portions of the small business track of EAGLE II:

The Contractor shall annually report on its compliance in accordance with FAR 52.219-14, *Limitations on Subcontracting*. In order to ensure that the required percentage of costs under EAGLE II small business set-aside TOs is performed by the prime contractor, each small business track prime contractor must demonstrate annually that it has performed the required percentage to that date. FAR 52.219-14 requires that, for total small business set-asides, “*at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the [Offeror]*” (rather than subcontracted labor). Small business prime contractors under EAGLE II shall report annually, on the anniversary of contract award, the total cost of labor on all work performed under set-aside TOs during the 12-month reporting period, and the total subcontracted labor cost during the same period. Thus, for set-aside TOs, the combined total of all set-aside TOs issued during each 12-month period must reflect that the prime contractor has performed at least 50% of costs incurred for personnel using its own employees.

For firms that have received awards on the HUBZone portion of the small business track of EAGLE II:

The Contractor shall annually report on its compliance in accordance with FAR 52.219-3(c). In order to ensure that the required percentage of costs under EAGLE II small business set-aside TOs is performed by the prime contractor, each HUBZone small business track prime contractor must demonstrate annually that it has performed the required percentage to that date. FAR 52.219-3(c) requires that, for HUBZone small business set-asides, “*at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern or employees of other HUBZone small business concerns*” (rather than subcontracted labor). HUBZone small business prime contractors under EAGLE II shall report annually, on the anniversary of contract award, the total cost of labor on all work performed under set-aside TOs during the 12-month reporting period, and the total subcontracted labor cost during the same period. Thus, for HUBZone set-aside TOs, the combined total of all set-aside TOs issued during each 12-month period must reflect that the prime contractor, along with other

HUBZone small businesses, has performed at least 50% of costs incurred for personnel using its own employees.

For firms that have received awards on the Service-Disabled Veteran-Owned Small Business (SDVOSB) portion of the small business track of EAGLE II:

The Contractor shall annually report on its compliance in accordance with FAR 52.219-27(c). In order to ensure that the required percentage of costs under EAGLE II small business set-aside TOs is performed by the prime contractor, each SDVOSB track prime contractor must demonstrate annually that it has performed the required percentage to that date. FAR 52.219-27(c) requires that, for SDVOSB set-asides, “at least 50% of the cost of contract performance incurred for personnel shall be expended for employees of the concern or employees of other SDVOSB concerns” (rather than subcontracted labor). SDVOSB prime contractors under EAGLE II shall report annually, on the anniversary of contract award, the total cost of labor on all work performed under set-aside TOs during the 12-month reporting period, and the total subcontracted labor cost during the same period. Thus, for SDVOSB set-aside TOs, the combined total of all set-aside TOs issued during each 12-month period must reflect that the prime contractor, along with other SDVOSBs, has performed at least 50% of costs incurred for personnel using its own employees.

**F.8.5 Re-representation of Small Business Size Status Report**

All EAGLE II-SB awardees are required to re-represent small business size status according to the following schedule.

<b>Due Dates:</b>	<b>Following:</b>
Within thirty (30) calendar days	Approval of Contract Novation Agreement
Within thirty (30) calendar days	Merger or acquisition where a novation agreement is not required
No more than 120 calendar days prior to the end of the base period (5 <sup>th</sup> contract year)	N/A
No more than 120 calendar days prior to exercising any option before the end of the base period (5 <sup>th</sup> contract year); or end of the first year of option period (6 <sup>th</sup> contract year)	N/A

**(End of Section F)**

## **SECTION G - CONTRACT ADMINISTRATION DATA**

### **G.1 Accounting and Appropriation Data**

Accounting and appropriation data for obligations under the contract will be set forth on individual TOs.

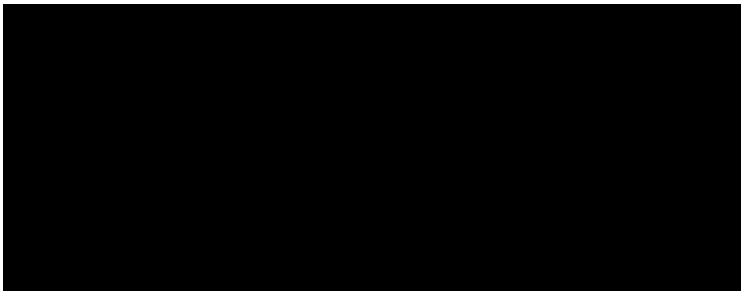
### **G.2 Primary Government Roles and Responsibilities**

The following subsections describe the roles and responsibilities of individuals and/or authorized users who will be the primary Points of Contact (POC) for the Government on matters regarding contract administration as well as other administrative information. The Government reserves the right to unilaterally change any of these individual assignments at any time.

#### **G.2.1 Government Personnel**

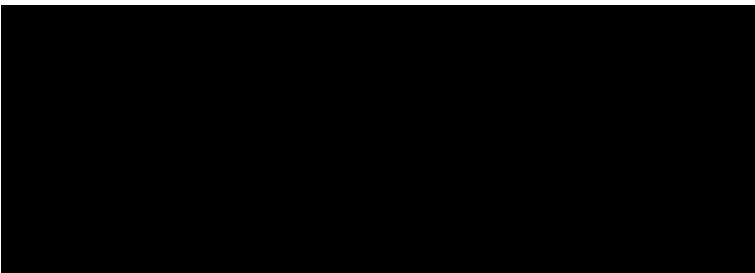
##### **G.2.1.1 Program Manager (PM) – Overall Contract Level**


The PM within the Office of Procurement Operations has the overall responsibility for the EAGLE II program. The PM, with support of the COR, is responsible for the program related activities, including reporting, communications, marketing, outreach and training. The PM for EAGLE II is:



##### **G.2.1.2 Contracting Officer’s Representative (COR) – Overall Contract Level:**

The COR within the Office of Procurement Operations is responsible for the receipt and acceptance of the contract-level deliverables and reports and past performance reporting for the EAGLE II contracts. The COR supports the PM and the CO in the general management of the program. The COR for EAGLE II is:



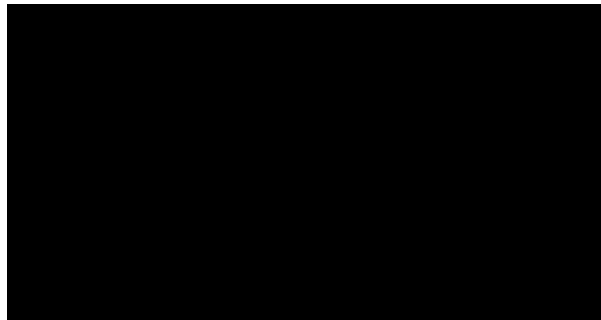
  
The COR for this contract will be identified by the CO through a written designation. A copy of the letter of designation with specific duties and responsibilities will be provided to the Contractor.

### **G.2.1.3 EAGLE II Administrative Contracting Officer (CO) – IDIQ Contract Level**

The Contract Administration Branch of the Contract Management Division of OPO has the overall responsibility for administration of the EAGLE II contracts. The EAGLE II CO, without right of delegation, is the only authorized individual to take actions on behalf of the Government to amend, modify or deviate from the contract terms, conditions, requirements, specifications, details and/or delivery schedules. The EAGLE II CO for this contract is:

Name:  
Address:

Email:  
Tel No:



### **G.2.1.4 Task Order Contracting Officer (TO CO)**

Services will be ordered via TOs issued by Task Order Contracting Officers within the Contract User's organization following the ordering procedures set forth in Section G.4, *Task Order Placement Procedures*.

### **G.2.1.5 Task Order Contracting Officer's Representative (TO COR)**

TO COs may designate CORs for individual TOs that will be responsible for the day-to-day coordination of the task order.

The TO COR will represent the TO CO in the administration of technical details within the scope of the task order. The TO COR is also responsible for the final inspection and acceptance of all task order deliverables and reports, and such other responsibilities as may be specified in the task order. The TO COR is not otherwise authorized to make any representations or commitments of any kind on behalf of the TO CO or the Government. The TO COR does not have authority to alter the Contractor's obligations or to change the TO specifications, price, terms or conditions. If, as a result of technical discussions, it is desirable to modify task order obligations or the specification, changes will be issued in writing and signed by the TO CO.

## **G.2.2 Contractor Personnel**

### **G.2.2.1 Contractor’s Program Manager (PM) (Key Personnel)**

The PM shall be responsible for comprehensive account support for the EAGLE II contract, and act as the central point of contact with the Government for all contract-level issues. The PM will represent the Contractor at all post-award contract-level meetings. The Contractor’s PM for this contract is:

Name:  
Address:  
E-mail:  
Tel No:

### **G.2.2.2 Contractor’s Teaming Coordinator (Key Personnel)**

The EAGLE II Teaming Coordinator shall serve as a single point of contact for core team members and prospective subcontractors and shall continuously review the market place for companies that provide new and innovative products and professional services with which to subcontract. The Contractor’s Teaming Coordinator for this contract is:

Name:  
Address:  
E-mail:  
Tel No:

## **G.3 Ordering–By Designated Ordering Official**

The Government will order any supplies and services to be furnished under this contract by issuing TOs on Optional Form 347, or an agency prescribed form, from the effective date of the contract through the expiration date of the contract. All warranted DHS COs are considered designated ordering officials for EAGLE II.

### **G.3.1 Direct Ordering**

EAGLE II services shall be ordered by the issuance of task orders in accordance with Section G.4, *Task Order Procedures* and FAR Part 52.216-18, *Ordering*. Contract users within DHS may directly place orders under the contract to obtain services for their agency. Ordering offices will be responsible for the issuance, administration, payment and closeout of the order. All orders are subject to the terms and conditions of this contract. In the event of conflict between an order and this contract, the contract shall prevail.

Under no circumstances, will a TO change the requirements of the EAGLE II contract. Should the Contract User require such a change, specific approval must first be obtained from the EAGLE II CO.

## **G.4 Task Order (TO) Placement Procedures**

The Contractor's IT services shall be obtained on an as-needed basis (i.e., through the issuance of TOs). The Contractor shall perform the required effort for these services, both within and outside the United States, throughout the term of this contract. An individual TO will relate to a single FC. Issued TOs will identify the IT services required, provide specific technical details (including the schedule for all deliverables and the identification of any applicable Government-Furnished Property (GFP), Government-Furnished Information (GFI) and/or Government furnished workspace) and activate performance.

The following defines the process by which a fair opportunity will be afforded, and how a TO will be processed, priced, and awarded. It also defines specific, local provisions to be used for issues concerning task order consideration and payment. Finally, the role of the DHS Ombudsman is defined. Careful attention should be paid to those areas in which the procedures, processes and provisions change due to use of a different contract type or pricing methodology. The EAGLE II Ordering Guide provides additional guidance/templates for order processing.

### **G.4.1 Fair Opportunity Process**

Each TO under EAGLE II will be issued in accordance with the Fair Opportunity procedures in FAR 16.505, *Ordering*, as supplemented below. The TO CO will examine the capabilities of the award holders within the business tracks (Unrestricted and Small Business) and their associated functional categories (FC1, FC2, and FC3) in order to determine the appropriate functional category, business track, and/or small business category, as applicable, for each order. After completing this examination, the TO CO may, explicitly limit competition for an order to the appropriate functional category and small business category, including Service Disabled Veteran-Owned Business, HUBZone, 8(a), or other small business. The TO CO will then solicit proposals from the Prime contractors within the appropriate functional category, business track, and/or small business category, as applicable.

Each solicitation will include, at a minimum, the following information:

- (a) Business Track(s)
- (b) RFP/RFQ number;
- (c) Date of Task Order Request Package (TORP);
- (d) End User Customer Agency;
- (e) Statement of Objectives (SOO), Statement of Work (SOW) or Performance Work Statement (PWS) with applicable Section I clauses requiring fill in by TO CO.;
- (f) Instructions for submission of technical and cost/price proposals;
- (g) Evaluation criteria and relative order of importance (if applicable);
- (h) Anticipated Contract Type;
- (i) Incumbent Contractor, if any;
- (j) Contracting organization POC: name, phone number, e-mail address and fax (*TO CO and Contract Specialist*);
- (k) Proposal/Quotation Due Date; and
- (l) Organizational Conflict of Interest Certification Instructions.

#### **G.4.2 Fair Opportunity Exceptions**

(a) In accordance with the Federal Acquisition Streamlining Act (FASA) and FAR Part 16.505(b), *Orders under Multiple Award Contracts*, the TO CO will provide all awardees a “fair opportunity” to be considered for each order in excess of [REDACTED] unless one of the conditions below applies:

- (1) The agency need for such services is so urgent that providing a fair opportunity would result in unacceptable delays.
- (2) Only one awardee is capable of providing the services required and quality of services at the required level because the services ordered are unique or highly specialized.
- (3) The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task order already issued under this contract, provided that all awardees were given a fair opportunity to be considered for the original order (*see “Note” below*).
- (4) It is necessary to place an order to satisfy a minimum guarantee.

In accordance with FAR 16.5, *Indefinite-Delivery Contracts*, when an exception to the fair opportunity to be considered exists, the task order will be processed as a sole source procurement and must include a sole source justification. The sole source justification must be approved by the TO CO and a copy of the approved document provided to the COR cited in section G.2.1.2, *Contracting Officer’s Representative (COR) - Overall Contract Level*.

*Note: If the order is a follow-on to a TO that was not issued under EAGLE II, or is a TO for which the EAGLE II awardees were not given the opportunity to compete, the logical follow-on exception CANNOT be used.*

#### **G.4.3 Task Order Solicitation – Use of Small Business and Unrestricted Tracks**

Each TO will identify the FC of the work to be performed. Through the Fair Opportunity Process, the Government may either conduct a(n):

- (a) Unrestricted competition in which Prime Contractors from both the Unrestricted and Small Business tracks for the same FC will be given the opportunity to compete; or
- (b) Small Business in which competition will be limited to only those Prime Contractors in the Small Business track (if the work is for FC1, the work will be set-aside within the appropriate small business category – alternatively, a competition may include all of the small business categories). The TO solicitation will notify Offerors if a set-aside will be used. Additional guidance on the use of small business set-asides is provided in G.4.4, *Task Order Solicitation – Use of Small Business Track*.



#### **G.4.4 Task Order Solicitation – Use of Small Business Track**

Through the Fair Opportunity Process, task orders may be set-aside for competition limited to Prime contractors within the appropriate small business category under the Small Business Track. The TO CO will exercise sound judgment, consistent with the business and mission requirements of the customer agency, when considering a delivery or task order award for placement within a particular small business category. The TO CO may, at their sole discretion, explicitly limit competition for an order to the appropriate functional category and small business category, including Service-Disabled Veteran-Owned Small Business (SDVOSB), HUBZone, 8(a), or other small business. The following rules will be used for determining fair opportunity on set-aside TOs:

- (a) Functional Category 1 (FC1) – Set-aside competitions will be conducted by soliciting one (1) of the small business categories established for FC1: Service-Disabled Veteran-Owned Small Business (SDVOSB), HUBZone, 8(a), or other small business. Alternatively, a competition may include all of the categories, but may not include other combinations of the categories.
- (b) Functional Categories 2 and 3 (FC2 and FC3) – Competitions will be conducted by soliciting all of the small businesses in the respective FC.

