



NATIONAL ACADEMY OF SCIENCES

REQUEST FOR PROPOSAL (RFP)

Number: LabX-20200506

Project Evaluation

ISSUANCE DATE: March 4, 2020

CLOSING DATE: April 3, 2020

The National Academy of Sciences' ("NAS") LabX public engagement program is looking for an individual or firm to serve as the evaluator for two separate yet interconnected projects currently being developed on the following topics: 1) Cannabis, and 2) Consumer Behavior. The evaluator will develop instruments to measure the efficacy of the programs, and work to ensure that project outcomes are consistent with LabX overarching goals.

Any proposal submitted must be presented in accordance with this RFP and be submitted via email to Geoffrey Hunt, Director, LabX, at GHunt@nas.edu in Microsoft Word or Adobe PDF format.

Issuance of this RFP does not constitute an award commitment by NAS nor does it obligate NAS to pay for costs incurred in the preparation and submission of proposals. Any award resulting from this RFP shall be construed under the laws of the District of Columbia.

Offerors should retain for their records one copy of any and all enclosures that accompany their proposal and agree to hold the prices in its offer firm for ninety (90) calendar days from the closing date.

Any questions concerning this RFP must be submitted in writing to Geoffrey Hunt at GHunt@nas.edu.

Sincerely,

Dorothy Yee
Manager, Procurement Services & Subaward Administration

OVERVIEW

About the National Academy of Sciences and LabX

For more than 150 years, the National Academy of Sciences (“NAS”) has been advising the nation on issues of science, technology, and medicine. The 1863 Congressional charter signed by President Lincoln authorized this non-governmental institution to honor top scientists with membership and to serve the nation whenever called upon. The National Academy of Engineering (NAE) and the National Academy of Medicine (NAM, formerly the Institute of Medicine) -- were founded under NAS’ charter in 1964 and 1970, respectively. The three Academies work together under NAS to provide independent, objective analysis and advice to the nation and conduct other activities to solve complex problems and inform public policy decisions. NAS also encourages education and research, recognizes outstanding contributions to knowledge, and increases public understanding in matters of science, engineering, and medicine. NAS’ service to government has become so essential that Congress and the White House have issued legislation and executive orders over the years that reaffirm its unique role.

The LabX program aims to empower young adults (ages 18-37) to use science and scientific thinking in their daily lives and in their communities, with a long-term vision of a world in which young adults actively use the relevant products and processes of science to inform their problem solving and decision making.

LabX is currently in the process of developing programming that focuses on providing opportunities for young adults to engage with science through a variety of different formats, locations and topics. These efforts will expand on more “traditional” models of public engagement, such as public lectures and science festivals, to not only reach individuals where they physical are, but also by focusing on issues that are relevant to them. Importantly, LabX is dedicated to working with audiences to develop programming, in particular those audiences who are typically underserved or ignored by public engagement programs.

As a program, LabX is using a combination of online and in-person opportunities to engage with this target audience, and is not reliant on physical infrastructure nor restricted to operating in a specific geographical location. This freedom allows the LabX program to experiment with modes of engagement that might not be possible at other institutions.

CONTENTS OF RFP

This RFP consists of a cover letter and the following sections:

Section Title

- I. Instructions and Conditions
- II. Scope of Work
- III. Specimen Contract Clauses
- IV. Representations & Certifications Form

SECTION I

INSTRUCTIONS AND CONDITIONS

DEFINITIONS

Discussions are negotiations that occur after establishment of the competitive range that may, at the NAS Procurement Director's discretion, result in an Offeror being allowed to revise its proposal.

In Writing or **written** means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

Proposal modification is a change to a proposal made after the RFP closing date, at the request of or allowed by the NAS Procurement Director as the result of negotiations.

Time, if stated as a number of days, is calculated using calendar days and will include Saturdays, Sundays, and Federal holidays.

RFP AMENDMENTS

If this RFP is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this RFP by the date and time specified in the amendment(s).

SUBMISSION, MODIFICATION, REVISION AND WITHDRAWAL OF PROPOSALS

- (1) Proposals and modifications to proposals shall be submitted electronically to Geoffrey Hunt at GHunt@nas.edu and the text of the message should indicate the name and address of the Offeror and RFP Number: LabX-20200506
- (2) The first page of the proposal must show—
 - The RFP number;
 - The name, address, email address, telephone and facsimile numbers of the Offeror;

- A statement specifying Offeror's agreement with all terms, conditions, and provisions included in this RFP and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
- Name, titles, email addresses, telephone of individual(s) authorized to sign the proposal.

