

CONTRACT DATA SHEET

PSC Type (check one): New Addendum Sole Source: Yes No

Contractor Information

1. Legal Name of Contractor: ESI Acquisition, Inc

2. Address: 823 Broad Street

3. City, State, & Zip: Augusta, GA 30901

4. Contact Person Name & Telephone Number: Curtis MacDonald 706-823-0911

5. LeAP Supplier #: 201358

6. Revenue Commission Taxpayer ID#: [REDACTED]

7. Federal Tax ID # (SSN if sole proprietor): [REDACTED]

Department Information

8. Requesting Department: EMA/MetroSafe

9. Contact Person Name & Telephone: Tonya Sangester 502-572-3452

Contract Information

10. Not to exceed amount: \$ 30,000

11. Are expenses reimbursed? Partial Funds

12. If yes list allowable expenses and maximum amount reimbursable: \$30,000

13. Beginning and ending date of the contract: July 1, 2014 - June 30, 2015

14. Coding: 1101 - 365 - 2720 - 270200 - 522431

15. Funding Source General Funds & Grant Funds Federal Funds yes no

16. Scope & Purpose of the contract:
 For software maintenance and upgrades for the WebEOC system. Also provide necessary training on the use of the system.

Attach all justification documentation to this form, along with signed Written Findings Form.

Authorizations

Department Director: [Signature] Date: Oct 24/14

Department certifies:

- Funds are available
- Contractor is registered and in good standing with the Revenue Commission
- Human Relations Commission registration requirements have been met
- Contractor's status regarding Federal Debarment has been verified per Metro Procurement Policy Section VII – Federally Funded Contracts & Agreements

MS Purchasing: Approval of Sole Source Designation Date: 10/1/14

[Signature] Risk Management: Certifies Insurance requirements satisfied. Date: _____

[Signature] County Attorney: Date: 7/29/14

The County Attorney has written the attached Professional Service Contract or Sole Source Contract and has approved that document as to the legality of the instrument itself only and as to its form.

WRITTEN FINDINGS

EXPLAINING NECESSITY FOR USING NONCOMPETITIVE NEGOTIATION FOR PSC

This document constitutes written request and findings, as required by KRS 45A.380 stating the need to purchase through noncompetitive negotiation. By the signatures listed below, the Requesting Department has determined, and the Chief Financial Officer concurs, that competition is not feasible because:

_____ A. An emergency exists which will cause public harm as a result of the delay in competitive procedures. **** Mayors Approval required for emergency purchases exceeding \$10,000.**

X _____ B. There is a single source within a reasonable geographic area of the supply or service to be procured or leased (attach sole source determination from the Purchasing Department).

_____ C. The contract is for the services typically provided by a licensed professional, such as an attorney, architect, engineer, physician, certified public accountant, registered nurse, or educational specialist; a technician such as a plumber, electrician, carpenter, or mechanic; an artist such as a sculptor, aesthetic painter, or musician; or a non-licensed professional such as a consultant, public relations consultant, advertising consultant, developer, employment department, construction manager, investment advisor, or marketing expert and the like.

_____ D. The contract is for the purchase of perishable items purchased on a weekly basis, such as fresh fruits, vegetables, fish, or meat.

_____ E. The contract is for replacement parts where the need cannot reasonably be anticipated and stockpiling is not feasible.

_____ F. The contract is for proprietary items for resale.

_____ G. The contract or purchase is for expenditures made on authorized trips outside the boundaries of the city.

_____ H. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids.

_____ I. The contract is for group life insurance, group health and accident insurance, group professional liability insurance, worker's compensation insurance, or unemployment liability insurance.

_____ J. The contract is for a sale of supplies at reduced prices that will afford a purchase at savings to the Metro Government.

_____ K. The contract was solicited by competitive sealed bidding and no bids were received from a responsive and responsible bidder.

_____ L. Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder.

Jonny Sangerter Sr 10/1/14
 Requesting Department Director Date
Debbie Foy
Marina 10/1/14
 OMB/Purchasing Approval Date

 **Mayor Date
****Signature is required only for Written Finding A**

AGREEMENT FOR SOLE SOURCE PURCHASE

THIS CONTRACT, made and entered into by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, by and through its **DEPARTMENT OF EMERGENCY MANAGEMENT AGENCY/METROSAFE**, herein referred to as "**METRO GOVERNMENT**", and **ESI (DELAWARE) ACQUISITION, INC.**, with offices located at 823 Broad Street, Augusta, Georgia 30901, herein referred to as "**CONTRACTOR**",

WITNESSETH:

WHEREAS, the Metro Government wishes to purchase maintenance and upgrades of the WebEOC software used to communicate with citizens when needed during man-made or natural disasters, spills and other incidents; and

WHEREAS, the Contractor has been determined by the Metro Government to be a sole source to provide that upgrade,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

I. SCOPE OF SERVICES

A. Contractor shall, at the request of the Metro Government, provide services under the terms of this Agreement. The Contractor's work product may be reviewed from time to time by the Metro Government for purposes of determining that the services provided are within the scope of this Agreement.

B. If from time to time Contractor needs to utilize the records or personnel of the Metro Government relative to performing the services required of this Agreement, then Contractor shall notify the proper agent of the Metro Government of this need and arrangements may be made for that contingency. However, at no time shall the Metro Government make available its resources without the full consent and understanding of both parties.