#### **G.4.5 Task Order Solicitation Process**

(a) The Contract User will submit a complete Task Order Request Package (TORP) to the TO CO in accordance with local procedures. The package should include a transmittal letter, an approved purchase request, requirements documentation (SOO, SOW, or PWS), Independent Government Cost Estimate (IGCE) and Acquisition Plan (AP), if applicable. Performance-based work statements must be used to the maximum extent practicable. Individual TOs must clearly describe all services to be performed or supplies to be delivered. The TORP package will also include price/cost and evaluation factors.

*Note: Compliance with DHS review, approval, and compliance with component policies and procedures (e.g. Information Technology Acquisition Review (ITAR), Acquisition Management Directives and Acquisition Program Reviews) will generally occur prior to submission of the TORP to a TO CO.*

(b) The TO CO will issue a proposal request to Prime Contractors in the appropriate functional category, business track and/or small business category, as applicable, unless a fair opportunity exception applies. The proposal request will include a due date for proposal submission and requirements documentation (SOO, SOW or PWS) that will include either the Government’s objectives or a detailed description of work to be accomplished, the applicable task areas, a listing of the deliverables required and any additional data, as appropriate. The proposal request will also include specific instructions for the submission of proposals, selection criteria factors, the factors’ order of importance and other information deemed appropriate.

*Note: Users are encouraged to use streamlined and simplified requirements when conducting competitions and to avoid the use of complex source selection procedures to the maximum extent practicable.*



(c) Contractors will be provided an adequate time to prepare and submit responses based on the estimated dollar value and complexity of the proposed TO. The due date will be set forth in each proposal request. If unable to perform a requirement, Contractors shall submit a “no bid” justification in response to the proposal request. All no bid justifications shall include a brief statement as to why the Contractor is unable to perform, i.e. conflict of interest. This notification must be submitted to the TO CO by the proposal due date. *The Government expects full participation of all EAGLE II Contractors. If the Government determines that Contractors are not actively participating in the EAGLE II program, those Contractors’ options may not be exercised.*

(d) *Technical Proposals*: The proposal request will state whether an oral proposal is required in addition to, or instead of, written technical proposals. Responses will be streamlined and succinct, to the extent practical based on the estimated dollar value and complexity of the work, stating compliance or exception to requirements, risks, assumptions and conflict of interest issues. Responses will not be a proposal as defined in FAR Part 15, *Contracting by Negotiation*, but only sufficient information to be considered in accordance with FAR Part 16, *Types of Contracts*.

(e) *Cost/Price Proposals*: A written cost/price proposal shall always be required. This part of the proposal shall include detailed cost/price amounts of all resources required to accomplish the task, (i.e., labor mix, labor hours, rates, travel, incidental equipment, etc.). The proposal must identify and justify use of all non-labor cost elements. It must also identify any Government Furnished Equipment (GFE) and/or Government Furnished Information (GFI) required for TO performance. If travel is specified in the TO statement of work, airfare and/or local mileage, per diem rates by total days, number of trips and number of Contractor employees traveling shall be included in the cost proposal.

(1) *Firm Fixed Price (FFP), Time-and-Materials (T&M), and Labor-Hour Task Orders*: When competing for TO awards under the fair opportunity process, the Contractor is permitted to propose labor rates that are lower than those originally proposed and established in the Attachment B-1, *Labor Rate Tables*. The Contractor shall fully explain the basis for proposing lower rates. The proposed, reduced labor rates will not be subject to audit; however, the rates will be reviewed for realism to ensure the Government will not be placed at risk of nonperformance. The reduced labor rates will apply only to the respective task order and will not change the fixed rates in the Attachment B-1, *Labor Rate Tables*.

For noncompetitive task order awards in excess of [REDACTED], the TO CO will require certified cost or pricing data in accordance with the FAR 52.215-20, *Requirements for Certified Cost or Pricing Data or Data Other Than Certified Cost or Pricing Data*. In any case, proposed rates for TOs shall not exceed the ceiling rate established in the contract.

(i) *Firm-Fixed-Price (FFP) Task Orders*: For FFP type task orders, the quantity of each item or labor category ordered will be multiplied against the rate specified in

Attachment B-1, Labor Rate Tables, or as negotiated if lower rates are proposed for the TO; and the cumulative extended total of all items ordered will define the firm-fixed price for the TO. Travel and materials, if applicable, may be estimated for each TO, including applicable indirect costs, subject to the indirect ceiling rates established in the contract. Any amounts negotiated for travel and materials will be added to the extended price of all ordered items to arrive at the total fixed price for the TO. Partial payment of FFP type TOs may be negotiated based on the completion of milestones.

(ii) *Time and Materials/Labor-Hour Task Orders:* The quantity of hours ordered from each labor category will be specified as deliverable hours billable at the ceiling rates specified in Attachment B-1, *Labor Rate Tables*, or as negotiated, if lower rates are proposed for the TO. Materials will be estimated for each TO and may include applicable indirect costs computed in accordance with the contractor's established accounting practices, subject to the indirect ceiling rates established in the contract. For T&M type task orders, profit on materials is not allowable. The cumulative extended total of all labor categories ordered plus materials/applicable indirect costs will define the TO ceiling price. TOs may authorize adjustments between labor category quantities of up to 10% within the established task labor ceiling price, without a formal modification. Payments under the contract shall be governed by the clause at FAR 52.232-7, *Payments under Time and Materials and Labor-Hour Contracts* (AUG 2012). **NO AMOUNTS WILL BE PAID FOR MATERIALS UNDER LABOR-HOUR ITEMS IN THIS CONTRACT OR ORDERS .**

In the performance of T&M and labor-hour task orders, the hours billed shall show the labor hours performed by the prime contractor and each core team member separately. If the proposed rates were computed based on recording a standard number of hours per week (e.g., 40 hours), the labor hours will be billed only on the basis of a standard number of hours. If the proposed labor rates were computed based on recording of all hours worked by employees, including uncompensated overtime, the labor hours billed will be based on all hours worked. If it is found after award that the established accounting practices at the time of award were not based on recording all hours worked by employees, the Government shall be entitled to a price adjustment on all payments for labor hours under the T&M and labor hour order. The amount of the price adjustment shall be the difference between the number of hours billed based on recording all hours worked and the hours that would have been recorded using a standard number of hours (e.g., 40 hours).

**Core Teams:** The fixed hourly labor rates in Attachment B-1, *Labor Rate Tables*, represent blended hourly rates of the prime contractor and core team members in accordance with FAR 52.216-29 (modified). The blended rates are for the core team members only and do not include any subcontractor rates. The blended rates will not change after the contract award when a team member is deleted or added. If a new core team member is added, the new member core team member will be termed as "subcontractor" and treated as such for the purpose of pricing and

billing at the task order level (i.e., the new core team member cannot use the blended rates).

(2) *Cost-Reimbursement Task Orders*: Both “sanitized” and “unsanitized” cost proposals will be required for cost-reimbursement type task orders only. “Unsanitized” cost proposals are complete cost proposals which include all required information. “Sanitized” cost proposals shall exclude all company proprietary or sensitive data, but must include a breakdown of the total labor hours proposed and a breakout of the types and associated costs of all proposed ODCs. Cost/price proposals shall include, as a minimum, a complete WBS, which coincides with the detailed technical approach; and provides proposed labor categories, hours, wage rates, direct/indirect rates, ODCs and fee. Cost-reimbursement proposals shall be submitted in accordance with FAR Part 52.215-20, *Requirements for Certified Cost or Pricing Data or Data Other Than Certified Cost or Pricing Data*.

(3) *Adequate Accounting System*:

(a) Cost-type task orders: The Contractor must have an adequate accounting system in accordance with FAR 16.301-3(a)(1).

Evidence of an adequate accounting system would include a written opinion or other statement from the cognizant federal auditor (CFA) or the cognizant federal agency official (CFAO) that the system is approved or has been determined to be adequate. If available, the Contractor shall provide the audit report number and date associated with the accounting system review. If the Contractor does not have a copy of the report, the Contractor may furnish a copy of the audit report number.

If the Contractor does not have an accounting system that has been determined adequate by the CFA or CFAO, but believes its accounting system is adequate, the Contractor shall so state in its proposal. As part of the TO-level evaluation process, the Government will obtain the necessary review by the CFA. The Contractor will be required to allow the CFA to review the accounting system and correct (or have a timely action plan to correct) any issues identified as precluding the system from being adequate.

The Contractor will provide the CFA name, address and telephone number and the point of contact as part of its task order proposal.

Task order proposals will be rejected if the Contractor does not have an adequate accounting system unless the Government determines that the Contractor’s action plan for correcting the accounting system is timely and acceptable. However, no costs will be paid under the contract until the Contractor’s system has been determined adequate.

(b) T&M Task Orders: The Contractor shall maintain an adequate accounting system to substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by:

- (i) Individual daily job timekeeping records;
- (ii) Records that verify the employees meet the qualifications for the labor categories specified in the contract; and
- (iii) Other substantiation approved by the Contracting Officer. (FAR 52.232-7(a)(5)).

(c) Firm-Fixed-Price Task Orders: The Contractor shall maintain an adequate accounting system to request contract financing under the progress payment clause (FAR 52.232-16).

(4) *Other Relevant Information*: This information shall always be in writing and shall address other relevant information as required by the contract or requested by the TORP. The Contractor shall assume all costs associated with preparation of proposals for TO awards under the fair opportunity process as an indirect charge. The Government will not reimburse awardees for fair opportunity proposals as a direct charge.

(f) *Evaluation of TO Proposals*: Proposals will be evaluated in accordance with the evaluation criteria set forth in the TORP. The Government's award decision may include compliance with Section 508 requirements of the Rehabilitation Act, and selection criteria which addresses past performance, technical/ management approach and cost. Among other sources, evaluation of past performance will be based on a database built from past performance assessments provided by TO CORs on individual TOs performed throughout the life of the contract (See Section H.11, *Past Performance Evaluation*). In addition to past performance, technical/management approach and cost/price, individual TO selection criteria may include other factor(s) relevant to the particular requirement. The order of importance for the factors will be identified in each individual TORP. If necessary, during the evaluation of proposals, the Government may contact a Contractor with questions concerning its proposal. Upon completion of evaluations, the CO may issue a task order to the Contractor whose proposal is most advantageous to the Government.

(g) *Award Recommendation Documentation*: After completion of the evaluation, discussions, if any, and Best Value analysis, the TO CO/TO COR shall prepare a complete award recommendation package to document the selection process and to serve as evidence that the fair opportunity to be considered rule was applied, unless an exception was taken under FAR Part 16.505(b)(2), *Exceptions to the fair opportunity process*. At a minimum, it shall include:

- (1) A statement indicating whether announcement of the TO requirement was made to all Contractors eligible for receiving an award for the task requirement or if an exception to the a fair opportunity to be considered rule was cited (cite the exception);
- (2) The selection criteria /methodology used to evaluate the competing Contractors;
- (3) The results of the evaluation; and
- (4) The rationale for the recommendation of the TO awardee, including a summary of any negotiations conducted, cost/price analysis and best value analysis.

(h) *Resolution of Issues*: In the event issues pertaining to a proposed task cannot be resolved to the satisfaction of the TO CO, the TO CO reserves the right to withdraw and cancel

the proposed task. In such event, the Contractor shall be notified in writing of the TO CO's decision. This decision is final and conclusive and shall not be subject to the "Disputes" clause or the "Contract Disputes Act."

(i) *Task Order Issuance*: TOs may be issued by e-mail, regular mail or facsimile using an Optional Form 347, or an agency prescribed form. TOs issued shall include, but not be limited to the following information (when applicable):

- (1) Date of order;
- (2) Contract and order number;
- (3) Type of Order;
- (4) Appropriation and accounting data;
- (5) Description of the services to be performed;
- (6) Description of end item(s) to be delivered;
- (7) DD Form 254 (Contract Security Classification Specification);
- (8) Contract Data Requirements List;
- (9) The individual responsible for inspection/acceptance;
- (10) Period of performance/delivery date;
- (11) Estimated number of labor hours for each applicable labor category;
- (12) The estimated cost plus fixed fee or ceiling price for the order; and
- (13) List of Government furnished equipment, material, and information.

(j) *Task Order Unique Labor Categories*: Task Order Unique Labor Categories are those categories not currently listed in the EAGLE II contract but may be required to perform certain task orders within the scope of EAGLE II. These additional labor categories and rates shall be approved by the EAGLE II CO prior to the award of the TO or TO modification. A recommendation by the TO CO shall be made to the EAGLE II CO after proposal evaluations have been concluded. The TO CO will forward to the EAGLE II CO the following: (a) a justification for the unique labor category; (b) a complete labor category description; and (c) a rate price reasonableness analysis. The additional labor category and rate, once approved, shall apply to that specific TO only.

(k) *Debriefings*: If an unsuccessful Contractor questions why it was not selected for a TO award over \$5 million, the Contractor shall contact the TO CO. The TO CO and the unsuccessful Contractor may discuss the reasons why that Contractor was not selected; however, the TO CO may not (a) discuss the other Contractor's proposals, (b) compare Contractor's proposals, or (c) allow the unsuccessful Contractor access to the award decision documentation.

(l) *Task Order Protests*: In accordance with FAR 16.505(a)(10), *Ordering - General*, no protest under Subpart 33.1 is authorized in connection with the issuance or proposed issuance of an TO under this contract, except for:

- (a) A protest on the grounds that the order increases the scope, period of performance, or maximum value of the contract; or
- (b) A protest of an order valued in excess of [REDACTED]. Protests of orders in excess of [REDACTED] may only be filed with the Government Accountability Office (GAO), in accordance with the procedures at FAR 33.104, *Protests to GAO*.

(m) *Waivers from education and experience requirement*: Task Order Contracting Officers may grant waivers from these requirements or allow substitution of certain technical certifications for education and/or experience if it is determined to be in the best interest of the Government. Any equivalencies or substitutions must be cited in each Task Order.

## **G.5 Special Contract Administration Responsibilities**

Each Contract User utilizing EAGLE II has the primary responsibility for the administration of any order it places with the Contractor.

The TO CO shall be responsible for:

- (a) Ensuring that TOs are within the scope of the contract;
- (b) Administration and final closeout of TOs;
- (c) Performing inspection and acceptance or rejection of the equipment/services provided by the Contractor;
- (d) Reporting contractor performance on the TO in accordance with Section H.11, *Past Performance Evaluation*, and FAR 42.15, *Contractor Performance Information*;
- (e) Approving or withholding payments, or authorizing partial payment of invoices; and
- (f) Forwarding an end of fiscal year notification to the contract-level Contracting Officer (either by memo, letter, or electronically), stating which TOs awarded in the preceding fiscal year were closed with final disposition complete, including release of claims letters (if applicable).

The Contract-Level Contracting Officer is responsible for overall administration and the final closeout of the contract, and when necessary, shall:

- (a) Provide scope oversight;
- (b) Serve as liaison between the Contractor and the Department;
- (c) Ensure compliance with contract requirements;
- (d) Report contractor performance at the contract-level in accordance with Section H.11, *Past Performance Evaluation*, and FAR 42.15, *Contractor Performance Information*.
- (e) Issue the CO's final decision and handle all contract-level contractual disputes under the Contract Disputes Act; and
- (f) Issue all contract modifications against the Contract.

Unless otherwise delegated, only the designated CO, as defined in Section G.2.1.3, *EAGLE II Contracting Officer (CO) – IDIQ Contract Level*, has oversight of the contract as a whole.

## **G.6 Unauthorized Work**

The Contractor is not authorized at any time to commence TO performance prior to issuance of a signed TO or other written approval provided by the TO CO to begin work.