The proposal submitted in response to this RFP shall be in English and in U.S. dollars.

Unless otherwise specified in this RFP, the Offeror must quote to provide all items.

Proposals may be withdrawn by the Offeror at any time before an award, if any, provided the Offeror provides such notice in writing to KHale@nas.edu. Withdrawals are effective upon receipt of notice by the NAS Procurement Director.

If an emergency or unanticipated event interrupts normal NAS processes so that proposals cannot be received by the individual designated for receipt of proposals no later than the time specified in this RFP, and urgent NAS requirements preclude amendment of this RFP or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in this RFP on the first work day on which normal NAS business resumes.

LATE PROPOSALS AND REVISIONS

Any proposal received by NAS after the exact time specified for receipt of offers will not be considered unless it is received before award is made and —

(1) there is acceptable evidence to establish that it was received at the activity designated for receipt of quotes and was under NAS' control prior to the time set for receipt of proposals, and the NAS Procurement Director determines that accepting the late proposal would not unduly delay the procurement; or

(2) it is the only proposal received.

A late modification or a revision of an otherwise successful proposal that makes its terms more favorable to NAS will be considered at any time it is received and may be accepted.

Offerors may submit modifications to their proposals at any time before the RFP closing date and time, and may submit modifications in response to an amendment, or to correct a mistake, at any time before award.

RESTRICTION ON DISCLOSURE AND USE OF DATA

Any information contained in the proposal that the Offeror does not want disclosed to the public for any purpose or used by NAS except for evaluation purposes shall:

- (1) Mark the title page with the following legend: "This proposal includes data that shall not be disclosed outside NAS and shall not be duplicated, used or disclosed – in whole or in part – for any purpose other than to evaluate this proposal. If however, a contract is awarded to this Offeror as a result of, or in connection with, the submission of this data, NAS shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the NAS' right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in pages [*insert numbers or other identification of pages*]."
- (2) Mark each page of data it wishes to restrict with the following legend: "Use or disclosure of data contained on this page is subject to the restriction on the title page of this proposal."

CONTRACT AWARD

NAS is the sole legal entity of all of its affiliated organizations. As such, NAS intends to award a contract or contracts resulting from this RFP to the responsible Offeror whose proposal represents the best value after evaluation in accordance with the factors and sub-factors in this RFP. In any event, the decision as to whether a contract is or is not awarded is at the sole discretion of NAS.

NAS reserves the right to make multiple awards if, after considering the additional administrative costs, it is in its best interest to do so.

NAS may reject any or all proposals if such action is in its interest.

NAS may waive informalities and minor irregularities in proposals received.

NAS may evaluate proposals and award a contract after conducting discussions with Offerors whose proposals have been determined to be in the competitive range and who has submitted their best and final offer.

NAS may also award a contract without further discussions with Offerors. Therefore, the

Offeror's initial proposal should contain the Offeror's best terms from a cost or price and technical standpoint.

NAS reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered.

Exchanges with Offerors after receipt of a proposal do not constitute a rejection or counteroffer by NAS.

NAS may determine that a proposal is unacceptable if the prices quoted are materially unbalanced between line items or sub-line items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the NAS Procurement Director determines that the lack of balance poses an unacceptable risk to NAS.

EVALUATION CRITERIA

Information relevant to these criteria may be presented within the normal format of the proposal in response to this RFP. The criteria will be uniformly applied in the evaluation of the proposals:

1	Suitability of the Proposal – the proposed solution meets the needs and criteria set forth in the RFP.
2	Past Experience – Offeror has successfully completed similar projects and has the qualifications necessary to undertake this project.
3	Budget and cost for products and services offered.
4	Approach / Project Plan.
5	Business Size Classification (Small, Disadvantaged, Woman-owned, etc.)

RECEIPT OF PROPOSALS

All proposals must remain available for acceptance by NAS for a minimum of ninety (90) days, unless the Offeror proposes an extended period.

COVER LETTER

All proposals must have a cover letter signed by an authorized representative. The cover letter must contain a statement specifying the extent of agreement with all terms, conditions, and provisions included in this RFP and agreement to furnish any or all items upon which prices are offered.

