

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE: J
PAGE OF PAGES: 1 OF 5

2. AMENDMENT/MODIFICATION NO.: FC00080
 3. EFFECTIVE DATE: SEE BLOCK 18C
 4. REQUISITION/PURCHASE REQ. NO.:
 5. PROJECT NO. (if applicable):
 6. ISSUED BY CODE: N00039
 7. ADMINISTERED BY (if other than item 6) CODE:

SPACE AND NAVAL WARFARE SYSTEMS COMMAND
 CONTRACTING OFFICER: 02-N Debra L. Streufert
 2231 Crystal Drive, Suite 400
 Arlington, VA 22202-3721
 PHONE: 703.685.5588

8. NAME AND ADDRESS OF CONTRACTOR (A/C, street, county, State and ZIP Code)

ELECTRONIC DATA SYSTEMS CORPORATION
 13600 EDS DRIVE
 HERNDON, VA 20171
 ATTN: NMCI CONTRACTS

9A. AMENDMENT OF SOLICITATION NO.:
 9B. DATED (SEE ITEM 11):
 X 10A. MODIFICATION OF CONTRACT ORDER NO.: N00024-00-D-6000
 10B. DATED (SEE ITEM 11): 06 October 2000

CODE 1U305 FACILITY CODE

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 14. The form and date specified for receipt of Offers is extended is not extended.
 (Offer) must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods:
 (a) By completing items 9 and 10, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer transmitted; or (c) By separate letter or teletype which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by teletype or letter, provided each teletype or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.
 12. ACCOUNTING AND APPROPRIATION DATA (if required):
 NOT APPLICABLE

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
 B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 48.102(k).
 C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: 10 U.S.C 2304(c)(5)
 D. OTHER (Specify type of modification and authority):

E. IMPORTANT: Contractor is not, is required to sign this document and return (See note below copies to the issuing office).

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible)

Notes: The Contractor may retain a copy of the document either by facsimile or as a document captured in portable document format (pdf).

SEE HEREIN

(See also attached herein all terms and conditions of the document referenced in item 6A or 10A, as hereinafter changed, remaining unchanged and in full force and effect.)

15A. NAME AND TITLE OF SIGNER (Type or print): Keith Spencer, NMCI Contract Manager
 15B. NAME AND TITLE OF CONTRACTING OFFICER (Type or print): Debra L. Streufert, Contracting Officer

15C. CONTRACTOR OFFEROR: 
 15D. DATE SIGNED: 29 OCT 2002
 15E. UNITED STATES OF AMERICA
 15F. DATE SIGNED:  30 OCT 02

The purpose of this modification is to revise the contract period of performance by adding two years to the base period.

Accordingly, revise the contract as follows:

1. Under the "Executive Summary", revise the last paragraph to read:

"The contract for NMCI services is a Multiyear Services contract under the authority of former 10 U.S.C. Section 2306(g) (now 2306c). The contract contains a base period of seven (7) program years and an option for an additional three (3) program years. In the event the contract is cancelled by the Government prior to completion of the base period of performance, the Contractor shall be entitled to payment of a cancellation charge subject to the term of Part Two, paragraph 5.6, entitled "Cancellation under Multi-Year Contract".

2. Under Part One, "Continuation of SF 1449", make the following changes:

A. Delete the paragraph that reads: "The following tables list the services that can be ordered under NMCI. Tables One through Five list the services for the basic contract period; Tables Six through Eight list the services for the option contract period."

B. Revise the table entitled "Summary of Minimum Contract Value" as follows:

"Summary of Minimum Contract Value"

Program Year	Minimum
PY01	\$ 90,000,000
PY02	\$ 200,000,000
PY03	\$ 800,000,000
PY04	\$1,250,000,000
PY05	\$1,350,000,000
PY06	\$1,155,000,000
PY07	\$1,155,000,000
Total Base	\$6,000,000,000
PY08 Option	\$ 939,675,867
PY09 Option	\$ 939,675,867
PY10 Option	\$ 939,675,867
Total Option	\$2,819,027,601
TOTAL CONTRACT	\$8,819,027,601

* See paragraph 2.1 of the contract."