## **G.7 Unilateral Orders**

TOs under this contract will ordinarily be issued after both parties agree on all terms. If the parties fail to agree, the TO CO may require the Contractor to perform and any disagreement shall be deemed a dispute within the meaning of the "Disputes" clause.



## **G.8 Modification of Orders**

Pricing for each TO may not be changed except when authorized by a modification to the TO.

## **G.9 Preparation of Vouchers**

### **G.9.1 General**

(a) SF-1034, *Public Voucher for Purchases and Services Other Than Personal*, shall be prepared and submitted for payments under this contract, unless otherwise specified in the individual TO.

(b) Pursuant to the provisions of FAR Part 42.7, *Indirect Cost Rates*, and 42.8, *Disallowance of Costs*, responsibility for processing public vouchers for T&M, L-H, and Cost Reimbursement TOs shall be assigned to the cognizant offices identified in each TO.

(c) To ensure timely processing of payment, an original and three (3) copies of T&M, L-H, and Cost Reimbursement vouchers shall be forwarded simultaneously to the addresses specified in the TO as follows:

- (1) Original to the cognizant audit office for administrative review, provisional approval and forwarding to the Finance Office listed below;
- (2) Copy to the Finance Office;
- (3) Copy to the TO CO; and
- (4) Copy to the TO COR.

(d) To ensure timely processing of the Contractor's invoices, an original and two (2) copies of FFP vouchers shall be forwarded simultaneously to the addresses specified in the TO as follows (*they do not have to be submitted through the cognizant audit office*):

- (1) The Finance Office;
- (2) The TO CO; and
- (3) The TO COR.

(e) All vouchers submitted to the Government shall delineate cost by:

- (1) Contract and TO number;
- (2) Funding document/order billing item or contract line item number (FFP, L-H, and T&M task orders);
- (3) Funding document/order by cost category (Cost Reimbursement TOs); and
- (4) Any additional information required by specific payment clauses.

(f) The customer will forward a copy of the certified voucher to the cognizant finance office for payment.

### **G.9.2 Billing Instructions**

(a) T&M vouchers and required supporting documentation shall be submitted pursuant to FAR 52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*.

(b) Cost Reimbursement vouchers shall be submitted in accordance with FAR 52.216-7, *Allowable Cost and Payment*, and must specify, as a minimum, the following information for the billing period:

- (1) The total cost and fee billed for the current billing period;
- (2) The cumulative cost and fee billed for the current fiscal year; and
- (3) The cumulative cost and fee billed for the task order to date.

Current and cumulative costs will be shown at the task level and fees will be shown at the task order level. Fixed fees and award fees will be differentiated on CPAF billings.

(c) For T&M and Cost Reimbursement funding documents/orders, supporting documentation shall be provided identifying the purpose and itinerary of all travel and other cost reimbursable ODCs being billed during the billing period.

(d) For FFP task orders with performance based payments, vouchers shall be submitted upon achievement of the billing milestones identified in the task order in accordance with FAR 52.232-32, *Performance-Based Payments*.

(e) For FFP task orders with progress payments based on cost, vouchers shall be submitted in accordance with FAR Part 52.232-16, *Progress Payments*.

(f) A completion voucher will be submitted for each task order in accordance with FAR 52.216-7(d) (5) and (6), *Final Indirect Cost Rates*.

### **G.10 Quick-Closeout Procedure**

The Contractor is authorized to use the quick-closeout procedure for TOs issued under this contract in accordance with FAR 42.708, *Quick-Closeout Procedure*.

(a) In accordance with FAR 42.708(a), *Quick-Closeout Procedure*, the TO CO has the authority to negotiate settlement of indirect costs for a specific TO if it is physically complete; the amount of unsettled indirect costs to be allocated to the TO is relatively insignificant; and agreement can be reached on a reasonable estimate of allocable dollars.

(b) In accordance with FAR 42.708(b), *Quick-Closeout Procedure*, a determination of final indirect costs under the quick-closeout procedures shall be final for the TO it covers and no adjustment shall be made to other contracts for over- or under-recoveries of costs allocated or allocable to the contract covered by the agreement.

(c) Final invoices which result in a charge to the Government in excess of \$250.00 or refunds to the Government in excess of \$ [REDACTED] shall be processed prior to quick-closeout of the



TO. Amounts due to the Contractor or refundable to the Government of less than \$250.00 are considered de minimus and will not be processed.

(d) Submission of a final “zero dollar invoice” is not required. Once agreement for quick-closeout is reached on individual TOs, a bilateral modification will be issued to closeout the TO. Once the bilateral modification is executed by the TO CO, the TO is closed and no further invoicing, adjustments, or claims will be accepted.

(e) All TOs under this contract do not have to be closed in accordance with quick-closeout procedures. The TO CO and the Contractor will evaluate complex TOs on a case-by-case basis for applicability of quick-closeout procedures.

(f) Modifications for quick-closeout will include the following statement: “The bilateral execution of this modification releases the Government and [*insert Contractor name*] from any further obligation.”

### **G.11 Task/Delivery Order Contract Ombudsman**

(a) In accordance with FAR Part 16.505(b)(5), the Task and Delivery Order Ombudsman has the responsibility to review contractor complaints and ensure that all contractors are afforded a fair opportunity to be considered for each task order, consistent with the ordering procedures in the contract.

(b) The Component Task/Delivery Order Ombudsman is responsible for reviewing complaints from contractors on task and delivery orders, and if any corrective action is needed, shall provide a written determination of such action to the Task and Delivery Order Contracting Officer.

(c) Issues that cannot be resolved within the Component shall be forwarded to the DHS Task and Delivery Order Ombudsman for review and resolution. The DHS Task and Delivery Order Ombudsman is also the DHS Competition Advocate.

(d) The complete list of Ombudsman can be found on DHS Open for Business at:  
[http://www.dhs.gov/xopnbiz/regulations/gc\\_1204658767888.shtm](http://www.dhs.gov/xopnbiz/regulations/gc_1204658767888.shtm).

**(End of Section G)**

## SECTION H – SPECIAL CONTRACTING REQUIREMENTS

### H.1 Authorized Users

This Department-Wide Acquisition Contract is mandatory for use by the DHS and its Components in accordance with DHS Directive 060-01, Development and Use of Strategic Sourcing Contracting Vehicles, dated 8/24/12. DHS Component(s) Head(s) of Contracting Activity (HCA) that use another Federal agency to provide contracting support services may delegate procurement authority to allow the use of the EAGLE II contracts on the Component's behalf. It is the Component's responsibility to ensure that the delegation precludes non-DHS orders placed on the contracts and that awarded orders are included in the monthly contractor activity reports.

### H.2 Minimum Dollar Guarantee and Maximum Contract Limitation

(a) Minimum. The minimum guaranteed award amount for this IDIQ contract is [REDACTED] per contractor for the base period of performance of this contract (inclusive of fee). Orders beyond the minimum will be determined by user needs. The exercise of the option period does not re-establish the contract minimum.

(b) Maximum. The maximum cumulative dollar ceiling value of all contracts in this multiple award procurement is established at [REDACTED].

(c) The Government has no obligation to issue TOs to the Contractor beyond the amount specified in paragraph (a) of this clause. Once the conditions of paragraph (a) have been met, the Contractor will continue to have the opportunity to be issued TO(s) under the Fair Opportunity to Compete provisions in Section G, *Contract Administration Data*.

### H.3 Hardware and Software Acquisition

EAGLE II is a "Solutions Based Contract." The Government anticipates that the majority of work awarded under this contract will be professional services. However, the contract is structured to permit purchase of a full-range of electronic and information technology solutions, including the hardware, software and enabling products necessary to implement these solutions. Inclusion of hardware/software acquisition on a TO is within the purview of the cognizant Government TO CO. Any hardware/software included must be considered to be critical and related to the services being acquired under a TO. Proposals submitted in response to individual TOs shall clearly identify and price any hardware, software or other products included as part of the Contractor's proposal. Unless otherwise indicated, acceptance of a TO proposal resulting in issuance of a TO constitutes authorization to provide the proposed solution, including the hardware, software or other products proposed, subject to the requirements of Section H.5, *Contractor Justification for ODCs*.

The Contractor is advised that DHS is an active participant in the Federal Electronics Challenge. The Government reserves the right to require or otherwise provide preference on Contractor solutions that include specific models of desktop computers, notebooks and monitors

qualified through the Electronics Products Environmental Assessment Tool (EPEAT) or its successor. Specific requirements will be identified in TORP.

During the term of this contract, the Contractor shall deliver, furnish for Government use, or furnish for contractor use at a Government-owned facility, only personal computer products that at the time of submission of proposals were the Electronics Products Environmental Assessment Tool (EPEAT) Bronze registered or higher where such EPEAT products are available at [www.epeat.net](http://www.epeat.net).

When a requestor specifies desktop computers, notebook computers or computer monitors and any peripheral equipment that is integral to the operation of such items, in purchase request that are not EPEAT registered and a suitable EPEAT product is available, the Contractor shall:

- Notify the requestor of the requirement to purchase an EPEAT product; and
- Provide suitable alternative products that meet EPEAT registered requirements.

The Contractor shall submit the EPEAT purchase status report annually. The annual report shall quantify the number of EPEAT registered and non-EPEAT registered products purchased or leased under this contract during each fiscal year period. The information must be reported in the template EPEAT report form provided in Attachment H-1 and submitted to [DHSESO@hq.dhs.gov](mailto:DHSESO@hq.dhs.gov) for the EAGLE II COR; [DHSEAGLEIIADMIN@hq.dhs.gov](mailto:DHSEAGLEIIADMIN@hq.dhs.gov) for the EAGLE II CO; and carbon copy to DHS Environment Program Manager at [SustainabilityReports@hq.dhs.gov](mailto:SustainabilityReports@hq.dhs.gov), no later than October 31 of each year. In the event no activity occurred during the reporting period, a no activity report shall be submitted.

*Note: In cases where an EAGLE II Contractor must purchase IT hardware and/or software to fully implement its solution, the DHS IT commodity initiatives, FirstSource and FirstSource II, have contracts with multiple highly qualified companies that are mandatory for consideration as sources to fulfill those hardware and software requirements. EAGLE II Contractors should use their normal internal procurement procedures, whether soliciting and purchasing from a FirstSource Contractor.*

#### **H.4 Purchasing System**

The Contractor shall notify the CO in writing if there is any change in the status of its approved purchasing system and provide the reason(s) for the change. Documentation required to be submitted for CO consent shall be submitted in accordance with FAR Part 44, *Subcontracting Policies and Procedures*.

#### **H.5 Contractor Justification for Other Direct Costs (ODCs)**

All materials required for performance under the TOs issued pursuant to this contract that are not Government-furnished, shall be furnished by the Contractor. The Contractor shall utilize Government supply sources when available, including the mandatory-for-consideration DHS commodity contracts. When requisitioning procedures reveal that required materials are not available from Government supply sources, the Contractor shall identify them in each TO proposal. Ownership of supplies acquired by the Contractor with Government funds, for performance of this contract, shall vest with the Government. The Contractor shall include a

detailed description of all proposed materials in individual TO proposals. *Materials* are defined in the clause at 52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*.

### **H.5.1 Materials**

When required in individual TOs, the Contractor shall submit the documentation required to the CO for approval prior to entering into any equipment lease or purchase agreement.

## **H.6 Selected Items of Costs**

### **H.6.1 Travel Costs (Including Foreign Travel)**

(a) Contractor personnel may be required to travel to support the requirements of this contract and as stated in individual TOs. Long distance and local travel may be required both in the Contiguous United States (CONUS) and Outside the Contiguous United States (OCONUS). For those TOs requiring travel, the Contractor shall include estimated travel requirements in the proposal. The Contractor shall then coordinate specific travel arrangements with the individual TO COR to obtain advance, written approval for the travel about to be conducted. The Contractor's request for travel shall be in writing and contain the purpose, dates, locations and estimated costs of the travel. Email requests and approvals are sufficient.

(b) If any travel arrangements cause additional costs to the TO that exceed those previously negotiated, written approval by TO modification issued by the TO CO is required, prior to undertaking such travel.

(c) The Contractor shall, to the maximum extent practicable, minimize overall travel costs by taking advantage of discounted airfare rates available through advance purchase. Charges associated with itinerary changes, and cancellations under nonrefundable airline tickets are reimbursable as long as the changes are driven by the work requirement. Travel performed for personal convenience or daily travel to and from work at the Contractor's facility or local Government facility (i.e., designated work site) shall not be reimbursed hereunder. Costs associated with Contractor travel shall be in accordance with FAR Part 31.205-46, *Travel Costs*.

### **H.6.2 Training**

The Government will not allow costs, nor reimburse costs associated with the Contractor training employees in an effort to attain and/or maintain minimum personnel qualification requirements of this contract. Other training may be approved on a case-by-case basis by the TO CO. Attendance at workshops or a symposium is considered training for purposes of this clause.

### **H.6.3 General Purpose Office Equipment (GPOE) and IT**

The cost of acquisition of General Purpose Office Equipment (GPOE) and IT shall not be allowable as direct charges to this contract. The Contractor is expected to have the necessary facilities to perform the requirements of this contract, including any necessary GPOE and IT. *GPOE* means equipment normally found in a business office such as desks, chairs, typewriters, calculators, file cabinets, etc. "*IT*" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, movement, control, display, switching, interchange, transmission, or reception of data or information. IT includes

computers, ancillary equipment, software, firmware and similar products, services (including support services), and related resources.

## **H.7 Leasing**

The Government contemplates leases of the following types: (1) lease to ownership (LTO); (2) lease with an option to purchase (LTOP); and, (3) straight lease IT equipment. All leases may include integrated installation and warranty. Leasing terms and conditions and associated lease documentation will be established at the TO level.

If the Government awards a TO for leased equipment it contemplates the use of the equipment for the entire term of the lease identified (“Lease Term”). However, the Lease Term of the lease agreement is from the date of acceptance of the equipment through September 30 of the fiscal year in which the TO is placed. Acceptance shall be defined in each TO. The lease, LTO, or LTOP does not require, and should not be interpreted as requiring, either party to take any action or perform any covenant that is contrary to the Anti-Deficiency Act, or other Federal law. Accordingly, any TO for leased equipment shall not be deemed to obligate succeeding fiscal years or otherwise commit the Government to continue performance beyond the current Government fiscal year.

## **H.8 Government Property, Information, Workspace**

The Government may provide the items listed below as necessary, for the Contractor to fulfill the tasks described in TO SOWs.

(a) *Government Furnished Property (GFP)*. The Government may provide hardware and/or software requiring technical analysis, evaluation, verification, or study in support of a specific task. Such GFP will be specified in individual TOs. GFP provided to the Contractor in support of individual TOs shall be tracked through applicable procedures provided by the TO CO in accordance with the FAR. Property shall be accounted for and marked accordingly for identification and tracking purposes with the Contract Number, TO Number, Serial Number and other information as required by the TO CO. The Government will not provide hardware/software equipment required to accomplish day-to-day work requirements in support of the overall contract-level effort. All GFP shall be returned to the Government at the completion of each TO unless otherwise specified.

(b) *Government Furnished Information (GFI)*. The Government may provide information (e.g., technical data, applicable documents, plans, regulations, specifications, etc.) in support of a specific task. Such GFI will be specified in individual TOs.

(c) *Government-Furnished Workspace*. Specific Government-furnished workspace will be specified in individual TOs.