RFP SCHEDULE

Issue Date	March 4, 2020
Questions Due	March 11, 2020
Bid / No Bid Notification*	March 20 , 2020
Proposals Due/Closing Date	April 3, 2020

*Offerors should notify NAS in writing if they intend to submit a proposal

TYPE OF AWARD

NAS anticipates a Cost Reimbursement contract resulting from this RFP.

PERIOD OF PERFORMANCE

The anticipated period of performance under any contract awarded as a result of this RFP is April 30, 2020 through December 31, 2020.

PROPOSAL / BUDGET GUIDELINES

- (1) Expected budget range for proposals is \$50,000 - \$60,000.
- (2) The price you quote should be inclusive.
- (3) Include a timeframe for completion. In addition, timeframes will be part of the contractual agreement; therefore, a realistic timeframe for completion is requested.
- (4) Process to include input from all program areas. Please state how you intend to communicate with the NAS to gather all of the required information.
- (5) If your price excludes certain fees or charges, you must provide a detailed list of excluded fees with a complete explanation of the nature of those fees.
- (6) If the execution of work to be performed by your company requires the hiring of sub-contractors you must clearly state this in your proposal. Sub-contractors must be identified and the work they will perform must be defined.
- (7) The NAS will not refuse a proposal based upon the use of sub-contractors; however we retain the right to refuse the sub-contractors you have selected. Provisions of this RFP and the contents of the successful responses are considered available for inclusion in final contractual obligations.

- (8) The NAS, on behalf of NAS, will negotiate contract terms upon selection and a project will be awarded upon signing of an agreement or contract, which outlines terms, scope, budget and other necessary items.

REQUIREMENT FOR PAST PERFORMANCE REFERENCES

- (1) Describe your experience and organizational capacity in designing and implementing evaluation tools for public engagement programs.
- (2) Provide current reference information for three former or current clients.
- (3) What type of team will be assigned to this project? What will each person's role be?
- (4) Briefly describe your firm's project management process. Do you have an internal process you've developed?
- (5) Discuss any partnerships you propose.

SECTION II

LabX Project Evaluation

Scope of Work

Requirements

Your proposal should include examples of your creative work and collateral materials similar in both scope and budget to those you might design as part of this project.

Your proposal should also include a strategy for evaluating and tracking the proposed activities. Please provide an approach to producing data, even modest metrics, based on the proposed products, events, and/or activities.

Your proposal should include a staffing roster with brief statements about each member's training and background. Your proposal team should reflect the team that will work on this project should you win the contract. The person or team working on this project should have prior experience conducting evaluation of public engagement programs, whether or not they have been focused on STEM (science, technology, engineering and math).

Please submit, as part of your proposal, at least three industry references related to previous contracts involving the provision of similar or related services within the past two years. The information supplied must include:

- 1) name and address of the organization for which the work was performed;
- 2) current telephone number of a responsible technical representative of that organization; and
- 3) brief description of the services provided.

All travel must be made in accordance with NAS' institutional travel policies and procedures.

Project

In order to empower young adults to use science and scientific thinking in their daily lives and in their communities, LabX has undertaken two separate projects that will provide opportunities for participants to engage in critical thinking with respect to their decision-making and problem-solving processes. The outcomes from each of these projects will fit within the overall theory of change for LabX.

As part of project development, we are looking to work with an evaluator who can not only aid in the project design phase, but also develop and implement instruments that allow for measurement of the efficacy of these interventions.

Cannabis Project

Though cannabis is increasingly relevant in today's society, the science of the impacts of its use is highly unsettled, as highlighted in the 2017 NRC report "The Health Effects of Cannabis and Cannabinoids." Because research into the health effects (both positive and negative) of cannabis use is still developing, individuals are not, and cannot, be making fully-informed decisions with respect to the use of cannabis. LabX will therefore develop programming aimed at ensuring that our target audience will:

- be empowered to understand how to best make decisions in the absence of complete, certifiable, accurate information;
- gain an increased understanding of the knowns and unknowns about the science of cannabis and cannabinoids, as well as the potential impacts of policies related to cannabis use;
- be motivated to search out and utilize high-quality, evidence-based information about cannabis;
- use this gained knowledge to inform policies and actions that impact scientific research, communities, industry and government.