3. Under Part One, tables 6 and 7 will become part of the base period, new tables will be added for the final two new option years. Revise the line item pricing tables as follows:

A. On Table Six for Program Year (PY) 06 and on Table Seven for PY07, remove "See Note C" from the title, revise all CLIN items from 0101 to 0140 to the CLIN numbers and values as specified in Table 5 (CLINS 0001-0040), and where dates appear within the table change them to reflect year 2006 or 2007 as applicable.

B. After Table Eight add two new tables which are like table Eight, but which are renamed to "Table Nine - Program Year 2009 - See Note C" and "Table Ten - Program Year 2010 - See Note C", and where reference is made to "2008" change these to the applicable year (2009 or 2010).

c. Revise the totals on each Table to reflect the minimums listed in the summary table above.

4. Under Part Two, delete paragraph 1.1, "Term of Contract", and replace it with the following:

"The Government may extend the term of this contract by exercising the option within seven (7) years from the date of contract award; provided that the Government gives the Contractor a preliminary written notice of its intent at least 180 days before the base period of performance of the contract expires. The preliminary notice does not commit the Government to exercise the option.

The total duration of this contract, including the exercise of any options under this clause, shall not exceed ten years (seven base years and one three-year option)."

5. Under Part Two, paragraph 2.1, revise subparagraph (g) and add subparagraph (h) as follows:

A. "g. The PY03 minimum is based upon successful completion of operational assessment testing, receipt of approval and subsequent ordering of 150,000 seats and will be adjusted to reflect the actual value of the orders as issued."

"h. The Government hereby confirms that it will order a minimum of \$6,000,000,000.00 of seat services and supplies under the contract for all items (excluding CLINS 0024-0026 and 0029 from FY04 and beyond), by the end of the base period of performance as reflected by the annual amounts listed in the Part One Tables for Program Years 01-07 as revised herein. The parties agree to reevaluate the annual minimum each year to determine whether future year amounts should be adjusted as a result of prior performance. In the event the Government exercises the option, the total minimum will remain at the amount listed in the table above."

6. Under Part Two, paragraph 5.3, "Cancellation under Multi-Year Contracts", make the following changes:

A. Under the second paragraph, add cancellation ceilings: PY06 - *; PY07 - \$*; *See Contingency paragraph 8 below.

B. Revise the table that identifies notification dates as follows:

"Program Year	Latest Notification Date
4 (FY2004)	1 October 2003
5 (FY2005)	1 October 2004
6 (FY2006)	1 October 2005
7 (FY2007)	1 October 2006
8 (FY2008)	1 October 2007
9 (FY2009)	1 October 2008
10(FY2010)	1 October 2009"

7. Statement of Release:

A. As used in this paragraph:

(1) "Events" include but are not limited to any contract modification, any supplemental agreement, any Government action or omission pertaining to Government property or information, and any other occurrence, action, or omission, all of which events arise out of or under, or are in any manner connected with or related to (i) this contract or (ii) any other Government contract or (iii) any contract between the contractor and any third party.

(2) "Covered Events" refer to events occurring before the effective date of this modification whether formal or constructive, whether known or unknown to either or both of the parties as of the effective date of this modification and whether or not such events were discussed between the parties.