### **H.8.1 Contractor Acquired Property**

In the event the Contractor is required to purchase property in the performance of this contract, compliance with the procedures of FAR Part 45, *Government Property*, is required.

### **H.8.2 Disposition of Government Property**

Thirty (30) calendar days prior to the end of the TO period of performance, or upon termination of the contract, the Contractor shall furnish to the TO COR a complete inventory of all Government Property in its possession under the TO that has not been tested to destruction, completely expended in performance, or incorporated and made a part of a deliverable end item. The TO COR will furnish disposition instructions on all listed property which was furnished or purchased under the TO.

### **H.9 Performance-Based Services Contracting (PBSC)**

Through the direction of the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP), performance-based contracting techniques will be applied to task orders issued under this contract to the “maximum extent practicable”. For information about PBSC, refer to OFPP’s Best Practices Handbook located at [www.whitehouse.gov/omb](http://www.whitehouse.gov/omb).

*PBSC task orders must include at a minimum:*

- (a) Performance requirements that define the work in measurable, mission-related terms;
- (b) Performance standards (i.e., quality, quantity, timeliness) tied to the performance requirements;
- (c) A Government Quality Assurance Surveillance Plan (QASP) or other suitable plan that describes how the Contractor’s performance will be measured against the performance standards or service level agreements (SLAs); and
- (d) If the acquisition is either critical to agency mission accomplishment or requires relatively large expenditures of funds, positive and negative incentives tied to the performance standards/SLAs.

### **H.10 Conversion to a Performance Based Task Order**

If both the Government and the Contractor agree, a task order can be converted from a term contract to a fixed price completion performance based service contract after the initial period of performance. The conversion is accomplished as follows:

- (a) Within ninety (90) calendar days prior to the end of the task order’s initial period of performance, the Contractor shall prepare and submit for Government review, comment, and concurrence.
  - (1) A PWS that captures all of the types of effort performed during the base year of performance, and
  - (2) A Quality Assurance Surveillance Plan (QASP). The QASP will address performance standards which relate to the performance requirements; how the Contractor’s performance will be measured against the performance standards; and surveillance schedules and methods. The QASP may either be included as part of the PWS or as a separate document.



(b) Within sixty (60) calendar days prior to the end of the task order’s initial period of performance, the Government and the Contractor will resolve to their mutual satisfaction any comments or concerns on the PWS and/or QASP. Upon exercise of the option for the first follow-on period of performance, the Government has the unilateral right to modify the task order to incorporate the agreed upon documents to accomplish the conversion to a performance based task order.

## **H.11 Past Performance Evaluation**

(a) Past performance information is relevant for future TO source selection purposes, regarding a Contractor’s actions under previously awarded TOs under the same contract. It includes, but is not limited to, the Contractor’s record of conforming to contract requirements and to standards of good workmanship; the Contractor’s adherence to contract schedules, including the administrative aspects of performance; the Contractor’s history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Contractor’s business-like concern for the interests of the customer.

(b) In accordance with FAR 42.1502, Federal agencies are required to prepare evaluations of the contractor performance for all contract actions, including delivery or TOs in excess of the simplified acquisition threshold (██████) at the time the work is completed. Interim evaluations will be performed for TOs in which a period of performance including options exceeds one (1) year. The *contract-level* evaluation will be performed annually. Upon completion of TO performance, the TO COR will complete a TO evaluation using either the Contractor Performance Assessment Reporting System (CPARS) or Past Performance Information (PPI). CPARS is a web-enabled tool for the COR to evaluate the Contractor’s performance; and for the Contracting Officer and Contractor to review, comment on, and approve evaluations. The tool can be accessed at <http://www.cpars.gov>. PPIRS, <http://www.ppirs.gov>, is a past performance collection tool that feeds the Government’s central repository for the collection and utilization of past performance information. The Contractor will be allowed thirty (30) calendar days to submit comments, rebutting statements, or additional information. Comments, if any, shall be retained as part of the evaluation record. The completed evaluation shall not be released to other than Government personnel. Past performance information may be used during source selection and will not be retained for longer than three (3) years after completion of a contract or TO.

## **H.12 Disclosure of “Official Use Only” Information Safeguards**

Any Government information made available, or to which access is provided, and which is marked “*Official Use Only*,” shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person, except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employees of the Contractor or Subcontractor at any tier shall require prior written approval of the TO CO. Requests to make such disclosure should be addressed to the TO CO.

## **H.13 Disclosure of Information--Official Use Only**

Each officer or employee of the Contractor or Subcontractor at any tier to whom “*Official Use Only*” information may be made available or disclosed, shall be notified in writing by the Contractor that “*Official Use Only*” information disclosed to that individual can be used



only for a purpose, and to the extent authorized herein, and that further disclosure of any such “*Official Use Only*” information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions imposed by 18 U.S.C. Sections 641 and 3571. Section 641 of 18 U.S.C. provides, in pertinent part, that whoever knowingly converts to his use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with the intent to convert it to his use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine or imprisoned up to 10 years, or both.

#### **H.14 Standard of Conduct at Government Installations**

The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity; and shall be responsible for taking such disciplinary action with respect to its employees, as necessary.

#### **H.15 Advertisements, Publicizing Awards and News Releases**

Under no circumstances shall the Contractor, or anyone acting on behalf of the Contractor, refer to the supplies, services, or equipment furnished pursuant to the provisions of this contract in any publicity/news release or commercial advertising without first obtaining explicit written consent to do so from the EAGLE II PM. This restriction does not apply to marketing materials developed for presentation to potential Government customers of this contract vehicle.

For task orders, the Contractor shall obtain the written consent of the TO CO.

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state, or imply that the product or service provided is endorsed or preferred by the Federal Government, or is considered by the Government to be superior to other products or services.

#### **H.16 Contractor Web Page**

It is a material contract requirement that each Contractor maintain a publicly available webpage throughout the period of performance of the contract. The purpose of the webpage is for the Contractor to communicate with potential customers regarding the Contractor’s ability to provide world-class professional support services for all DHS Program Offices, Directorates, and Component activities. The webpage should demonstrate the functional capability associated with different products or business areas. The webpage should be easily accessible from the Contractor’s front page, intuitive for novice computer users, and Section 508 compliant (See Section H.28). This webpage, at minimum, must include the following items:

- (a) A copy of all TOs received under this contract (*this can be a link to the “official Government website”*);
- (b) A list of the last three (3) years of experience providing professional support services, listed by functional area and DHS Program Office, Directorate and specific Program, as appropriate. The Contractor may also include a description of the products (deliverables) provided;
- (c) Point(s) of Contact to provide information on customer satisfaction with the services performed;

- (d) A description of the Contractor’s quality assurance program;
- (e) Point(s) of Contact for information related to IDIQ contracts;
- (f) Teaming Coordinator’s Point(s) of Contact; and
- (g) Current list of Subcontractors.

The Contractor shall provide the EAGLE II PM with the web address within ten (10) Government working days of receipt of the contract. The Contractor shall ensure all information provided on this web page is updated on a monthly basis.

### **H.17 Contractor Employees’ Identification**

During the period of this contract, the rights of ingress and egress to and from any office for Contractor’s personnel shall be made available, as deemed necessary by the Government. All Contractor employees, whose duties under this contract require their presence at any Government facility, shall be clearly identifiable by a distinctive badge furnished by the Government. In addition, corporate identification badges shall be worn on the outer garment at all times. Obtaining the corporate identification badge is the sole responsibility of the Contractor. All prescribed information shall immediately be delivered to the appropriate Government Security Office for cancellation or disposition upon the termination of employment of any Contractor personnel. All on-site Contractor personnel shall abide by security regulations applicable to that site.

### **H.18 Teaming Arrangements**

Because of the diversity of IT work contemplated under this contract, the Government anticipates that teaming may occur at the contract level. Contractors shall consider the following as it relates to teaming arrangements under EAGLE II.

- (a) An “Offeror” may be a Prime Contractor *or* Core Team.

(b) “Prime Offeror” or “*Prime Contractor*” as used within the EAGLE II teaming relationship means the principal member proposing for the team who will be responsible for performance of the contract, and who will be the Government’s single POC and representative for the team following award, including all TOs.

(c) A “*Core Team*” is any combination of a Prime contractor, plus up to four (4) core team members submitting a proposal for an IDIQ award, and identifying themselves as a collective resource for contract performance. The Core Team must remain together for the life of the contract (base period and option) except for extraordinary circumstances and with the Contracting Officer’s consent.

(d) As it relates to the **EAGLE II Small Business Track**, the core team is one small business Prime contractor plus up to four other small businesses. The Prime contractor does *not* have to be teamed with other firms from the same small business category as long as the team members are “small” under the size standard corresponding to the NAICS codes for this contract.

- (e) An EAGLE II team arrangement does not limit the Government’s rights to:
  - (1) Require consent to subcontract; and

(2) Hold the prime contractor fully responsible for contract performance.

(f) An EAGLE II core team member shall not be substituted after contract award; however, in exceptional cases, changing team composition after contract award may be permitted and will require prior EAGLE II CO approval as specified in Section H.24, *Substitution of Core Team Members*. The fixed blended labor rates will not change when a team member is removed or added. For the purpose of pricing and billing at the task order level, if a new member is added, the new member will be termed as “subcontractor” and treated as such (i.e., the new member cannot use the contract blended rates).

(g) As it relates to the **EAGLE II Small Business Track**, a core team member shall not be substituted; however, in exceptional cases the substitution may be permitted as long as the substitution is “small” under the size standard corresponding to the NAICS codes for this contract; and meets the capability standards. All EAGLE II Core Team member substitutions shall be reviewed and approved by the EAGLE II CO as specified in Section H.24, *Substitution of Core Team Members*. The fixed blended labor rates will not change when a team member is deleted or added. For the purpose of pricing and billing at the task order level, if a new member is added, the new member will be termed as “subcontractor” and treated as such (i.e., the new member cannot use the contract blended rates).

(h) Teaming Coordinator: Each EAGLE II prime contractor shall provide an overarching EAGLE II Teaming Coordinator. The EAGLE II Teaming Coordinator shall serve as a single point of contact for prospective subcontractors and continuously review the market place for companies that provide new and innovative products and professional services with which to subcontract. The EAGLE II Prime contractor is also encouraged to have non-exclusive access to multiple product and service providers.

## H.19 Subcontracting

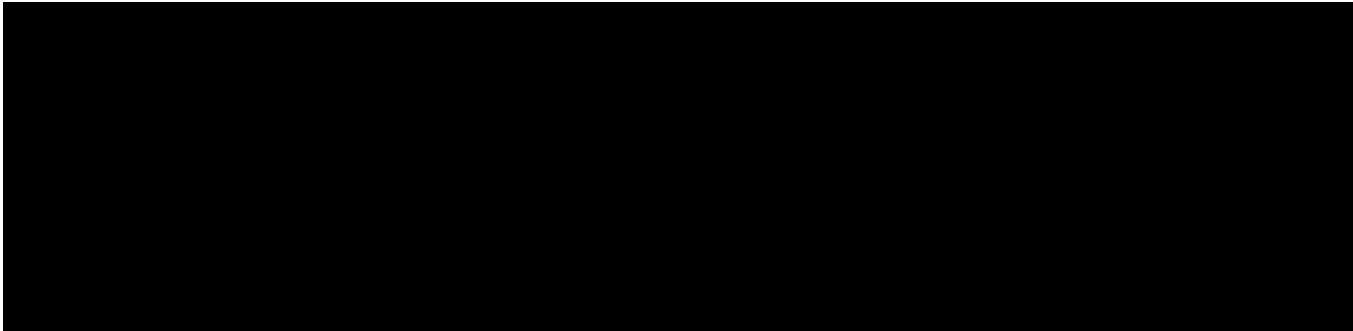
(a) In accordance with FAR 52.244-2, *Subcontracts*, including Alternate I, if the Contractor does not have an approved purchasing system, the Contractor shall obtain written TO CO consent prior to subcontracting under a:

- (1) Cost-reimbursement, T&M or L-H type contract (TO); or
- (2) Firm-fixed-price contract (TO) that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract (TO).

(b) If the Contractor has an approved purchasing system and consent is not required under paragraph (d) of FAR 52.244-2, *Subcontracts*, the Contractor nevertheless, shall obtain written TO CO consent prior to subcontract under a fixed-price arrangement where 50% or more of the task order work to be conducted by the subcontractor.

(c) If the Contractor has an approved purchasing system and consent is not required under paragraph (a) and (b), the Contractor nevertheless shall notify the TO CO within fifteen (15) calendar days in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of the TO.

- (1) The Contractor shall notify the appropriate TO CO within fifteen (15) calendar days in advance of placing any subcontract or modification for which consent is required under paragraph (a) or (b), including the information required by paragraphs (e)(1)(i) through (e)(1)(vii) of the FAR 52.244-2 clause.
- (2) The TO CO is responsible for reviewing the Contractor's notification and supporting data to ensure that the proposed subcontract is appropriate for the risk involved, and consistent with current policy and sound business judgment prior to consent to subcontract.
- (3) If the Contractor enters into any subcontract that requires consent under the clause at FAR 52.244-2, *Subcontracts*, without obtaining such consent, the Government is not required to reimburse the Contractor for any costs incurred under the subcontract prior to the date the Contractor obtains the required consent. Any reimbursement of subcontract costs incurred prior to the date the consent was obtained shall be at the sole discretion of the Government.
- (d) The Contractor may add or remove Subcontractors without the express written consent of the Government provided the conditions of paragraph (a) and (b), above, are met.
- (e) The Government's small business goals through subcontracting efforts for large businesses under this contract are as follows:



- (f) The Government reserves the right to require a subcontracting plan, as prescribed in FAR 52.219-9, *Small Business Subcontracting Plan*, at the task order level.
- (g) When a TO solicitation requires submission of a subcontracting participation plan as part of a proposal evaluation factor, the Contractor shall submit detailed subcontracting information as instructed in the TO solicitation, and is responsible for compliance with the subcontracting plan that is negotiated and approved by the TO CO throughout the contract period.
- (h) At the discretion of the TO CO, if the TO CO finds that the contractor failed to make a good faith effort to comply with its subcontracting plan upon completion of the TO performance, the TO CO may issue a final decision to the contractor to that effect, and require

the payment of liquidated damages in an amount stated, or appropriate contractual remedies to be processed in accordance with FAR 19.705-7, *Liquidated Damages*.

## **H.20 Incorporation of Subcontracting Plan**

*(Applicable to Unrestricted Business Track)*

The International Business Machine Corporation subcontracting plan, dated February 16, 2011, in response to the EAGLE II solicitation, and submitted in accordance with FAR 52.219-9, *Small Business Subcontracting Plan*, is hereby approved and incorporated herein.

## **H.21 Notification Requirements Under T&M and Cost Reimbursement Contracts**

Contractor notification requirements for FAR Clause 52.232-20(b), *Limitation of Cost*, FAR Clause 52.232-22 (c), *Limitation of Funds*, for CPFF, CPIF and CPAF task orders, and FAR Clause 52.232-7(d), *Payments under Time and Materials and Labor-Hours*, for T&M TOs (clauses are in Section I by reference), shall be accomplished only by separate correspondence directed to the TO CO with copies to the TO COR. No other form of “notification” (e.g., mention in any type of monthly progress or status report) will effect compliance. Further, notification to any individual other than the TO CO shall not constitute compliance with this requirement.

## **H.22 Key Personnel**

Key personnel are those Contractor personnel considered to be essential to the performance of the EAGLE II contract and subsequent TOs.

