

TEAMING AGREEMENT

IT ACQUISITION ADVISORY COUNCIL (IT-AAC) and UNIVERSITY OF MARYLAND

THIS Agreement is made and entered into on October 20, 2010 by and between IT Acquisition Advisory Council (IT-AAC), an Illinois non-profit corporation, with corporate headquarters at 904 Clifton Drive, Alexandria, VA, 22308 (hereinafter referred to as "IT-AAC" or the "Prime Contractor or Grantee") and the Center for Public Policy and Private Enterprise at the University of Maryland at 3112 Lee Building, University of Maryland, College Park, MD 20742-5141 (hereinafter referred to as "Teaming Partner").

WHEREAS, the Prime Contractor or Grantee intends to prepare and submit a response (hereinafter "Proposal") to the Department of Defense (hereinafter "DoD" or the "Funding Agency") to provide technical services).

WHEREAS, the Teaming Partner is willing to participate in the preparation of the Proposal and perform a portion of the work as provided herein.

WHEREAS, the Prime Contractor or Grantee and the Teaming Partner desire to define their mutual rights and obligations in connection with developing and submitting said Proposal and in negotiating any subsequent contract or grant resulting there from.

NOW THEREFORE, to effectuate the foregoing, the Prime Contractor or Grantee and the Teaming Partner, in consideration of the mutual covenants hereinafter contained, agree to the following:

1. PURPOSE OF THE AGREEMENT

1.1 IT Acquisition Advisory Council (IT-AAC) will function as the Prime Contractor or Grantee and will fully and fairly consider Teaming Partner for inclusion in the Proposal to provide services in accordance with the scope of work set forth in Exhibit A (hereinafter "SOW").

2. PROPOSAL PREPARATION

2.1 The Prime Contractor or Grantee will assume the lead for Proposal preparation, and shall bear the responsibility to submit the Proposal to the Funding Agency and conduct negotiations with the same concerning the Proposal. Each party shall bear its own costs, expenses, and liabilities caused by or arising out of this Agreement, its performance, amendment, or expansion and neither party shall be liable for any such costs, expenses, or liabilities incurred or other obligations undertaken by the other party in connection with this Agreement.

- 2.2 The Teaming Partner shall, under Prime Contractor or Grantee's management and direction, furnish, in a timely manner, all necessary personnel, equipment, materials, facilities, technical and other services related to the Teaming Partner's scope of work, so as to enable the Prime Contractor or Grantee to fully respond to Funding Agency's proposal requirements. In particular, the Teaming Partner shall provide its expertise and support in the following areas: technical proposal inputs, personnel resumes, past performance references, project profiles, cost and pricing information, bid strategies, and such other information as may be required by Prime Contractor or Grantee. The Teaming Partner will furnish to the Prime Contractor or Grantee all appropriate technical and business data and information, in both hard copy and electronic format, concerning its portion of the work. The Prime Contractor or Grantee reserves the right to determine the final technical content and pricing of the Proposal.
- 2.3 The parties recognize that, subsequent to this Agreement becoming effective, conditions relating to the Project may change such as to dictate a change in the SOW set forth in Exhibit A in order to enhance the possibilities for selection of the IT Acquisition Advisory Council (IT-AAC) as Prime Contractor or Grantee for the Project and Teaming Partner as the Subcontractor or Subawardee there under. Therefore, it is agreed that, after issuance of the request for proposal by Funding Agency and prior to the submission of the proposal by the IT Acquisition Advisory Council (IT-AAC), Teaming Partner will, upon request from the IT Acquisition Advisory Council (IT-AAC), enter into good faith negotiations with the IT Acquisition Advisory Council (IT-AAC) to revise Exhibit A hereof to increase or decrease the work there under. The IT Acquisition Advisory Council (IT-AAC) agrees not to initiate such request, unless it has a good faith belief that such is necessary, and will in such event advise Teaming Partner of the basis for such belief. In the event, after such IT Acquisition Advisory Council's (IT-AAC) request, the parties are unable to reach mutual agreement as to an appropriate revision to Exhibit A, either party may upon ten (10) days prior notice to the other party terminate this Agreement, unless within such ten (10) day period the IT Acquisition Advisory Council (IT-AAC) withdraws the request or mutual agreement upon a revision is reached.
- 2.4 2.5 Should Prime Contractor or Grantee elect to protest the Funding Agency's decision regarding said Proposal or its award, this Agreement shall remain in effect until said protest is decided by the appropriate body, or is withdrawn. Any subsequent related procurement action resulting from the protest effort will therefore be subject to this Agreement.