Consumption Project

Consumption is typically based on straightforward metrics such as price, individual taste, (perceived) quality, and brand loyalty. There is little understanding of the processes that are undertaken to develop, deliver and dispose of products that are consumed, or of the impact these processes ultimately have. Moreover, given this lack of awareness and knowledge, the general public is generally unable to comprehend the impact of their individual consumption behavior.

To address these issues, LabX is developing programming that allows participants to:

- feel capable of employing critical thinking to make a decision after weighing the pros and cons of a specific behavior choice;
- gain an understanding of the processes that lead to the products that we buy, and what happens to these products after they have been consumed;
- be empowered and intentional in their consumption behavior.

Both projects have advisory committees containing various subject matter experts who are helping to oversee development of the projects. For each project, LabX staff will work with the evaluator and these committees to:

1. Frame the project parameters (e.g. themes, issues to address, outcomes).
2. Determine the overarching programmatic structures and approaches as they relate to the overall project themes.
3. Develop instruments that can be used to measure impact of these programs on participants and quantify measures of success.
4. Analyze evaluative data and use it to inform and adjust programming as necessary.

Statement of Task

This section is designed to define the parameters for which we are seeking proposals.

Our ultimate goal with this project is to develop instruments and strategies that allow for the design, implementation and evaluation of our topic-specific public engagement programs in such a way that we are able to measure their efficacy and impact. A crucial component of the evaluation process will be ensuring that efforts are achieving LabX goals of empowering critical thinking and decision making skills.

The Offeror should provide the following in their proposal:

1. Methodology- description of potential evaluative tools, instruments and approaches to be used, based on Offeror's experience.
2. Analysis – the analytic methods that will be used and their associated advantages and disadvantages.
3. Reporting – what LabX will be provided in the way of usable data and insights that map to the project goals.
4. Timing – how long the design, data collection, analysis, and reporting will take.
5. Cost – what the fixed price is for the work, along with a listing of what would be charged above that fixed price.
6. Role- definition of the level of involvement needed for the Offeror to be able to achieve the project outcomes laid out above.

Budget and Timeline

The budget for this project will depend on the activities undertaken. The budget is approximately \$55,000 for the activities associated with the report. Please include non-profit rates if applicable.

Please also provide an estimated timeline for your work that includes the strategic communication plan and comprehensive calendar described in this RFP's Scope of Work being completed within 4 and 8 weeks of the award of this contract, respectively.

Our intent is to begin work in April 2020 and carry through the end of 2020.

SECTION III

SPECIMEN CONTRACT CLAUSES

CONTRACT CONTENTS

NAS Contracts generally include the following Terms and Conditions and Attachments:

Terms and Conditions: Articles I through XIX

Attachment A: Statement of Work

Attachment B: Fee Schedule

PREAMBLE

This Contract is entered into by and between the National Academy of Sciences (“NAS”), a private federally chartered tax-exempt corporation having its principal place of business at 500 Fifth Street, NW Washington, DC 20001 and xxxxxxxxxxxxxxxx, a xxxxxxxx corporation, with its principal office at xxxxxxxxxxxxxxxxxxxxxxxxxxxx (hereinafter referred to as “Contractor.”) (“NAS” and “Contractor” are referred to herein individually as “Party” and collectively as “Parties.”)

In consideration of the mutual promises, covenants, and agreements herein set forth, the Parties agree that the Contractor shall furnish and deliver to NAS all the services set forth in this Contract, and the Terms and Conditions and other documents or specifications attached hereto or referenced herein.

Neither this Contract nor subsequent amendments shall be varied in their terms or conditions by oral Contract or representation other than in writing and must be executed by, at a minimum, the NAS Director PSSA.

For items relating to Contract issues that require written confirmation, authorization, or other pertinent information, both Contractor and NAS agree that facsimile transmission and email communications may be used.

Contractor and NAS are legally bound and agree to the following terms and conditions.

TERMS AND CONDITIONS

STATEMENT OF WORK

Contractor will furnish all necessary materials, facilities, equipment, qualified personnel, and deliverables to perform the Services described in the Statement of Work, Attachment A. The Statement of Work and procedures will be conducted in accordance with the pertinent provisions of Contractor's Statement of Work. Contractor may modify the plan and procedures for the purpose of more efficient and effective execution of the work hereunder, provided such modified plans and procedures are consistent with the objectives set forth above, and provided such modifications have the advance approval in writing of the NAS Director PSSA. Contractor's performance is under the technical direction of the individual identified as the NAS Project Director on the Contract Summary Page.