The Contractor's Program Manager and Teaming Coordinator identified in Section G.2.2, *Contractor Personnel*, are designated as key personnel, and may only be replaced with the approval of the EAGLE II PM and the EAGLE II CO, in accordance with the terms and conditions of Section H.23, *Substitution of Key Personnel*.

If the Government determines that certain personnel are “key” to successful completion of a TO, they will be designated as "Key TO Personnel" in the TO. “Key TO Personnel” is defined as follows:

- (a) Personnel identified in the Task Proposal as key individuals to be assigned for participation in the performance of the TO and who may, at the discretion of the Government, be interviewed to verify resumé representations;
- (b) Personnel whose resúmes were submitted with the TO Proposal; or
- (c) Individuals who are designated as key personnel by agreement between the Government and the Contractor during TO negotiations.

## **H.23 Substitution of Key Personnel**

The Contractor shall notify the TO CO and the TO COR prior to making any changes in TO Key Personnel. No changes in TO Key Personnel will be made unless the Contractor can demonstrate that the qualifications of prospective replacement personnel are equal to, or better than the qualifications of the TO Key Personnel being replaced. All proposed substitutes shall have qualifications equal to, or higher than the qualifications of the person to be replaced. The TO CO shall be notified in writing of any proposed substitution at least fifteen (15), or thirty (30) calendar days if a security clearance is to be obtained, in advance of the proposed substitution. Such notification shall include:

- (a) an explanation of the circumstances necessitating the substitution;
- (b) a complete resume of the proposed substitute; and,
- (c) any other information requested by the TO CO to enable him/her to determine whether or not the Contractor is maintaining the same high quality of personnel that provided the partial basis for award.

The contract-level CO will evaluate substitutions at the contract level; and the TO COR will evaluate TO level substitutions. These individuals will evaluate such requests and promptly notify the Contractor of his/her approval or disapproval in writing. All disapprovals will require resubmission of another substitution within fifteen (15) calendar days by the Contractor.

## **H.24 Substitution of Core Team Members**

Changing team composition after contract award will require *prior* EAGLE II CO approval. To substitute a member of the EAGLE II Core Contractor Team after contract award, the following information shall be submitted:

- (a) Documentation explaining the reason for the substitution;
- (b) Documentation clearly defining the responsibilities of each party to the teaming agreement;
- (c) Company name(s), point of contact, reporting lines and locations of key positions within the organization and its strengths; business size, number of employees (including all affiliates); and description of work to be performed, including the percentage of the effort each team member will be performing;
- (d) Designation that the original contract records and accounting and administrative records be retained by the Prime Contractor upon completion of the contract performed by the team; and,
- (e) Signed copies of teaming agreements; either formal or informal, identifying the roles and responsibilities of each business concern on the core team.

## **H.25 Interrelationships of Contractors**

(a) The Government has entered into other contractual relationships in order to provide technical support services in the conduct of studies, analyses and engineering activities separate from the work to be performed under this contract, yet having links and interfaces to them. Further, the Government may extend these existing relationships or enter into new relationships. The Contractor may be required to coordinate with such other Contractor(s) through the Task



Manager in providing suitable, non-conflicting technical interfaces and avoidance of duplication of effort. Through suitable taskings, these other Contractor(s) may be requested to assist the Government in the technical review of the Contractor's technical efforts. Information on reports provided under this SOW may, at the discretion of the Government, be provided to such other Contractor(s) for the purpose of such review.

(b) A Non-Disclosure Agreement (NDA), DHS Form 11000-6, shall be signed by all Contractor employees assigned to perform services under a TO *prior* to any work commencing on the TO. The TOCO shall also retain a copy of DHS Form 11000-6.

## **H.26 Observance of Legal Holidays and Excused Absence**

(a) The Government hereby provides notification that Government personnel observe the listed days as holidays:

- |                                   |                      |
|-----------------------------------|----------------------|
| (1) New Year's Day                | (6) Labor Day        |
| (2) Martin Luther King's Birthday | (7) Columbus Day     |
| (3) President's Day               | (8) Veterans' Day    |
| (4) Memorial Day                  | (9) Thanksgiving Day |
| (5) Independence Day              | (10) Christmas Day   |

(b) In addition to the days designated as holidays, the Government observes the following days:

- (1) Any other day designated by Federal Statute
- (2) Any other day designated by Executive Order
- (3) Any other day designated by the President's Proclamation

(c) It is understood and agreed between the Government and the Contractor that observance of such days by Government personnel shall not otherwise be a reason for an additional period of performance, or entitlement of compensation except as set forth within the contract. In the event the Contractor's personnel work during the holiday, they may be reimbursed by the Contractor; however, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, other than their normal compensation for the time worked. This provision does not preclude reimbursement for authorized overtime work if applicable to this contract.

(d) When the Federal and governmental entities grant excused absence to its employees, the Contractor agrees to continue to provide sufficient personnel to perform critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the TO CO or the TO COR.

(e) If Government personnel are furloughed, the Contractor shall contact the TO CO, or the TO COR to receive direction. It is the Government's decision as to whether the contract price/cost will be affected. Generally, the following situations apply:



(1) Contractor personnel that are able to continue contract performance (either on-site or at a site other than their normal work station), shall continue to work and the contract price shall not be reduced or increased.

(2) Contractor personnel that are not able to continue contract performance (e.g., support functions), may be asked to cease their work effort.

(f) In those situations that furloughed Government personnel are reimbursed, the Contractor may not invoice for their employees working during the Government furlough, until such time as the special legislation affecting Government personnel is signed into law by the President of the United States.

(g) Nothing in this clause abrogates the rights and responsibilities of the parties relating to stop work provisions as cited in other sections of this contract.

## **H.27 Insurance**

**(HSAR 3052.228-70) (DEC 2003)**

In accordance with the clause entitled "Insurance - Work on a Government Installation" [or Insurance - Liability to Third Persons] in Section I, insurance of the following kinds and minimum amounts shall be furnished at any time at the request of the EAGLE II CO and maintained during the period of performance of this contract:

(a) Worker's compensation and employer's liability. The Contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(a).

(b) General liability. The Contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(b).

(c) Automobile liability. The Contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(c).

## **H.28 Information Technology Accessibility for Persons with Disabilities**

All services and Electronic Information Technology (EIT) delivered as a result of orders placed under this contract shall comply with accessibility standards in accordance with Federal Information Technology Accessibility as required by Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. Information about the Section 508 Electronic and Information Technology Accessibility Standards may be obtained via the Web at the following URL: [www.Section508.gov](http://www.Section508.gov).

Section 508 of the Rehabilitation Act, as amended by the Workforce Investment Act of 1998 (P.L. 105-220) requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), they must ensure that it is accessible to people with disabilities. Federal employees and members of the public who have disabilities must have equal access to and use of information and data that is comparable to that enjoyed by non-disabled Federal employees and members of the public.

All EIT deliverables within the task order work statement shall comply with the applicable technical and functional performance criteria of Section 508 unless exempt. Specifically, the following applicable EIT accessibility standards have been identified:

### **Section 508 Applicable EIT Accessibility Standards**

36 CFR 1194.21 Software Applications and Operating Systems, applies to all EIT software applications and operating systems procured or developed under the task order work statement including but not limited to GOTS and COTS software. In addition, this standard is to be applied to Web-based applications when needed to fulfill the functional performance criteria. This standard also applies to some Web based applications as described within 36 CFR 1194.22.

36 CFR 1194.22 Web-based Intranet and Internet Information and Applications, applies to all Web-based deliverables, including documentation and reports procured or developed under the task order work statement. When any Web application uses a dynamic (non-static) interface, embeds custom user control(s), embeds video or multimedia, uses proprietary or technical approaches such as, but not limited to, Flash or Asynchronous Javascript and XML (AJAX) then 1194.21 Software standards also apply to fulfill functional performance criteria.

36 CFR 1194.23 Telecommunications Products, applies to all telecommunications products including end-user interfaces such as telephones and non end-user interfaces such as switches, circuits, etc. that are procured, developed or used by the Federal Government.

36 CFR 1194.24 Video and Multimedia Products, applies to all video and multimedia products that are procured or developed under the task order work statement. Any video or multimedia presentation shall also comply with the software standards (1194.21) when the presentation is through the use of a Web or Software application interface having user controls available.

36 CFR 1194.25 Self Contained, Closed Products, applies to all EIT products such as printers, copiers, fax machines, kiosks, etc. that are procured or developed under this work statement.

36 CFR 1194.26 Desktop and Portable Computers, applies to all desktop and portable computers, including but not limited to laptops and personal data assistants (PDA) that are procured or developed under the task order work statement.

36 CFR 1194.31 Functional Performance Criteria, applies to all EIT deliverables regardless of delivery method. All EIT deliverable shall use technical standards, regardless of technology, to fulfill the functional performance criteria.

36 CFR 1194.41 Information Documentation and Support, applies to all documents, reports, as well as help and support services. To ensure that documents and reports fulfill

the required 1194.31 Functional Performance Criteria, they shall comply with the technical standard associated with Web-based Intranet and Internet Information and Applications at a minimum. In addition, any help or support provided in the task order work statement that offer telephone support, such as, but not limited to, a help desk shall have the ability to transmit and receive messages using TTY.

### **Section 508 Applicable Exceptions**

Exceptions for the work statement have been determined by DHS and only the exceptions described herein may be applied. Any request for additional exceptions shall be sent to the TO COR and determination will be made in accordance with DHS MD 4010.2. DHS has identified the following exceptions that may apply:

36 CFR 1194.3(b) Incidental to Contract, all EIT that is exclusively owned and used by the contractor to fulfill this work statement does not require compliance with Section 508. This exception does not apply to any EIT deliverable, service or item that will be used by any Federal employee(s) or member(s) of the public. This exception only applies to those contractors assigned to fulfill the obligations of this work statement and for the purposes of this requirement, are not considered members of the public.

### **Section 508 Compliance Requirements**

36 CFR 1194.2(b) (COTS/GOTS products), When procuring a product, each agency shall procure products which comply with the provisions in this part when such products are available in the commercial marketplace or when such products are developed in response to a Government solicitation. Agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. If products are commercially available that meet some but not all of the standards, the agency must procure the product that best meets the standards. When applying this standard, all procurements of EIT shall have documentation of market research that identify a list of products or services that first meet the agency business needs, and from that list of products or services, an analysis that the selected product met more of the accessibility requirements than the non-selected products as required by FAR 39.2. Any selection of a product or service that meets less accessibility standards due to a significant difficulty or expense shall only be permitted under an undue burden claim and requires authorization from the DHS Office of Accessible Systems and Technology (OAST) in accordance with DHS MD 4010.2.

For the following referenced exceptions, the language below must appear in individual task orders as appropriate and authorized.

DHS Office of Accessible Systems and Technology (OAST) has reviewed this acquisition request and has determined that an Undue Burden exception for the purposes of Section 508 applies and is thereby authorized. Undue Burden Exception #<To be filled in on TO> has been attached and included in the contract file. An alternate means of access shall be provided for people with disabilities.

DHS Office of Accessible Systems and Technology has reviewed this acquisition request and has determined that a National Security Exception for the purposes of Section 508 applies and is thereby authorized. National Security Exception #<To be filled in on TO> has been attached and included in the contract file.

DHS has reviewed this acquisition request and has determined that a Fundamental Alteration exception for the purposes of Section 508 applies and is thereby authorized. Fundamental Alteration Exception #<To be filled in on TO> has been attached and included in the contract file.

DHS has reviewed this acquisition request and has determined that a Back Office exception for the purposes of Section 508 applies and is thereby authorized. Back Office Exception #<To be filled in on TO> has been attached and included in the contract file.

All tasks for testing of functional and/or technical requirements must include specific testing for Section 508 compliance, and must use DHS Office of Accessible Systems and Technology approved testing methods and tools. For information about approved testing methods and tools send an email to [accessibility@dhs.gov](mailto:accessibility@dhs.gov).

## **H.29 Notice of Internet Posting of Awards**

DHS intends to electronically post the EAGLE II contracts, including fully-burdened labor rates, to the internal DHS intranet website. This does not include Contractor proposals or any other proprietary information provided by Contractors relevant to task order performance, or by Offerors in response to the EAGLE II solicitation. Posting of the contract documents and associated modifications via the intranet is in the best interest of the Government, as well as the Contractors. It will allow Contractors to direct future customers to the site to view labor categories and rates as they develop their IGCE in preparation of proposed TOs.

## **H.30 On-Line Proposal and Ordering Capability**

In the future, DHS may establish an internet portal for the purpose of electronic and paperless TO processing. The Contractor will be required to support the electronic information requirements of the portal. The processing procedures and information requirements will be written into the contract at the time such capability is implemented.

## **H.31 Post Award Conference**

The Contractor shall participate in a post award conference that will be held within thirty (30) business days after contract award. The purpose of the post award conference is to aid both the Contractor and the Government in achieving a clear and mutual understanding of all contract requirements and identify and resolve potential problems (See FAR Subpart 42.5, *Post award Orientation*).

The EAGLE II PM is responsible for establishing the time and place of the conference and will notify the appropriate Government representatives and the Contractors. The EAGLE II PM will designate or act as the chairperson at the conference.

The conference may be conducted at a location within the Washington, DC, commuting area at the Government’s discretion.

The Contractor further agrees to attend post award conferences on task orders as required. The TO post award conferences will establish work level points of contact for the TO, determine the TO administration strategy, roles and responsibilities and ensure prompt payment and TO closeout.

### **H.32 Meetings/Conferences**

Pre-award meetings or conferences may be necessary to resolve problems and to facilitate understanding of the technical requirements of the contract or task orders. All costs associated with the attendance at pre-award meetings/conferences shall be incidental to the contract and not separately billed.

### **H.33 Earned Value Management**

In accordance with OMB Circular A-11 and the Federal Acquisition Regulation, the Government will use Earned Value Management (EVM) to monitor applicable task orders under EAGLE II. “*Applicable*” applies to tasks in development and to those that by their nature are complex or strategic, or impose sufficient risk to the effort and/or are mandated; therefore, require the insight afforded by EVM. The Contractor shall use an Earned Value Management System (EVMS) that meets the criteria as defined in the current American National Standards Institute/Electronic Industries Alliance (ANSI/EIA) Standard 748-A, *Earned Value Management Systems*, originally approved May 19, 1998, first amended in 2002 (“the ANSI/EIA Standard”), and most recently on July 9, 2007, and published as Government Electronic and Information Technology Association’s EIA-748-B. The Contractor shall also provide proof of the EVMS’ compliance with the EIA-748 Standard, as described below.

1. Task orders greater than or equal to [REDACTED] that have assets in development or of sufficient risk will require the use of an EIA-748-compliant EVMS to measure the cost, schedule, and performance of those assets against the established baseline.
2. Application of EVMS and associated EIA-748 compliant systems for task orders with a contract value of less than [REDACTED] will be as directed by the TO CO. The decision will be based on the risk and criticality of the task order to accomplish the goals for the overall investment program and the results of a cost benefit analysis (CBA).