3. AWARD OF CONTRACT OR GRANT

- 3.1 In the event that a contract or grant is made to the Prime Contractor or Grantee, the parties agree to negotiate, in good faith, toward the execution of a subcontract or subaward (hereinafter "Subcontract" or "Subaward") for that portion of work identified in Exhibit A of this Agreement or as that work may be subsequently modified by mutual agreement by both parties in writing. It is understood by the parties that any such Subcontract or Subaward or changes or supplements thereto are subject to the negotiation of mutually satisfactory terms and conditions, including applicable flow-downs from the

prime agreement, if any, and mutual agreement on pricing. The Prime Contractor or Grantee will exert its best efforts to secure approval of the Subcontract or Subaward by the Funding Agency.

- 3.2 The Prime Contractor or Grantee will keep the Teaming Partner fully informed concerning preparations for, timing, and status of any contract or grant negotiations. The Teaming Partner will support and participate in the award negotiations as reasonably requested by the Prime Contractor or Grantee.
- 3.3 The Prime Contractor or Grantee will provide the Teaming Partner with copies of the Funding Agency's technical responses pertaining to their participation and any changes in the Subcontract or Subaward budget prepared for any clarifications during Best and Final Offer or other negotiations with the Funding Agency.

4. USE OF PROPRIETARY INFORMATION

- 4.1 The parties anticipate that in order to perform this Agreement, it may be necessary for either party to transfer to the other information of a proprietary nature. Proprietary information shall be clearly marked as "Proprietary" at the time of disclosure; provided, however that all information relating to cost/price structure is determined to be proprietary whether or not identified as such. If such proprietary information is communicated orally, the party that released such information must confirm release of such information, in writing, within fifteen (15) days of such communication. Both parties' obligations under the terms of this provision shall survive termination of this Agreement for a period of three (3) years.
- 4.2 Furthermore, the Prime Contractor or Grantee considers their portion of the proposal to be proprietary. Each of the parties agrees that it will not divulge or transmit information concerning the Prime Contractor or Grantees portion of this proposal, including but not limited to conceptual approach, technical approach, work plans and personnel, to firms or individuals who are not members of the Proposal preparation team.
- 4.3 Notwithstanding anything contained in paragraphs "4.1" and "4.2" above, neither party shall be liable for any release or use of any information if either party can demonstrate by written evidence that the information is:
 - (a) in the public domain at the time of disclosure, or is subsequently made available to the general public without restriction by the disclosing party;
 - (b) in either parties' rightful possession at the time of receipt thereof;
 - (c) used or disclosed inadvertently despite the exercise of the same degree of care that each party takes to preserve or safeguard its own proprietary information;
 - (d) known to either party independently of the other party and Funding Agency and from a source other than one having an obligation of confidentiality to either party or Funding Agency;
 - (e) used or disclosed with the prior written approval of the disclosing party;
 - (f) furnished by the disclosing party to the U.S. Government with "unlimited rights";

- (g) disclosed without restriction to the receiving party from a source other than the disclosing party;
- (h) used or disclosed after a period of three (3) years after the date of receipt;
- (i) independently developed by either party without violation of this or any other agreement;
- (j) Disclosed by Teaming Partner when obligated to comply with applicable laws or regulations, including the Maryland Public Information Act, or pursuant to an order of a court of competent jurisdiction or a valid administrative or congressional subpoena provided the Teaming Partner notifies the Prime Contractor or Grantee prior to making such a disclosure so that the Prime Contractor or Grantee may take appropriate action.