C. The services of Contractor shall include but not be limited to the following:

1. Those described on Attachment A attached hereto and fully incorporated herein.

II. FEES AND COMPENSATION

A. The Metro Government shall pay Contractor for services rendered pursuant to and as described in Attachment A. Total compensation payable to Contractor for services rendered pursuant to this Agreement shall not exceed **THIRTY THOUSAND DOLLARS (\$30,000.00)**.

B. Payment shall be made pursuant to the schedule in Attachment A.

C. Consultant shall only be reimbursed out-of-pocket expenses if they are reasonable in amount and necessary to accomplish the scope of services of this contract. The Metro Government will not reimburse first class air fare, personal phone calls, short term parking expenses, or other premium type expenses. The Metro Government reserves the right to reduce or disallow expenses considered excessive or unnecessary under this contract.

D. Consultant, to the extent that it provides the same or related services to other parties agrees to pro-rate its billings and out-of-pocket expenses to the Metro Government which are of benefit to the other parties and to provide documentation to all parties to verify the pro-ration of such billings and expenses. In no event will the Metro Government pay bills or expenses which are considered to be double billing (i.e. billing two different parties for the same work or expense).

III. DURATION

A. This Agreement shall begin July 1, 2014 and shall continue through and including June 30, 2015.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. This Agreement may also be terminated by any party, without notice to the non-terminating party, because of fraud,

misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

C. In the event of termination, payment for services complete up to and including date of termination shall be based upon work completed at the rates identified in this Agreement.

IV. RECORDS-AUDIT

Contractor shall maintain during the course of the work, and retain not less than five years from the date of final payment on the contract, complete and accurate records of all of Contractor's costs which are chargeable to the Metro Government under this Agreement; and the Metro Government shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by Contractor shall include (without limitation): (a) payroll records accounting for total time distribution of Contractor's employees working full or part time on the work (to permit tracing to payrolls and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for Contractor's stores stock or capital items; and (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other third parties' charges.

V. INSURANCE REQUIREMENTS

Insurance coverage shall be required of Contractor in accordance with Attachment B attached hereto.

VI. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

Contractor agrees to indemnify, hold harmless, and defend the Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and

successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Contractor's (or Contractor's subcontractors if any) performance or breach of the contract provided that such claim, damage, loss, or expense is (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or from negligent acts, errors or omissions and (2) not caused by the negligent act or omission of the Louisville/Jefferson County Metro Government or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

VII. REPORTING OF INCOME

The compensation payable under this Agreement may be subject to federal, state and local taxation. Regulations of the Internal Revenue Service require the Metro Government to report all amounts in excess of \$600.00 paid to non-corporate contractors. Contractor agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. Contractor further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue.

VIII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

IX. AUTHORITY

The Contractor, by execution of this Agreement, does hereby warrant and represent that he is qualified to do business in the State of Kentucky, has full right, power and authority to enter into this Agreement.

X. CONFLICTS OF INTEREST

Pursuant to KRS 45A.455:

(1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein;

or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification

or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

XII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all of the parties hereto. In the event of a conflict between the terms of this Agreement and the terms in any of the Attachments, this Agreement shall govern.

XIII. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

XIV. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

XV. COUNTERPARTS

This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

XVI. CALCULATION OF TIME Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, Contractor is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

XVII. CAPTIONS The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

XVIII. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS The Contractor shall reveal any final determination of a violation by the Contractor or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor. The Contractor

shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of the contract.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
MICHAEL J. O'CONNELL
JEFFERSON COUNTY ATTORNEY

Date: 9/24/2014

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

Marian Salmon
MARIAN SALMON, DIRECTOR, PURCHASING DEPARTMENT

Date: 9/24/14

EMERGENCY MANAGEMENT AGENCY/ METROSAFE

Debbie Fox
DEBBIE FOX
DIRECTOR

Date: 09/17/14

ESI (DELAWARE) ACQUISITION, INC.

By: Brad Williams
Title: VP

Date: 9-15-14

Taxpayer Identification No. (TIN): [REDACTED]

Louisville/Jefferson County Revenue Commission Account No.: [REDACTED]

ATTACHMENT A



ESi Acquisition, Inc. | an Intermedix Company

Intermedix Contact:
Linda Smith-Jones
Phone: (706) 262-2243
Email: linda.smith-jones@intermedix.com

Quote Number 00000706 Quote Date 4/8/2014
Description WebEOC Software Support Renewal for period Expiration Date 5/31/2014
06/01/14-05/31/15

Prepared for

Contact Name	Tanja Medic	Bill To Name	Metro Louisville Emergency Management, KY
Title	WebEOC Admin	Bill To	601 West Jefferson Street, Suite 110
Phone	(502) 572-3462		Louisville, KY 40202
Email	tanja.medic@louisvilleky.gov		United States

Thank you for your support of Intermedix products and services. If you are ready to proceed with a purchase order please send to ags-sales@intermedix.com. We look forward to working with you and your staff. Quotes issued in US Dollars. Items not manufactured by Intermedix are subject to change. Substitutes will be provided for customer consideration and approval.

Product Code	Item Description	Qty	Sales Price	Ext Price Yr 1
SS-WEBEOC-EX	WebEOC® Software Maintenance and Support 06/01/14-05/31/15	1	\$9,900.00	\$9,900.00
SS-CIMS7-ADL	WebEOC® Redundant Server Software Support 06/01/14-05/31/15	1	\$880.00	\$880.00
SS-DTADV-YR	Double-Take® Advanced additional year maintenance 06/01/14-05/31/15	2	\$1,349.25	\$2,698.50
Total Yr 1				\$13,478.50

ATTACHMENT B