B. In consideration of the provisions of this modification, the contractor, for itself, its successors, assignees, vendors, suppliers, and subcontractors, hereby releases and forever discharges the Government, its officers, agents, and employees from (i) any and all actual or potential entitlement of the contractor to any equitable adjustment in the contract price for Covered Events or for the impact of Covered Events; (ii) any and all actual or potential liabilities to the contractor for money damages and/or other relief for Covered Events or for the impact of Covered Events upon this contract; (iii) any and all actual or potential entitlement of the contractor to an equitable adjustment in the contract price under any other Government contract or any contract between the contractor and any third party for Covered Events, or for the impact of Covered Events, arising under or related to this contract; and (iv) any and all actual or potential liabilities to the contractor for money damages and/or other relief under any other Government contract or any contract between the contractor and any third party for Covered Events, or for the impact of Covered Events, arising under or related to this contract. By this release the contractor does not release claims under any other Government contract for Covered Events solely arising under such other Government contract.

C. (1) The contractor hereby confirms and acknowledges that in agreeing to the terms of this modification, it has considered, made full allowance for, and is releasing all rights to any entitlement for any and all costs under, and any and all impacts upon, this contract, whether or not such costs and impacts are known or unknown or foreseeable or unforeseeable as of the effective date of this modification, whether or not such costs and impacts have been discussed with, or for any reason reserved for future discussion with, the Government, or have been made the basis for other assertions of claims or requests for equitable adjustment, with the exception of reserved items listed below, whether or not such costs and impacts were, or are, incurred and sustained respectively, before or after the effective date of this modification and whether or not such costs and impacts are caused directly or indirectly by, cumulatively, or in consequence of the impact of any of the Covered Events.

(a) Reserved Items

1. The Commerce Point quarterly request for adjustment.
2. Nothing contained in this release shall be deemed to preclude the contractor from submitting a claim or request for equitable adjustment to recover increased costs incurred in relation to legacy applications, provided that all such increased costs have been incurred after the date of this modification.
3. Any claim or request for equitable adjustment based entirely on Events occurring after the effective date of this modification
4. Nothing contained in this release shall affect any recovery pursuant to the clauses of this contract entitled Termination or Cancellation; however, if the contractor submits a claim or request for equitable adjustment seeking entitlement to a price increase or an increase in the amount of the cancellation ceiling, and any such claim or request is based in whole or in part on "covered events" such claim or request shall be subject to this release.

(2) The term "costs" as used in subparagraph (1) immediately above includes, but is not limited to, any and all:

- (a) direct performance costs,
- (b) material costs,
- (c) indirect costs,
- (d) local delay and local disruption costs,

- (e) cumulative delay and cumulative disruption ("impact") costs,
- (f) costs associated dislocations, accelerations, and inefficiencies in performance,
- (g) interest costs and any other consideration for financing,
- (h) claim preparation costs and request for equitable adjustment preparation costs,
- (i) overhead costs, and
- (j) professional fees, including but not limited to attorneys' fees.

8. Contingency relating to the applicability of the cancellation ceiling amounts and the release.

This modification has been entered into on the basis that the entire agreement is set forth herein. However, the parties acknowledge and agree that prior to the Navy having the authority to enter into an agreement containing a cancellation ceiling the Navy must provide notice with respect to the cancellation ceilings to legislative committees as required by 10 U.S.C. 2306c(d)(4) and allow a period of 30 days to elapse; therefore, this agreement provides that the cancellation ceiling for Program Years (PYs) 06 and 07 is \$-0-. After completion of the notification process to the committees, and assuming that no objection is raised by the committees, the cancellation ceilings for PY 06 and 07 shall be increased to \$549.1M and \$378.5M, respectively. If the Navy is precluded from implementing the cancellation ceiling in these amounts, the cancellation ceilings for PY 06 and 07 shall remain at \$-0-. Further, the Contractor's release set forth in this modification shall be effective only if the Navy is able to implement the cancellation ceiling in the increased amounts set forth above.

A CONFORMED COPY OF THE REVISED CONTRACT IS MADE A PART OF THIS MODIFICATION AS A RESULT OF THE CHANGES IDENTIFIED HEREIN.

All other terms and conditions of Contract N00024-00-D-6000 remain unchanged, and in full force and effect.