RELATIONSHIP OF THE PARTIES

Contractor is an independent contractor of NAS. Nothing contained in this Contract shall in any way constitute a partnership or joint venture between the Parties or be construed to evidence the intention of the Parties to constitute such. Neither Party, nor any of its employees consultants, contractors or agents are agents, employees or joining ventures of the other, nor do they have any authority whatsoever to bind such other Party by contract or otherwise. Neither Party will represent anything to the contrary, either expressly, implicitly, by appearance or otherwise.

PERIOD OF PERFORMANCE

The Period of Performance for this contract is detailed on the cover page. All requests to extend the period of performance beyond the base period of this contract must be submitted, in writing, to the NAS Director PSSA no less than 30 days prior to the expiration date of the contract. Any work performed beyond the expiration date of the contract without authorization from the NAS Director PSSA will be at the Contractors own risk. Extensions to the period of performance will be accomplished by a unilateral modification to the contract.

It is further anticipated that this Contract shall be performed in multiple incrementally funded option years, including three base years and two consecutive option years. The initial authorized performance term and future option periods are as follows:

- A. The initial base performance term for this contract is from April 2018 through July 2018. Any work performed beyond the expiration date of the contract

without authorization from the NAS Director PSSA will be at the Contractors own risk. Execution of the following option years or additional extension to the final optional period of performance will be accomplished by a unilateral modification to the contract at the sole discretion of NAS.

PAYMENTS

NAS will pay Contractor in accordance with the Fee Schedule, Attachment B, for services performed by Contractor under this Contract. Contractor will invoice NAS monthly for fees due with respect to work performed by Contractor under this Contract during that month. Payment will be made within thirty (30) days of receipt and acceptance by NAS of invoice(s) for services rendered. Invoices must be submitted with Net 30 days due payment terms, must be on Contractor letterhead, and must reference Contract Number 200000xxxx and your unique NAS Vendor No. xxxxxxxxxx, which is located on the Contract Summary Page.

In the event that NAS disagrees in good faith with any amounts due and payable to Contractor, NAS will provide written notice to Contractor within ten (10) business days after receipt of the invoice. Notification will clearly state the amount(s) and reasons, which are disputed. Any amount withheld shall remain withheld until a final determination is made as to which Party is entitled to it either through an informal dispute resolution process or arbitration pursuant to Article xxx hereof. Failure to give notice constitutes an acceptance of amounts due and payable to Contractor for material and services rendered.

TERMINATION

- A. For Cause: This Contract may be terminated for cause at any time, in whole or in part, by NAS upon written notice to Contractor whenever it is determined that Contractor has failed to comply with the terms and conditions of this Contract.
- B. For Convenience: This Contract may be terminated for convenience by written notice, in whole or in part, by NAS, provided NAS provides thirty (30) days written notice to the other Party. If this Contract is terminated, the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated, will be provided in the notice.
- C. Termination Procedures: Upon receipt of, and in accordance with, a termination notice as specified in either paragraph above, Contractor will take immediate action to stop work and minimize all expenditures and obligations financed by this Contract. Contractor will also cancel un-liquidated obligations whenever possible.

NAS agrees to reimburse Contractor for work completed and authorized work in progress on behalf of NAS.

TECHNICAL DIRECTION

Contractor agrees to obtain the written approval of the NAS Project Director prior to the assignment of Contractor's Authorized Negotiator's responsibilities to another individual with the Contractor.

- A. Performance of the work under this Contract is subject to the Technical Direction of the NAS Project Director designated to maintain technical liaison with the Contractor. The term "Technical Direction" includes:
1. Directions to Contractor which redirect this Contract effort, shift work emphasis between work areas or tasks or otherwise serve to accomplish the Statement of Work.
 2. Provision of information to Contractor which assists in the interpretation of specifications or technical portions of the work description.
 3. Review and, where required by this Contract, approval of services to be provided by the Contractor to NAS under this Contract.
- B. Technical Direction must be within the general scope of work stated in this Contract. The NAS Project Director does not have the authority to and may not issue any Technical Direction which changes any of the expressed terms, conditions, or specifications of this Contract.
- C. All Technical Directions will be issued in writing by the NAS Project Director, or shall be confirmed by the NAS Project Director in writing, as promptly as practicable.
- D. Contractor will proceed promptly with the performance of Technical Directions duly issued by the NAS Project Director in the manner prescribed by this Article and within the NAS Project Director's authority under the provision of this Article.
- E. If, in the opinion of the Contractor, any instruction or direction issued by the NAS Project Director is not within one of the above categories as defined in paragraph B above, Contractor shall not proceed but shall instead notify the NAS Director PSSA in writing within five (5) working days after receipt of any such instruction or direction. Upon receiving such notification from Contractor, and after consultation with the NAS Project Director, the NAS Director PSSA shall either issue an