5. RELATIONSHIP OF THE PARTIES

- 5.1 The parties shall act as independent contractors, and neither party shall act as agent for, nor partner of, the other, nor be authorized to incur any liability or to represent or make commitments on behalf of the other (except as provided herein), and the employees of one shall not be deemed the employees of the other. Notwithstanding the above, if the Funding Agency is the United States government, the parties intend this to be a contractor team arrangement as defined in FAR 9.601(2).
- 5.2 Nothing in this Agreement shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind, and the rights and obligations of the parties shall be limited to those expressly set forth herein. Neither party shall have any liability nor obligation to the other except as expressly provided herein.
- 5.3 All contacts with the Funding Agency relative to the Project and its subject matter shall be conducted by Prime Contractor or Grantee, unless specifically directed otherwise by Prime Contractor or Grantee.

6. CONFLICT OF INTEREST

- 6.1 Teaming Partner must immediately notify Prime Contractor or Grantee if, at any time during the term of this Agreement, Teaming Partner becomes aware that it has an actual or potential conflict of interest, including without limitation a relationship of any nature which may impair or which may reasonably appear to impair Teaming Partner's objectivity or ability to perform the work described in Exhibit A hereto ("Conflict of Interest").
- 6.2 As a material obligation hereunder, Teaming Partner Key Personnel Dr. Gansler agrees that he will not knowingly, during the term of this Agreement, form a relationship which results in a Conflict of Interest.

7. EXPIRATION/TERMINATION OF AGREEMENT

7.1 This Agreement shall be in full force and effect from the date hereof, shall apply solely to the Project, and shall automatically expire upon the advent of any one of the following events, whichever shall first occur:

- (a) the receipt of an official announcement or written notice from the Funding Agency of cancellation of the Solicitation;
- (b) the receipt of written notice from the Funding Agency that it has awarded the contract or grant for the Project to an entity other than the Prime Contractor or Grantee, but only if the contract or grant is not protested. If the contract or grant is protested, this Agreement shall remain in effect until all protest-related proceedings are completed and award to a third party is finalized;
- (c) the receipt of notice from the Funding Agency that the Teaming Partner will not be approved as Subcontractor or Subawardee;
- (d) official determination by the Funding Agency that either party is in a Conflict of Interest;
- (e) any significant change in the financial capability of either party which, in the opinion of the other party, seriously affects the party's ability to fulfill the Prime Contract or Grant, or, as the case may be, Subcontract or Subaward, responsibilities;
- (f) execution of a Subcontract or Subaward between the Teaming Partner and the Prime Contractor or Grantee;
- (g) failure of the parties, despite their good faith efforts, to reach an agreement on the terms and conditions of a Subcontract or Subaward within sixty (60) calendar days from the commencement of active negotiations, which commencement shall in no event be deemed to have occurred prior to the contract or grant award to the Prime Contractor or Grantee;
- (h) where the Funding Agency is a local, state, federal or foreign governmental agency, Teaming Partner is ineligible for award due to debarment or suspension; and
- (i) the elapsing of twelve (12) months from the date of this Agreement unless award of the Prime Contract or Grant is made to the Prime Contractor or Grantee or any other party during the twelve-month period.

7.2 This Agreement may be also terminated or extended by the mutual, written agreement of the parties.

7.3 In the event that, during the term of this Agreement, Teaming Partner has a Conflict of Interest, Prime Contractor or Grantee may unilaterally terminate this Agreement, so long as Prime Contractor or Grantee has notified Teaming Partner of its intent to terminate due to the Conflict of Interest and allowed Teaming Partner no fewer than seven (7) calendar days prior to the effective termination date in which to cure same.

7.4 Either party may unilaterally terminate this Agreement for any of the following reasons, so long as the terminating party has notified the other party of its intent to terminate, the reason for such termination, and allowed the other party no less than seven (7) calendar days prior to the effective termination date in which to cure the stated reason:

- (a) Actual failure of the other party to fulfill its obligations hereunder;
- (b) Anticipated failure of the other party to fulfill its obligations hereunder, or anticipated inability of the other party to perform the scope of work, due to: (i) inadequate financial capability or (ii) loss or material degradation of corporate capabilities which are essential to the Project requirements, including without limitation loss or unavailability of the other party’s key employees;
- (c) The insolvency of the other party or the filing by or against the other party of a petition, arrangement, or proceeding seeking an order for relief under the applicable bankruptcy laws, a receivership for any of the assets of the other party, a composition with or assignment for the benefit of creditors, a readjustment of debt, or the dissolution or liquidation of the other party.