#### **Verification of the Earned Value Management System**

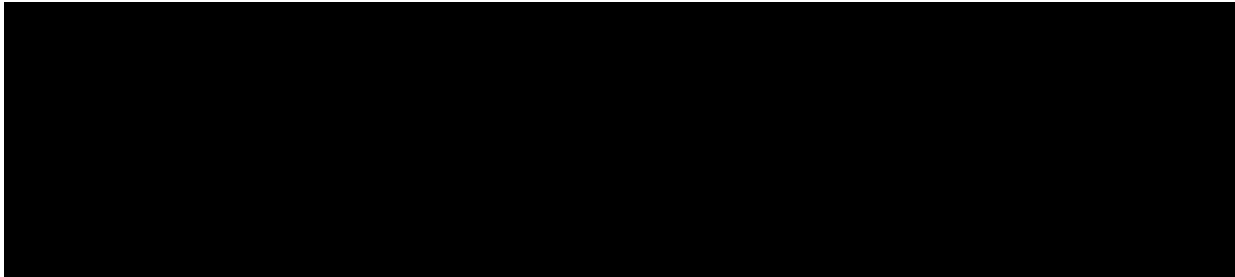
- Alternative 1: If the task order is subject to EVMS and is [REDACTED], the Contractor must have a Government-verified EVMS. If the Contractor does not have a verifiable EVMS by task-order award, the Contractor shall develop an acceptable implementation plan providing the strategy for reaching verification of an EVMS and the milestones to accomplish it. The TO COR must accept this plan prior to task order award. Contractors that do not comply will be ineligible to receive task orders of this type.
- Alternative 2: If the task order is subject to EVMS and is greater than or equal to [REDACTED] but less than [REDACTED], the Contractor must self-verify that the EVMS meets the EIA-748 standard. Contractors must use Attachment H-2, *EVMS Self-Verification Form*, to self-verify the

compliance of its system in accordance with this paragraph. Contractors that do not comply will be ineligible to receive task orders of this type.

- Alternative 3: If the task order is subject to EVMS and is less than [REDACTED] the Contractor, at the discretion of the Contracting Officer and the Program Manager, may be required to self-verify that the EVMS meets the EIA-748 standard. Contractors must use Attachment H-2, *EVMS Self-Verification Form*, to self-verify the compliance of its system in accordance with this paragraph. Contractors that do not comply will be ineligible to receive task orders of this type.

The Government reserves the right to obtain independent verification of a Contractor’s Earned Value Management System (EVMS), regardless of the type of verification previously completed.

The following chart summarizes these requirements:



### **Integrated Baseline Reviews (IBRs)**

The Contractor shall plan for, and participate in integrated baseline reviews. Such reviews shall be scheduled as early as practicable. Typically, the IBR will be conducted ninety (90) calendar days after task order award, but not later than 180 days after TO award as applicable. IBRs are expected to be held at key points during project development, such as at the completion of requirements development, at the end of the design phase, following development and testing prior to implementation and after incorporation of major task order modifications and the exercise of significant task order options. The objective of the integrated baseline review is for the Government and the Contractor jointly to assess areas such as the Contractor’s planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resources, and identification of inherent risks.

### **Reporting Requirements and Data Transmission**

For all TOs requiring EVM, the Government requires the information in four (4) monthly Earned Value Reports: (a) Contract Performance Report (CPR) Formats 1, 3, and 5, as follows and IT Dashboard XML format and updates will be in accordance with <http://it.usaspending.gov>; and, (b) Contract Funds Status Report (CFSR), (*attachments to be provided at the task order level*). The Contractor shall use the information in these reports to analyze the effectiveness of the EVMS and both the contract performance and the program progress. The Contractor shall take appropriate action based on those findings.



If the contractor EVMS data collection tool can output the raw data in ANSI Accredited Standards Committee (ASC) X.12 format, then the Contractor may submit the EVM raw data to the CO and PM in that format. However, the Government reserves the right to require Contractors, with or without an automated EVMS, to transmit all required data in the appropriate formats by email using Microsoft-compatible software.

- **CPR Format 1** – WBS-oriented cost report. Costs are organized by WBS element at a level pre-determined by the Government.
- **CPR Format 3** – Baseline Report. This format provides information on the task order baseline; it tracks changes to it throughout the program’s duration.
- **CPR Format 5** – Problem Analysis Report/Variance Narrative. This format provides explanations for cost and schedule variances that have exceeded threshold. It provides an explanation as to why the variance occurred and descriptions on how the program plans to resolve the cause of the variance.
- **CFSR** – Task Order Funds Status Report. The CFSR supplies funding data about task orders to PMs for:
  - Updating and forecasting contract funds requirements;
  - Planning and decision-making on funding changes in TOs;
  - Developing funds requirements and budget estimates in support of approved investments;
  - Determining funds in excess of contract needs and available for de-obligation;
  - Obtaining rough estimates of termination costs; and determining if sufficient funds are available by fiscal year to execute the TOs.

### **H.34 Architectural Compliance**

All back-end system hardware and/or software must be located in the DHS Consolidated Data Center unless a waiver is approved by the DHS CIO. All DHS Wide Area Network circuits must be part of the OneNet architecture unless a waiver is approved by the DHS CIO.

#### *DHS Enterprise Architecture Compliance*

All solutions and services shall meet DHS Enterprise Architecture policies, standards, and procedures. Specifically, the Contractor shall comply with the following Homeland Security Enterprise Architecture (HLS EA) requirements:

- All developed solutions and requirements shall be compliant with the HLS EA.
- All IT hardware or software shall be compliant with the HLS EA Technical Reference Model (TRM) Standards and Products Profile.
- All data assets, information exchanges and data standards, whether adopted or developed, shall be submitted to the DHS Enterprise Data Management Office (EDMO) for review and insertion into the DHS Data Reference Model.
- In compliance with OMB mandates, all network hardware shall be IPv6 compatible without modification, upgrade, or replacement.



### **H.35 Interconnection Security Agreements**

Interconnections between DHS and non-DHS IT systems shall be established only through controlled interfaces and via approved service providers. The controlled interfaces shall be accredited at the highest security level of information on the network. Connections with other Federal agencies shall be documented based on interagency agreements; memoranda of understanding, service level agreements, or interconnect service agreements.

### **H.36 Access to Unclassified Facilities, Information Technology Resources, and Sensitive Information**

The assurance of the security of unclassified facilities, Information Technology (IT) resources, and sensitive information during the acquisition process and contract performance are essential to the DHS mission. DHS Management Directive (MD) 11042.1 *Safeguarding Sensitive But Unclassified (For Official Use Only) Information*, describes how contractors must handle sensitive but unclassified information. DHS MD 4300.1 *Information Technology Systems Security* and the *DHS Sensitive Systems Handbook* prescribe policies and procedures on security for IT resources. Contractors shall comply with these policies and procedures, any replacement publications, or any other current or future DHS policies and procedures covering contractors specifically for all task orders under EAGLE II that require access to facilities, IT resources or sensitive information. Contractors shall not use or redistribute any DHS information processed, stored, or transmitted by the Contractor except as specified in the TO.

### **H.37 On Ramp**

The Government reserves the right to utilize an “On Ramp” concept to manage the recertification process and maintain a sufficient number of contract awardees for the EAGLE II Small Business Track.

Consistent with FAR 16.504(c)(1)(ii)(A), the Government has determined that at all times during the term of the EAGLE II contract, there remain an adequate number of EAGLE II Small Business Prime contractors eligible to compete for TOs. Over time, the total number of EAGLE II Small Business Prime contractors may fluctuate due to various reasons including industry consolidation, significant changes in the marketplace or advances in technology, general economic conditions, or other reasons. Recognizing this, DHS intends to periodically review the total number of EAGLE II Small Business Prime contractors participating in the EAGLE II ordering process, and determine whether it would be in the Government’s best interest to initiate an open season to add new contractors to the EAGLE II contract program. This is a discretionary, unilateral authority of the Government, and may be used in any of the small business set-aside categories.

The Government also reserves the right to utilize an “On Ramp” concept for the EAGLE II Unrestricted Business Track at any time during the term of the contract.

### **H.38 Open Season Procedures**

If DHS determines that it would be in the Government’s best interest to open a new solicitation to add new contractors to the EAGLE II Small Business and/or Unrestricted Track(s), the EAGLE II CO may do so at any time provided that:

- (a) The open season solicitation is issued under then-applicable Federal procurement law;
- (b) The open season solicitation identifies the total approximate number of new awards that the EAGLE II CO intends to make. The EAGLE II CO may decide to award more or fewer EAGLE II contracts than the number anticipated in the solicitation depending upon the overall quality of the offers received;
- (c) The award decision under any open season solicitation is based upon substantially the same evaluation factors/sub-factors as the original EAGLE II solicitation;
- (d) The terms and conditions of any resulting awards from an open season solicitation are materially identical to the existing version of the basic EAGLE II contracts;
- (e) The term for any such new awards from an open season solicitation is co-terminus with the existing term for all other EAGLE II Small Business and/or Unrestricted Track contracts, including the option period;
- (f) If awarded an EAGLE II contract through the open season authority, any new EAGLE II Small Business or Unrestricted Prime contractor is eligible to compete for task orders with the same rights and obligations as any other EAGLE II Small Business and/or Unrestricted Track contractor; and
- (g) The award of any new EAGLE II contract(s) does not increase the overall ceiling of the EAGLE II contract program.

### **H.39 Acquisitions and Mergers**

If the size of a Small Business Prime contractor changes due to an acquisition or merger at any point during the life of the contract, the Prime contractor must notify the EAGLE II CO within thirty (30) days. If it is deemed that the contractor is no longer a small business, they can no longer participate in any future task order competitions under the EAGLE II program, but will be able to complete the work on current task orders. Once the current task order(s) are complete, the contractor will be removed from the EAGLE II contract. See Section I.10, *Post-Award Small Business Program Re-representation*.

**(End of Section H)**

## SECTION I - CONTRACT CLAUSES

### I.1 Clauses Incorporated By Reference

#### I.1.1 Clauses Incorporated By Reference (FAR 52.252-2) (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text may be accessed electronically at the following Internet address: <http://www.acquisition.gov/far/>.

FAR Clause No.	Title and Date
52.202-1	Definitions (JAN 2012)
52.203-3	Gratuities (APR 1984)
52.203-5	Covenant Against Contingent Fees (APR 1984)
52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)
52.203-7	Anti-Kickback Procedures (OCT 2010)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)
52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)
52.203-14	Display of Hotline Poster(s) (DEC 2007)
52.203-15	Whistleblower Protections Under the American Recovery And Reinvestment Act of 2009 (JUN 2010)
52.204-2	Security Requirements (AUG 1996)
52.204-4	Printed or Copied Double-Sided on Recycled Paper (MAY 2011)
52.204-7	System For Award Management (JUL 2013)
52.204-8	Annual Representations and Certifications (JUL 2013)
52.204-9	Personal Identity Verification of Contractor Personnel (JAN 2011)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2013)
52.204-11	American Recovery and Reinvestment Act-Reporting Requirements (JUL 2010)
52.209-2	Prohibition on Contracting with Inverted Domestic Corporations-Representation (MAY 2011)
52.209-5	Certification Regarding Responsibility Matters (APR 2010)
52.209-6	Protecting the Government's Interest when Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment (AUG 2013)

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.209-7	Information Regarding Responsibility Matters (JUL 2013)
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters (JUL 2013)
52.215-2	Audit and Records–Negotiation (OCT 2010)
52.215-8	Order of Precedence -- Uniform Contract Format (OCT 1997)
52.215-10	Price Reduction For Defective Cost Or Pricing Data (AUG 2011)
52.215-12	Subcontractor Cost Or Pricing Data (OCT 2010)
52.215-14	Integrity of Unit Prices (OCT 2010)
52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)
52.215-18	Reversion Or Adjustment Of Plans For Postretirement Benefits (PRB) Other Than Pensions (JUL 2005)
52.215-21	Requirements For Cost Or Pricing Data Or Information Other Than Cost Or Pricing Data – Modifications (OCT 2010)
52.215-23	Limitations on Pass-Through Charges (OCT 2009)
52.216-4	Economic Price Adjustment – Labor and Material (JAN 1997)
52.216-7	Allowable Cost and Payment (JUN 2013)
52.216-8	Fixed Fee (JUN 2011)
52.216-10	Incentive Fee (JUN 2011) (Applicable to Cost Plus Incentive Fee TOs only)
52.216-16	Incentive Price Revision-Firm Target (OCT 1997) (Applicable to Fixed Price (Firm Target) Incentive TOs only)
52.216-17	Incentive Price Revision-Successive Target (OCT 1997) (Applicable to Fixed Price (Successive Target) Incentive TOs only)
52.216-18	Ordering (OCT 1995). <i>Fill in:</i> Date of award through last day of contract period, as renewed.
52.216-19	Order Limitations (OCT 1995) <i>Fill ins:</i> (a) \$250 (b)(1) N/A 2) N/A 3) N/A (d) 3
52.216-22	Indefinite Quantity (OCT 1995) <i>Fill in:</i> contract expiration date plus 12 months.
52.217-8	Option to Extend Services (NOV 1999) <i>Fill in:</i> Within 60 calendar days – <i>Applicable at Task Order level only</i>
52.217-9	Option to Extend the Term of the Contract (MAR 2000) <i>Fill in:</i> (a) within the term on the contract; 30 days (c) 84 months
52.219-8	Utilization of Small Business Concerns (JUL 2013)
52.219-23	Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008)
52.222-2	Payment for Overtime Premiums (JUL 1990)
52.222-3	Convict Labor (JUN 2003)
52.222-17	Nondisplacement of Qualified Workers (JAN 2013)
52.222-21	Prohibition of Segregated Facilities (FEB 1999)
52.222-26	Equal Opportunity (MAR 2007)
52.222-35	Equal Opportunity for Veterans (SEP 2010)

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.222-36	Affirmative Action for Workers with Disabilities (OCT 2010)
52.222-37	Employment Reports Veterans (SEP 2010)
52.222-40	Notification of Employee Rights under the National Labor Relations Act (DEC 2010)
52.222-48	Exemption From Application Of Service Contract Act Provisions – Contractor Certification (FEB 2009)
52.222-50	Combating Trafficking in Persons (FEB 2009)
52.222-54	Employment Eligibility Verification (AUG 2013)
52.223-5	Pollution Prevention and Right-To-Know Information (MAY 2011)
52.223-6	Drug-Free Workplace (MAY 2001)
52.223-10	Waste Reduction Program (MAY 2011)
52.223-15	Energy Efficiency in Energy-Consuming Products (DEC 2007)
52.223-16	IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007)
52.223-18	Contractor Policy to Ban Text Messaging While Driving (AUG 2011)
52.224-1	Privacy Act Notification (APR 1984)
52.224-2	Privacy Act (APR 1984)
52.225-5	Trade Agreements (SEPT 2013)
52.225-8	Duty-Free Entry (OCT 2010)
52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)
52.227-1	Authorization and Consent (DEC 2007)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007)
52.227-3	Patent Indemnity (APR 1984)
52.227-14	Rights in Data - General (DEC 2007)– Alternate IV (DEC 2007)
52.227-17	Rights in Data-Special Works (DEC 2007) (Applicable to FC2 TOs only)
52-227-19	Commercial Computer Software License (DEC 2007)
52.228-5	Insurance – Work on a Government Installation (JAN 1997)
52.228-7	Insurance – Liability to Third Persons (MAR 1996)
52.229-3	Federal, State, and Local Taxes (FEB 2013)
52.230-3	Disclosure and Consistency of Cost Accounting Practices (MAY 2012)
52.230-6	Administration of Cost Accounting Standards (JUN 2010)
52.232-1	Payments (APR 1984)
52.232-7	Payments Under Time and Materials and Labor-Hour Contracts (AUG 2012)
52.232-8	Discounts for Prompt Payment (FEB 2002)
52.232-9	Limitation of Withholding of Payments (APR 1984)
52.232-11	Extras (APR 1984)