appropriate contract modification or advise the Contractor in writing that, in the opinion of the NAS Project Director, the Technical Direction is within the scope of this Article. Contractor shall thereupon proceed immediately with the direction given. The NAS Project Director cannot authorize additional funds, reallocation of funds across tasks, changes to the terms and conditions, or changes to the scope of work that would impact the not to exceed amount of the award. A failure of the Parties to agree upon the nature of the instruction or direction or upon this Contract action to be taken with respect thereto shall be subject to the Disputes article of this Contract.

COPYRIGHT AND PROPRIETARY INFORMATION

- A. Definition: The term "Work Product" as used herein includes all Work Product, written materials, photographs, drawings, computer software, programs, databases, and other information created or generated under this Contract regardless of the media on which said Work Product or information may be recorded, and whether delivered under this Contract or not. The term does not include financial records, accounting records, or other information incidental to Contract administration.
- B. Work Product and Copyright Ownership: All Work Product created or generated under this Contract, and the copyrights therein in all media and languages throughout the world, will be irrevocably assigned to and owned by NAS and will be delivered to NAS upon request.
- C. Third Party Rights: Contractor will not, without the prior written approval of NAS, incorporate in any Work Product delivered under this Contract, any Work Product not produced in the performance of this Contract, which contains the copyright notice of 17 U.S.C. 401 or 402, unless Contractor identifies such Work Product to the NAS and acquires an appropriate license on behalf of NAS.
- D. Publisher's Intellectual Property Rights: As between NAS and Contractor, NAS shall own all rights in and to all publications and other works to be printed by Contractor under this Contract and the content thereof, including without limitation, all Contractor Work Product (collectively "Publisher Content"). Contractor shall be permitted to print the Publisher Content as specified in this Contract, solely in accordance with the terms of this contract. NAS shall retain all copyrights, trademarks, licenses, and all other proprietary rights associated with the Publisher Content, including but not limited to text, illustrations and graphics contained in the Publisher Content. Contractor will acquire no rights in Publisher Content or any publication, title, or work of Publisher, and shall not be authorized to reproduce, disseminate, or create derivative works in Publisher Content except as specifically provided in this Contract.

- E. Publisher Content Embargo and Unauthorized Publication: Contractor will not, without the prior written approval of NAS, release, distribute or otherwise disclose Publisher Content delivered or developed under this Contract prior to the publication date of the Publisher Content as determined by NAS in its sole discretion. All Publisher Content shall be treated as confidential until such times Publisher Content is made publically available in hardcopy or digital format as determined by NAS in its sole discretion. If the contractor releases, or otherwise makes public, embargoed Publisher Content, Contractor shall promptly notify NAS of the release and the recipients of the embargoed Publisher Content.
- F. Contractor Warranty: Contractor represents and warrants that: (1) to its knowledge it owns or has license to all software and other intellectual property rights necessary to provide the services under this Contract, and (ii) it has the right and authority to enter into this Contract.

The obligations under this clause survive the termination, expiration, or completion of performance under this Contract.

WARRANTY

Contractor represents, warrants, and covenants to NAS that Contractor will perform Services in accordance with the SOW and in a workmanlike manner and in accordance with good usage and accepted practices in the community in which Services are performed. If Services performed by Contractor prove not to have been so performed or if Contractor fails to provide, after using commercially reasonable efforts, the Services or a portion thereof, and if NAS notifies Contractor to that effect, Contractor shall correct any warranty defects and deficiencies at no cost to NAS as soon as practicable. In the event the Services cannot be corrected immediately, Contractor will provide NAS with an action plan no later than seventy-two (72) hours after NAS' notification. If Contractor is unable to correct the defects or deficiencies within the period defined in the accepted action plan, Contractor will render a full or pro-rated refund or credit based on the original charge for the Services.

The obligations under this clause survive the termination, expiration, or completion of performance under this Contract.