8. NOTICES

Any notice or request required or permitted to be given or made under this Agreement shall be in writing and in the English language. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, by registered or certified mail, by telex or by facsimile to the party to which it is required or permitted to be given or made at such party’s addresses specified below:

If to CORPORATION:

IT-AAC
904 Clifton Drive
Alexandria, VA, 22308

Attn: Mike Wynne, ICH Chairman of the Board
Tel: (703) 768-0400
Fax:
Email: mike.wynne@it-aac.org

If to Teaming Partner:

University of Maryland
Office of Research Adm
3112 Lee Bldg., College Park, Park, M
20742-5141

Attn: Wendy T. Montgomery
Tel: 301-405-6269
Fax: 301-314-9569
Email: ora@umd.edu

9. MISCELLANEOUS

9.1 Assignment. In all events, including without limitation mergers, consolidations and sale or transfer of all or substantially all of its assets, neither party may assign this Agreement, in whole or in part, without the prior written approval of the other party.

9.2 Publicity. Teaming Partner shall not issue a news release, public announcement, advertisement or any other form of publicity concerning its efforts in connection with this

Agreement without obtaining the prior written approval of Prime Contractor or Grantee; with the exception of the Teaming Partner's unrestricted ability to disclose the existence of the agreement, the nature of the work, and the identity of the sponsor.

- 9.3 Compliance with Laws. In the course of performance hereunder, the parties shall comply with all applicable local, state and federal laws and regulations.
- 9.4 Waiver. Neither party shall be deemed to have waived any right or remedy unless such waiver is made expressly and in a signed writing.
- 9.5 Governing Law. This Agreement shall be governed by and construed in strict accordance with the laws of the State of Maryland, excepting provisions related to conflicts of law.
- 9.6 Severability. Each provision of this Agreement is severable. If one provision is declared void, illegal or unenforceable, the remaining paragraphs shall retain their full force and effect.
- 9.7 Entire Agreement. The foregoing Articles contain the entire Agreement between the parties which supersedes any prior oral or written agreements, commitments, understandings, or communications with respect to the subject matter of this Agreement. No change, modification, alteration, or addition to the terms and conditions of this Agreement shall be binding unless in writing and signed by authorized representatives of both parties.

IN WITNESS WHEREOF, The parties hereto, through their duly authorized official(s), have executed this Agreement in duplicate, each of which shall be considered an original, effective as of the day and year shown below.

FOR IT-AAC:

FOR UNIVERSITY OF MARYLAND



Mike Wynne
ITAC Chairman
October 20, 2010



Signature
Wendy T. Montgomery
Title
10/21/10
Date

EXHIBIT A

TEAMING PARTNER'S ANTICIPATED SCOPE OF WORK

This Exhibit A to the Teaming Agreement sets out the anticipated SOW relative to Teaming Partner's anticipated role in the Project, as presently contemplated by the parties.

IT-AAC will

- provide overall management of the Contract, including but not limited to primary interface with the client, coordination amongst team members, convening of senior management, facilitation of strategic and technical working groups, and provision of centralized management and support systems as appropriate;
- provide technical assistance across the breadth of the program as appropriate and needed in coordination with Teaming Partners;
- assume direct implementation roles under the auspices of coherent program wide or regional strategies; and
- serve as prime consortium member and provide overall leadership of the proposal effort.

It is anticipated that the primary area of responsibility for the Teaming Partner will be in supporting activities in the following substantive area(s):

In partnership with IT-AAC and its partners, University of Maryland will provide technical assistance for tasks to include: a) the review of policies and laws governing the IT Acquisition process, b) the development of recommended policy and governance changes to improve accountability and effectiveness, and c) the participation in Integrated Product Teams

The level of effort will be determined prior to proposal submission.