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.232-16	Progress Payments (APR 2012)
52.232-17	Interest (OCT 2010)
52.232-18	Availability of Funds (APR 1984)
52.232-19	Availability of Funds for the Next Fiscal Year (APR 1984)
52.232-20	Limitation of Cost (APR 1984)
52.232-22	Limitation of Funds (APR 1984)
52.232-23	Assignment of Claims (JAN 1986)
52.232-25	Prompt Payment (JUL 2013) ALT I (FEB 2002)
52.232-33	Payment by Electronic Funds Transfer-System for Award Management (JUL 2013)
52.233-1	Disputes (JUL 2002) ALT I (DEC 1991)
52.233-3	Protest After Award (AUG 1996) ALT I (JUN 1985)
52.233-4	Applicable Law for Breach of Contract Claim (OCT 2004)
52.237-2	Protection of Government Buildings, Equipment, and Vegetation (APR 1984)
52.237-3	Continuity of Services (JAN 1991)
52.239-1	Privacy or Security Safeguards (AUG 1996)
52.242-1	Notice of Intent to Disallow Costs (APR 1984)
52.242-3	Penalties for Unallowable Costs (MAY 2001)
52.242-4	Certification of Final Indirect Costs (JAN 1997)
52.242-13	Bankruptcy (JUL 1995)
52.243-1	Changes--Fixed-Price (AUG 1987) ALT II (APR 1984)
52.243-2	Changes – Cost Reimbursement (AUG 1987) ALT I and ALT II (APR 1984)
52.243-3	Changes–Time and Materials or Labor Hours (SEP 2000)
52.244-2	Subcontracts (OCT 2010) ALT I (JUN 2007)
52.244-5	Competition in Subcontracting (DEC 1996)
52.244-6	Subcontracts for Commercial Items (JUL 2013)
52.245-1	Government Property (APR 2012)
52.245-2	Government Property Installation Operation Services (APR 2012) <i>Note: (e) to be specified at the task order level.</i>
52.245-9	Use and Charges (APR 2012)
52.246-25	Limitation of Liability – Services (FEB 1997)
52.248-1	Value Engineering (OCT 2010)
52.249-2	Termination for Convenience of the Government (Fixed Price) (APR 2012)
52.249-4	Termination for Convenience of the Government (Services)(Short-Form) (APR 1984)
52.249-6	Termination (Cost Reimbursement)(MAY 2004) and ALT IV (SEP 1996)

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.249-8	Default (Fixed-Price Supply and Service) (APR 1984)
52.249-14	Excusable Delays (APR 1984)
52.251-1	Government Supply Sources (APR 2012)
52.253-1	Computer Generated Forms (JAN 1991)

**I.1.2 Clauses Incorporated By Reference – Unrestricted Track  
 (FAR 52.252-2) (FEB 1998) (Applicable to Unrestricted Track)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text may be accessed electronically at the following Internet address: <http://www.acquisition.gov/far/>.

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) – <i>Applicable to Unrestricted Track only</i>
52.219-9	Small Business Subcontracting Plan (JUL 2013) – <i>Applicable to Unrestricted Track only</i>
52.219-16	Liquidated Damages – Subcontracting Plan (JAN 1999) – <i>Applicable to Unrestricted Track only</i>
52.219-25	Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting (JUL 2013) – <i>Applicable to Unrestricted Track only</i>
52.230-1	Cost Accounting Standards Notices and Certification (MAY 2012) <i>Note: This clause only applies to the Awardees under the EAGLE II Unrestricted Track</i>
52.230-2	Cost Accounting Standards (MAY 2012) <i>Note: This clause only applies to the Awardees under the EAGLE II Unrestricted Track</i>

**I.1.3 Clauses Incorporated By Reference – Small Business Track  
 (FAR 52.252-2) (FEB 1998) (Applicable to Small Business Track)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the CO will make their full text available. Also, the full text may be accessed electronically at the following Internet address: <http://www.acquisition.gov/far/>.

<b>FAR Clause No.</b>	<b>Title and Date</b>
52.219-3	Notice of Total HUBZone Set-Aside (NOV 2011) – <i>Applicable to FCI HUBZone only</i>
52.219-6	Notice of Total Small Business Set-Aside (NOV 2011) – <i>Applicable to Small Business Track only</i>



<b>FAR Clause No.</b>	<b>Title and Date</b>
52.219-14	Limitations on Subcontracting (NOV 2011) – <i>Applicable to Set Aside for 8(a) &amp; General Small Business</i>
52.219-27	Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) – <i>Applicable to FCI SDV only</i>

## **I.2 FAR Clauses Incorporated in Full Text**

### **I.2.1 Notification of Ownership Changes (FAR 52.215-19) (OCT 1997)**

(a) The Contractor shall make the following notifications in writing:

- (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 calendar days.
- (2) The Contractor shall also notify the ACO within 30 calendar days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall-

- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
- (2) Provide the ACO or designated representative ready access to the records upon request;
- (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and
- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

(c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

**I.2.2 Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition with Adequate Price Competition**  
**(FAR 52.216-29) (FEB 2007)**

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(b) The Offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit.

(c) The Offeror proposed as a core team must establish a blended rate for each category of labor to be performed by the Offeror and any core team member. The Offeror must establish fixed hourly rates using separate rates for each category of labor to be performed by each subcontractor and for each category of labor to be performed by the Offeror, and for each category of labor to be transferred between divisions, subsidiaries, or affiliates of the Offeror under a common control.

(End of provision)

*Note:* Contractor shall submit proposals in accordance with the provision at 52.216-30, Time-and-Materials/Labor-Hour Proposal Requirements - Non-Commercial Item Acquisitions without Adequate Price Competition, in solicitations for noncommercial items contemplating use of a Time-and-Materials or Labor-Hour type of contract if the price is not expected to be based on adequate price competition (if the contractor is unsure whether there will be adequate price competition, the contractor shall contact the TO CO for the specific task.)

**I.2.3 Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition without Adequate Price Competition**  
**(FAR 52.216-30) (FEB 2007)**

(a) The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.

(b) The Offeror must specify separate fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit for each category of labor to be performed by—

- (1) The Offeror;
- (2) Each subcontractor; and
- (3) Each division, subsidiary, or affiliate of the Offeror under a common control.

(c) Unless exempt under paragraph (d) of this provision, the fixed hourly rates for services transferred between divisions, subsidiaries, or affiliates of the Offeror under a common control—

- (1) Shall not include profit for the transferring organization; but
- (2) May include profit for the prime Contractor.

(d) The fixed hourly rates for services that meet the definition of commercial item at 2.101 that are transferred between divisions, subsidiaries, or affiliates of the Offeror under a common control may be the established catalog or market rate when it is the established practice of the transferring organization to price inter-organizational transfers at other than cost for commercial work of the Offeror or any division, subsidiary or affiliate of the Offeror under a common control.

(END OF CLAUSE)

## **I.2.4 Performance-Based Payments**

**(FAR 52.232-32) (APR 2012) (For Task Orders only if applicable)**

(a) *Amount of payments and limitations on payments.* Subject to such other limitations and conditions as are specified in this contract and this clause, the amount of payments and limitations on payments shall be specified in the contract's description of the basis for payment.

(b) *Contractor request for performance-based payment.* The Contractor may submit requests for payment of performance-based payments not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all performance-based payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled. The Contractor's request shall contain the information and certification detailed in paragraphs (l) and (m) of this clause.

(c) *Approval and payment of requests.*

(1) The Contractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Contracting Officer shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the \_\_\_\_\_ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30<sup>th</sup>"*] day after receipt of the request for performance-based payment by the designated payment office. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in

paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

(3) The approval by the Contracting Officer of a request for performance-based payment does not constitute an acceptance by the Government and does not excuse the Contractor from performance of obligations under this contract.

(d) *Liquidation of performance-based payments.*

(1) Performance-based finance amounts paid prior to payment for delivery of an item shall be liquidated by deducting a percentage or a designated dollar amount from the delivery payment. If the performance-based finance payments are on a delivery item basis, the liquidation amount for each such line item shall be the percent of that delivery item price that was previously paid under performance-based finance payments or the designated dollar amount. If the performance-based finance payments are on a whole contract basis, liquidation shall be by either predesignated liquidation amounts or a liquidation percentage.

(2) If at any time the amount of payments under this contract exceeds any limitation in this contract, the Contractor shall repay to the Government the excess. Unless otherwise determined by the Contracting Officer, such excess shall be credited as a reduction in the unliquidated performance-based payment balance(s), after adjustment of invoice payments and balances for any retroactive price adjustments.

(e) *Reduction or suspension of performance-based payments.* The Contracting Officer may reduce or suspend performance-based payments, liquidate performance-based payments by deduction from any payment under the contract, or take a combination of these actions after finding upon substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (h) and (i) of this clause).

(2) Performance of this contract is endangered by the Contractor's --

- (i) Failure to make progress; or
- (ii) Unsatisfactory financial condition.

(3) The Contractor is delinquent in payment of any subcontractor or supplier under this contract in the ordinary course of business.

(f) *Title.*

(1) Title to the property described in this paragraph (f) shall vest in the Government. Vestiture shall be immediately upon the date of the first performance-based payment under this contract, for property acquired or produced before that date.

Otherwise, vestiture shall occur when the property is or should have been allocable or properly chargeable to this contract

(2) “Property,” as used in this clause, includes all of the following described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices:

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title;

(iii) Nondurable (*i.e.*, noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (f)(2)(ii) of this clause; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other applicable clauses of this contract (e.g., the termination clauses) shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract, without requesting the Contracting Officer’s approval, provided that any significant reduction in the value of the property to which the Government has title under this clause is reported in writing to the Contracting Officer.

(5) In order to acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor shall obtain the Contracting Officer’s advance approval of the action and the terms. If approved, the basis for payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all performance-based payments, title shall vest in the Contractor for all property (or the proceeds thereof) not --

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(g) *Risk of loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. If any property is lost (see 45.101), the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

(h) *Records and controls.* The Contractor shall maintain records and controls adequate for administration of this clause. The Contractor shall have no entitlement to performance-based payments during any time the Contractor's records or controls are determined by the Contracting Officer to be inadequate for administration of this clause.

(i) *Reports and Government access.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Contracting Officer for the administration of this clause and to determine that an event or other criterion prompting a financing payment has been successfully accomplished. The Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's records and to examine and verify the Contractor's performance of this contract for administration of this clause.

(j) *Special terms regarding default.* If this contract is terminated under the Default clause,

(1) the Contractor shall, on demand, repay to the Government the amount of unliquidated performance-based payments, and

(2) title shall vest in the Contractor, on full liquidation of all performance-based payments, for all property for which the Government elects not to require delivery under the Default clause of this contract. The Government shall be liable for no payment except as provided by the Default clause.

(k) *Reservation of rights.*

(1) No payment or vesting of title under this clause shall --

(i) Excuse the Contractor from performance of obligations under this contract; or

(ii) Constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause --

(i) Shall not be exclusive, but rather shall be in addition to any other rights and remedies provided by law or this contract; and

(ii) Shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(1) *Content of Contractor's request for performance-based payment.* The Contractor's request for performance-based payment shall contain the following:

(1) The name and address of the Contractor;

(2) The date of the request for performance-based payment;

(3) The contract number and/or other identifier of the contract or order under which the request is made;

(4) Such information and documentation as is required by the contract's description of the basis for payment; and

(5) A certification by a Contractor official authorized to bind the Contractor, as specified in paragraph (m) of this clause.

(m) *Content of Contractor's certification.* As required in paragraph (l)(5) of this clause, the Contractor shall make the following certification in each request for performance-based payment:

I certify to the best of my knowledge and belief that --

(1) This request for performance-based payment is true and correct; this request (and attachments) has been prepared from the books and records of the Contractor, in accordance with the contract and the instructions of the Contracting Officer;

(2) (Except as reported in writing on \_\_\_\_\_), all payments to subcontractors and suppliers under this contract have been paid, or will be paid, currently, when due in the ordinary course of business;

(3) There are no encumbrances (except as reported in writing on \_\_\_\_\_) against the property acquired or produced for, and allocated or properly chargeable to, the contract which would affect or impair the Government's title;



(4) There has been no materially adverse change in the financial condition of the Contractor since the submission by the Contractor to the Government of the most recent written information dated \_\_\_\_\_; and

(5) After the making of this requested performance-based payment, the amount of all payments for each deliverable item for which performance-based payments have been requested will not exceed any limitation in the contract, and the amount of all payments under the contract will not exceed any limitation in the contract.

## **I.2.5 Providing Accelerated Payment to Small Business Subcontractors (FAR 52.232-99) (DEVIATION) (AUG 2012)**

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

(a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

(c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

## **I.3 FAR Clauses Incorporated in Full Text (Small Business Track)**

### **I.3.1 Post-Award Small Business Program Rerepresentation (FAR 52.219-28) (JUL 2013)**

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

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at [52.217-8](#), Option to Extend Services, or other appropriate authority.

*Small business concern* means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (c) of this clause. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether

dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it is, or is not a small business concern under NAICS Code \_\_\_\_\_ assigned to contract number \_\_\_\_\_.

[Contractor to sign and date and insert authorized signer's name and title].

(End of clause)

## **I.4 HSAR Clauses Incorporated in Full Text**

### **I.4.1 Security Requirements for Unclassified Information Technology Resources**

**(HSAR 3052.204-70) (JUN 2006) (If required for a Task Order)**

(a) The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location.

This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission.

(b) The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract.

(1) Within [45] days after task order award, the contractor shall submit for approval its IT Security Plan, which shall be consistent with and further detail the approach contained in the Offeror's proposal. The plan, as approved by the Contracting Officer, shall be incorporated into the task order as a compliance document.

(2) The Contractor's IT Security Plan shall comply with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.); the Government Information Security Reform Act of 2000; and the Federal Information Security Management Act of 2002; and with Federal policies and procedures that include, but are not limited to, OMB Circular A-130.