DAMAGES AND INDEMNIFICATION

A. INDEMNIFICATION

To the fullest extent permitted by law, Contractor will indemnify and hold harmless the NAS from any and all claims, damages, lawsuits, attorney's fees, court costs, defense costs or any other costs arising out of the negligence, breach of this contract, or wrongful acts on the part of Contractor.

The term "wrongful act" as used herein includes any tortious act or omission, willful misconduct, failure to comply with Federal or state governmental requirements, copyright or patent infringement, libel, slander, or other defamatory or disparaging statement in any written deliverable required under this contract, or any false or negligent or wrongful acts or omission made by the Contractor in its proposal to NAS.

Both parties agree to give prompt notice to each other upon learning of the assertion of any claim, or the commencement of any action or legal proceeding, in respect of which a claim may be sought. Both parties further agree to cooperate in the defense of any claim, action, or legal proceeding arising out of or resulting from Contractor's performance of the work required under this contract, but each party will control its own defense.

The obligations of this clause to indemnify and hold harmless NAS shall not extend to claims, damages, losses, liabilities, costs, and expenses to the extent they arise out of the negligent or wrongful acts or omissions of NAS.

The obligations under this clause survive the termination, expiration, or completion of performance under this contract.

CONTRACTOR LIABILITY

To the fullest extent permitted by law, Contractor will indemnify and hold harmless the NAS from any and all claims, damages, lawsuits, attorney's fees, court costs, defense costs or any other costs arising out of the negligence, breach of this Contract, or wrongful acts on the part of Contractor.

The term "wrongful act" as used herein includes any tortuous act or omission, willful misconduct, failure to comply with Federal or state governmental requirements, copyright or patent infringement, libel, slander, or other defamatory or disparaging statement in any written deliverable required under this Contract, or any false or

negligent or wrongful acts or omission made by Contractor in its proposal to NAS.

Both Parties agree to give prompt notice to each other upon learning of the assertion of any claim, or the commencement of any action or legal proceeding, in respect of which a claim may be sought. Both Parties further agree to cooperate in the defense of any claim, action, or legal proceeding arising out of or resulting from Contractor's performance of the work required under this Contract, but each Party will control its own defense.

The obligations of this clause to indemnify and hold harmless NAS shall not extend to claims, damages, losses, liabilities, costs, and expenses to the extent they arise out of the negligent or wrongful acts or omissions of NAS.

The obligations under this clause survive the termination, expiration, or completion of performance under this Contract.

INSURANCE

A. Insurance: Contractor will maintain insurance during the performance of this Contract at its own expense with coverage and limits not less than specified below, or required by law, whichever is greater:

1. Commercial general liability insurance, or its equivalent, for bodily injury (including death), personal and advertising injury, and property damage (including loss of use) with limits of not less than \$1,000,000 per occurrence or claim, \$2,000,000 general aggregate, \$2,000,000 products and completed operations aggregate;
2. Workers compensation insurance, or its equivalent, with statutory benefits as required by law, including standard "other states" coverage; employers' liability insurance, or its equivalent;
3. Business automobile liability insurance, or its equivalent, with limits of not less than \$1,000,000 per occurrence for each accident, if vehicles will be used in the performance of this Contract.
4. Umbrella liability insurance, or its equivalent, with limits of not less than \$2,000,000.

Contractor will furnish evidence of insurance to NAS by transmitting original certificates of insurance signed by authorized representatives of the insurers.

- B. Limits of Liability: It is expressly understood that insurance protection required by this clause in no way limits Contractor's obligations under the clause, "Contractor Liability," nor will it be construed to relieve Contractor of liability in excess of insurance policy coverage.
- C. Waiver: Contractor waives all rights of recovery against NAS for any claims, damages, costs or expenses covered by any required insurance policies carried by Contractor and for any damage or loss of use of personal property owned or leased by Contractor. The required insurance shall include a waiver of subrogation in favor of NAS.

SUBCONTRACTING AND ASSIGNMENTS

No portion of this Contract will be subcontracted, assigned, or otherwise disposed of except with the written consent of the NAS Director PSSA. Contractor will forward for prior approval the proposed subcontract, which will include the terms and conditions, scope of work, and budget with supporting documentation.