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

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

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

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

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

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

## **I.4.2 Contractor Employee Access**

### **(HSAR 3052.204-71) (SEP 2012) (If Required for a Task Order)**

(a) *Sensitive Information*, as used in this clause, means any information, which if lost, misused, disclosed, or, without authorization is accessed, or modified, could adversely affect the national or homeland security interest, the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Public Law 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (Title 6, Code of Federal Regulations, Part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

- (2) Sensitive Security Information (SSI), as defined in Title 49, Code of Federal Regulations, Part 1520, as amended, “Policies and Procedures of Safeguarding and Control of SSI,” as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);
- (3) Information designated as “For Official Use Only,” which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person’s privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national or homeland security interest; and
- (4) Any information that is designated “sensitive” or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.
- (b) “Information Technology Resources” include, but are not limited to, computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and internet sites.
- (c) Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required. All Contractor employees requiring recurring access to Government facilities or access to sensitive information or IT resources are required to have a favorably adjudicated background investigation prior to commencing work on this contract unless this requirement is waived under Departmental procedures.
- (d) The Contracting Officer may require the Contractor to prohibit individuals from working on the contract if the Government deems their initial or continued employment contrary to the public interest for any reason, including, but not limited to, carelessness, insubordination, incompetence, or security concerns.
- (e) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those Contractor employees authorized access to sensitive information, the Contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.
- (f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

**ALTERNATE I  
(SEP 2012)**

- (g) Before receiving access to IT resources under this contract the individual must receive a security briefing, which the Contracting Officer's Technical Representative (COTR) will arrange, and complete any nondisclosure agreement furnished by DHS.
- (h) The Contractor shall have access only to those areas of DHS information technology resources explicitly stated in this contract or approved by the COTR in writing as necessary for performance of the work under this contract. Any attempts by Contractor personnel to gain access to any information technology resources not expressly authorized by the statement of work, other terms and conditions in this contract, or as approved in writing by the COTR, is strictly prohibited. In the event of violation of this provision, DHS will take appropriate actions with regard to the contract and the individual(s) involved.
- (i) Contractor access to DHS networks from a remote location is a temporary privilege for mutual convenience while the Contractor performs business for the DHS Component. It is not a right, a guarantee of access, a condition of the contract, or Government Furnished Equipment (GFE).
- (j) Contractor access will be terminated for unauthorized use. The Contractor agrees to hold and save DHS harmless from any unauthorized use and agrees not to request additional time or money under the contract for any delays resulting from unauthorized use or access.
- (k) Non-U.S. citizens shall not be authorized to access or assist in the development, operation, management or maintenance of Department IT systems under the contract, unless a waiver has been granted by the Head of the Component or designee, with the concurrence of both the Department's Chief Security Officer (CSO) and the Chief Information Officer (CIO) or their designees. Within DHS Headquarters, the waiver may be granted only with the approval of both the CSO and the CIO or their designees. In order for a waiver to be granted:
  - (1) There must be a compelling reason for using this individual as opposed to a U. S. citizen; and
  - (2) The waiver must be in the best interest of the Government.
- (l) Contractors shall identify in their proposals the names and citizenship of all non-U.S. citizens proposed to work under the contract. Any additions or deletions of non-U.S. citizens after contract award shall also be reported to the contracting officer.

**ALTERNATE II  
(JUNE 2006)**

- (g) Each individual employee working under the task order shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as

evidence by a permanent Resident Card (USCIS I-551). Any exceptions must be approved by the Department's Chief Security Officer or designee.

- (h) Contractor's shall identify in their task order proposals, the names and citizenship of all non-U.S. citizens proposed to work under the task order. Any additions or deletions of non-U.S. citizens after task order award shall also be reported to the Task Order Contracting Officer.

### **I.4.3 Prohibition on contracts with corporate expatriates (HSAR 3052.209-70)(JUN 2006)**

- (a) Prohibitions.

Section 835 of the Homeland Security Act, 6 U.S.C. 395, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation as defined in this clause, or with any subsidiary of such an entity. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of national security.

- (b) Definitions. As used in this clause:

*Expanded Affiliated Group* means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

*Foreign Incorporated Entity* means any entity which is, or but for subsection (b) of section 835 of the Homeland Security Act, 6 U.S.C. 395, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

*Inverted Domestic Corporation.* A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or



(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

*Person, domestic, and foreign* have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) *Certain stock disregarded.* For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) Stock of such entity which is sold in a public offering related to an acquisition described in section 835(b)(1) of the Homeland Security Act, 6 U.S.C. 395(b)(1).

(2) *Plan deemed in certain cases.* If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) *Certain transfers disregarded.* The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) *Special rule for related partnerships.* For purposes of applying section 835(b) of the Homeland Security Act, 6 U.S.C. 395(b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

- (i) warrants;
- (ii) options;
- (iii) contracts to acquire stock;
- (iv) convertible debt instruments; and
- (v) others similar interests.

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) *Disclosure.* The offeror under this solicitation represents that [Check one]:

it is not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003;

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it has submitted a request for waiver pursuant to 3009.108-7004, which has not been denied; or

it is a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of (HSAR) 48 CFR 3009.108-7001 through 3009.108-7003, but it plans to submit a request for waiver pursuant to 3009.108-7004.

(g) A copy of the approved waiver, if a waiver has already been granted, or the waiver request, if a waiver has been applied for, shall be attached to the bid or proposal.

#### **I.4.4 Organizational Conflict of Interest**

**(HSAR 3052.209-72) (JUN 2006)**

(a) *Determination.* The Government has determined that this effort may result in an actual or potential conflict of interest, or may provide one or more Offerors with the potential to attain an unfair competitive advantage. The nature of the conflict of interest and the limitation on future contracting is described below.

*Contractors, (under the terms of this contract), may be expected to deliver or perform information technology services to include program support or independent verification and validation work, thus placing the contractor in a potential*

*organizational conflict of interest (OCI). This could serve as a basis for excluding the contractor from supplying services to the Department of Homeland Security. The nature of this conflict occurs: (1) When either the contractor, core team member(s) and/or subcontractor (a) has access to procurement sensitive information that may provide it an unfair advantage in competing for some or all of the proposed effort; or (b) has drafted or recommended specifications or statements of work or substantially complete statements of work; (2) the contractor reviews the work of itself or any affiliates; or (3) offers advice or planning in areas in which the contractor or any affiliates have financial interests tied to particular solutions. Under these circumstances, the potential could exist for impaired objectivity and judgment under the contract resulting from this solicitation, and for an unfair competitive advantage in future procurements. Therefore, due to the nature of the work being performed, the contractor shall have restrictions on future contracting as identified in HSAR clause 3052.209-73.*

(b) If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the Offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the Offeror and include the appropriate provisions to avoid, neutralize, mitigate, or waive such conflict in the contract awarded. After discussion with the Offeror, the Contracting Officer may determine that the actual conflict cannot be avoided, neutralized, mitigated or otherwise resolved to the satisfaction of the Government, and the Offeror may be found ineligible for award.

(c) Disclosure: The Offeror hereby represents, to the best of its knowledge that:

\_\_\_ (1) It is not aware of any facts which create any actual or potential organizational conflicts of interest relating to the award of this contract, or

\_\_\_ (2) It has included information in its proposal, providing all current information bearing on the existence of any actual or potential organizational conflicts of interest, and has included a mitigation plan in accordance with paragraph (d) of this provision.

(d) Mitigation. If an Offeror with a potential or actual conflict of interest or unfair competitive advantage believes the conflict can be avoided, neutralized, or mitigated, the Offeror shall submit a mitigation plan to the Government for review. Award of a contract where an actual or potential conflict of interest exists shall not occur before Government approval of the mitigation plan. If a mitigation plan is approved, the restrictions of this provision do not apply to the extent defined in the mitigation plan.

(e) Other Relevant Information: In addition to the mitigation plan, the Contracting Officer may require further relevant information from the Offeror. The Contracting Officer will use all information submitted by the Offeror, and any other relevant information known to DHS, to determine whether an award to the Offeror may take place, and whether the mitigation plan adequately neutralizes or mitigates the conflict.

(f) Corporation Change. The successful Offeror shall inform the Contracting Officer within thirty (30) calendar days of the effective date of any corporate mergers, acquisitions, and/or divestitures that may affect this provision.

(g) Flow-down. The contractor shall insert the substance of this clause in each first tier subcontract that exceeds the simplified acquisition threshold.

## **I.4.5 Limitation of Future Contracting**

**(HSAR 3052.209-73) (JUN 2006)**

(a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the attention of prospective Offerors is invited to FAR Subpart 9.5 - Organizational Conflicts of Interest.

(b) The nature of this conflict is: *(1) When either the Prime contractor, core team member(s) and/or subcontractor (a) has access to procurement sensitive information that may provide it an unfair advantage in competing for some or all of the proposed effort; or (b) drafts or recommends specifications or statements of work or substantially complete statements of work; (2) the contractor reviews the work of itself or any affiliates; or (3) offers advice or planning in areas in which the contractor or any affiliates have financial interests tied to particular solutions.*

(c) The restrictions upon future contracting are as follows:

- (1) If the Contractor, under the terms of this contract, or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime or first-tier subcontractor under an ensuing DHS contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias (this time shall in no case be less than the duration of the initial production contract). DHS shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.
- (2) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.

## **I.4.6 Key personnel or Facilities**

**(HSAR 3052.215-70)(DEC 2003)**

(a) The personnel or facilities specified below are considered essential to the work being performed under this contract and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel or facilities, as appropriate.

(b) Before removing or replacing any of the specified individuals or facilities, the Contractor shall notify the Contracting Officer, in writing, before the change becomes effective. The Contractor shall submit sufficient information to support the proposed action and to enable the Contracting Officer to evaluate the potential impact of the change on this contract. The Contractor shall not remove or replace personnel or facilities until the Contracting Officer approves the change.

The Key Personnel or Facilities under this Contract:

(specify key personnel or facilities)

#### **I.4.7 Determination of Award Fee**

**(HSAR 3052.216-71) (SEP 2012) (For Award Fee Task Orders Only-If Applicable)**

(a) The Government shall evaluate contractor performance at the end of each specified evaluation period(s) to determine the amount of award. The contractor agrees that the amount of award and the award fee methodology are unilateral decisions to be made at the sole discretion of the Government.

(b) Contractor performance shall be evaluated according to a Performance Evaluation Plan. The contractor shall be periodically informed of the quality of its performance and areas in which improvements are expected.

(c) The contractor shall be promptly advised, in writing, of the determination and reasons why the award fee was or was not earned. The contractor may submit a performance self-evaluation for each evaluation period. The amount of award is at the sole discretion of the Government but any self-evaluation received within (insert number) days after the end of the current evaluation period will be given such consideration, as may be deemed appropriate by the Government.

#### **I.4.8 Performance Evaluation Plan**

**(HSAR 3052.216-72) (DEC 2003) (For Award Fee Task Orders Only-If Applicable)**

(a) A Performance Evaluation Plan shall be unilaterally established by the Government based on the criteria stated in the contract and used for the determination of award fee. This plan shall include the criteria used to evaluate each area and the percentage of award fee (if any) available for each area. A copy of the plan shall be provided to the contractor (45) calendar days prior to the start of the first evaluation period.

(b) The criteria contained within the Performance Evaluation Plan may relate to: (1) Technical (including schedule) requirements if appropriate; (2) Management; and (3) Cost.

(c) The Performance Evaluation Plan may, consistent with the contract, be revised unilaterally by the Government at any time during the period of performance. Notification of such changes shall be provided to the contractor (30) calendar days prior to the start of the evaluation period to which the change will apply.

#### **I.4.9 Distribution of Award Fee**

##### **(HSAR 3052.216-73) (DEC 2003) (For Award Fee Task Orders Only-If Applicable)**

(a) The total amount of award fee available under this contract is assigned according to the following evaluation periods and amounts:

Evaluation Period:  
Available Award Fee:  
*(insert appropriate information)*

(b) Payment of the base fee and award fee shall be made, provided that after payment of 85 percent of the base fee and potential award fee, the Government may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the Government considers necessary to protect its interest. This reserve shall not exceed [REDACTED] of the total base fee and potential award fee or [REDACTED], whichever is less.

(c) In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a pro rata distribution associated with evaluation period activities or events as determined by the Government.

(d) The Government will promptly make payment of any award fee upon the submission by the contractor to the contracting officer's authorized representative, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment may be made without using a contract modification.

#### **I.4.10 Small Business Subcontracting Plan Reporting**

##### **(HSAR 3052.219-70) (JUN 2006)**

(a) The Contractor shall enter the information for the Subcontracting Report for Individual Contracts (formally the Standard Form 294 (SF294) and the Summary Subcontractor Report (formerly the Standard Form 295 (SF295) into the electronic Subcontracting Reporting System (eSRS) at [www.esrs.gov](http://www.esrs.gov).

(b) The Contractor shall include this clause in all subcontracts that include the clause at (FAR) 48 CFR 52.219-9.

### **I.4.11 DHS Mentor-Protégé Program**

#### **(HSAR 3052.219-71) (JUN 2006)**

(a) Large businesses are encouraged to participate in the DHS Mentor-Protégé program for the purpose of providing developmental assistance to eligible small business protégé entities to enhance their capabilities and increase their participation in DHS contracts.

(b) The program consists of:

- (1) Mentor firms, which are large prime contractors capable of providing developmental assistance;
- (2) Protégé firms, which are small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small business concerns; and
- (3) Mentor-Protégé agreements, approved by the DHS OSDBU.

(c) Mentor participation in the program means *providing business developmental assistance to aid protégés in developing the requisite expertise to effectively compete for and successfully perform DHS contracts and subcontracts.*

(d) Large business prime contractors serving as mentors in the DHS Mentor-Protégé program are eligible for a post-award incentive for subcontracting plan credit. The mentor may receive credit for costs it incurs to provide assistance to a protégé firm. The mentor may use this additional credit towards attaining its subcontracting plan participation goal under the same or another DHS contract. The amount of credit given to a mentor firm for these protégé developmental assistance costs shall be calculated on a dollar for dollar basis, and reported in the Summary Subcontract Report via the Electronic Subcontracting Reporting System (eSRS) at [www.eSRS.gov](http://www.eSRS.gov). For example, a mentor/large business prime contractor would report a \$10,000 subcontract to the protégé/small business subcontractor, and \$5,000 of developmental assistance to the protégé/small business subcontractor as \$15,000. The mentor and protégé will submit a signed joint statement agreeing on the dollar value of the developmental assistance and the Summary Subcontract Report.

(e) Contractors interested in participating in the program are encouraged to contact the DHS OSDBU for more information.

### **I.4.12 Contracting Officer's Representative**

#### **(HSAR 3052.242-72)(DEC 2003)**

(a) The Contracting Officer may designate Government personnel to act as the Contracting Officer's Representative (COR) to perform functions under the contract such as



review or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the Contractor within five working days after contract award or for construction, not less than five working days prior to giving the contractor the notice to proceed. The designation letter will set forth the authorities and limitations of the COR under the contract.

(b) The Contracting Officer cannot authorize the COR or any other representative to sign documents, such as contracts, contract modifications, etc., that require the signature of the Contracting Officer.

**(End of Section I)**

## SECTION J – LIST OF ATTACHMENTS

Attachment A: B-1 Labor Rate Tables

Attachment F-1: EAGLE II Monthly Contract Status Report (*Ref. F.8.1*)

Attachment F-3: International Business Machines Corporation Subcontracting Plan, dated  
02/16/2013

Attachment H-1: EPEAT Report Template (*Ref. H.3*)

**(End of Section J)**



## EPEAT – Report Template

**Instructions for completing the matrix below:**

1. Please identify the quantities of desktop computers, CRT monitors, LCD monitors, laptop computers that were purchased or leased by the Department of Homeland Security on the EAGLE II contract that are Electronic Product Environmental assessment Tool (EPEAT) registered, the level of EPEAT registration level and the quantities that are not EPEAT-registered.
2. Only report those purchases or leases made during each quarter of the fiscal year
3. Go to the following website to see EPEAT-registered products listed by manufacturer along with the appropriate EPEAT-registration level:  
<http://www.epeat.net/Companies.aspx>

Description	Desktop Computers	CRT Monitors	LCD Monitors	Laptop Computers
Total Number of EPEAT-Registered Bronze Units Purchased or Leased				
Total Number of EPEAT-Registered Silver Units Purchased or Leased				
Total Number of EPEAT-Registered Gold Units Purchased or Leased				
Total Number of non EPEAT-Registered Units Purchased or Leased				

Contractor Name: \_\_\_\_\_

Contract No.: \_\_\_\_\_

Point of Contact Name and Phone  
Number: \_\_\_\_\_

Date Submitted: \_\_\_\_\_