In the event Contractor subcontracts or assigns any or all of the performance of this Contract, Contractor remains responsible for the complete and full performance of all the work, duties, covenants, and obligations of Contractor under this Contract. Contractor will enter into no subcontract or assignment which is inconsistent with its obligations under this Contract. NAS' consent to any sub contract or assignment will not be deemed a waiver of its rights under this Contract, nor shall it create any privity of agreement between NAS and any lower-tier subcontractor or assignee.

RECORDS AND AUDIT REQUIREMENTS

Contractor shall retain all financial records and other pertinent evidence pertaining to costs incurred and reimbursed hereunder for a period of three years after final payment under this Contract. Contractor agrees to give NAS, the Comptroller General of the United States, or any of their authorized representatives, access to these records and any other pertinent books, documents, papers or other records, in order to conduct audits, examinations or produce excerpts and transcripts. Contract closeout does not alter these requirements.

FORCE MAJEURE

Neither Party shall be liable for any delay in meeting or for failure to meet its obligations under this Contract due to any cause outside its reasonable control including, without

limitation, strikes or lockouts, Acts of God or of the public enemy, war, riot, malicious acts or damage, fire, acts of any governmental authority, or failure of the electrical supply. If Contractor is prevented from meeting its obligations due to any cause outside its reasonable control, it shall notify NAS of the circumstances and NAS shall grant a reasonable extension for the performance of the Contract.

DISPUTES

Both Parties agree to enter into negotiation to resolve any dispute. Both Parties agree to negotiate in good faith to reach a mutually agreeable settlement within a reasonable amount of time. If negotiations are not successful, NAS and the Contractor agree to enter into binding arbitration. The American Arbitration Association (AAA) Commercial Arbitration Rules (most recent edition) would govern this Arbitration, which will take place in the District of Columbia. The Arbitrator will follow the applicable Contract provisions and the District of Columbia law in adjudicating the dispute. It is agreed by both Parties that the Arbitrator's decision is final, and that neither Party may take any action, judicial or administrative, to overturn this decision. The judgment rendered by the Arbitrator may be entered in any court having jurisdiction thereof.

CONFLICT OF INTEREST

Contractor warrants that, to the best of Contractor's knowledge and belief:

- (a) there are no relevant facts or circumstances which could constitute or create an conflict of interest to Contractor in performing this contract, and
- (b) that to the extent that there may be facts or circumstances which could constitute or create a conflict of interest the Contractor has disclosed all such relevant information.

Contractor further agrees that, if an actual or potential conflict of interest is identified during performance, Contractor will immediately make a full disclosure of the actual or potential conflict in writing to the NAS Director PSSA. This disclosure shall also include a description of actions which Contractor has taken or proposes to take, after consultation with the NAS Director PSSA to avoid, mitigate, or neutralize the actual or potential conflict of interest.

NAS may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid a conflict of interest. If Contractor was aware of a potential conflict of interest prior to award or discovered an actual or potential conflict of interest after award, and did not disclose it or misrepresented material relevant information to the NAS Director PSSA, NAS may terminate the contract for default, or pursue such

other remedies as may be permitted by law or this contract. Contractor agrees to include contract provisions that conform substantially to the language of this certification in any subcontract or consultant agreement that the Contractor enters into in connection with this contract.

JURISDICTION

This Contract is to be construed, interpreted and enforced in accordance with the laws of the District of Columbia.

COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws, rules, regulations, ordinances, orders or requirements and any governmental authority relating to the delivery of the Services specified in this Contract. Contractor shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the grounds of race, color, religion, national origin, or sex in any manner prohibited by law, nor shall Contractor engage in or permit sexual harassment of any person in any manner prohibited by law.

ORDER OF PRECEDENCE AND ENTIRE CONTRACT

The rights and obligations of the Parties hereto shall be subject to and governed by this Contract, which consists of the Contract Summary Page, the Terms and Conditions, and Attachments. Should there be any inconsistency between the Terms and Conditions and the Attachments and any specifications or other provisions which are made part of this Contract by reference or otherwise, the Terms and Conditions shall control. All applicable clauses under this Contract shall be supported by the Contractor's Representations and Certifications.

This Contract constitutes the entire contract between the Parties and no representation or promise not specifically set forth herein will be binding on the Parties. No modification or change to this Contract will be effective unless set forth in writing and executed by both Parties.

ATTACHMENT A

Statement of Work

To be developed from Offeror's proposal.

ATTACHMENT B

Fee Schedule

To be developed from Offeror's proposal.

SECTION IV

Representations & Certifications Form