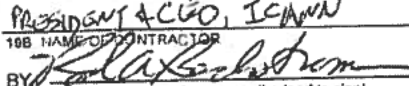
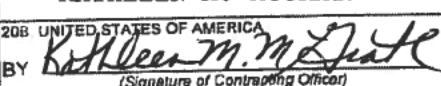


# EXHIBIT 1

<b>AWARD/CONTRACT</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <span style="float: right;">▶</span>		RATING	PAGE OF PAGES 1   65	
2. CONTRACT (Proc. Inst. Ident.) NO. SA1301-12-CN-0035		3. EFFECTIVE DATE 10/01/2012		4. REQUISITION/PURCHASE REQUEST/PROJECT NO. AA-OAM-??-7-12-00934		
5. ISSUED BY		CODE 000SA	6. ADMINISTERED BY (if other than Item 5)		CODE 000SA	
U.S. DEPARTMENT OF COMMERCE 14TH & CONSTITUTION AVE. NW ACQUISITION SERVICES- ROOM 6520 WASHINGTON DC 20230			U.S. DEPARTMENT OF COMMERCE 14TH & CONSTITUTION AVE. NW ACQUISITION SERVICES- ROOM 6520 WASHINGTON DC 20230			
7. NAME AND ADDRESS OF CONTRACTOR (No. street, county, State and ZIP Code) INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS 4676 ADMIRALTY WAY, SUITE #330 MARINA DEL REY CA 902926648 Vendor ID: 00000428 DUNS: 045511487 Cage Code: 4A4S9 CEC:				8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)		
11. SHIP TO/MARK FOR NATIONAL TEL. AND INFO. ADMIN 1401 CONSTITUTION AVE. NW ROOM 4888, HCHB				12. PAYMENT WILL BE MADE BY NIST ACCOUNTS PAYABLE OFFICE BLDG 101, ROOM A-836 MS 1621 100 BUREAU DRIVE		
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c)() <input type="checkbox"/> 41 U.S.C. 253(c)()				14. ACCOUNTING AND APPROPRIATION DATA		
15A. ITEM NO.		15B. SUPPLIES/SERVICES		15C. QUANTITY	15D. UNIT	15E. UNIT PRICE
		Please See Continuation Page for Line Items				
				15F. AMOUNT		
				15G. TOTAL AMOUNT OF CONTRACT ▶ \$ 0.00		
16. TABLE OF CONTENTS						
(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES		
X	A	SOLICITATION/CONTRACT FORM	1	X	I	CONTRACT CLAUSES
X	B	SUPPLIES OR SERVICES AND PRICES/COSTS	2-3	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.		
X	C	DESCRIPTION/SPECS/WORK STATEMENT	4-25	J		LIST OF ATTACHMENTS
X	D	PACKAGING AND MARKING	26	PART IV - REPRESENTATIONS AND INSTRUCTIONS		
X	E	INSPECTION AND ACCEPTANCE	27-29	K		REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS
X	F	DELIVERIES OR PERFORMANCE	30-32	L		INSTRS., CONDS., AND NOTICES TO OFFERORS
X	G	CONTRACT ADMINISTRATION DATA	33-34	M		EVALUATION FACTORS FOR AWARD
X	H	SPECIAL CONTRACT REQUIREMENTS	35-51			
CONTRACTING OFFICER WILL COMPLETE ITEM 17 (SEALED-BID OR NEGOTIATED PROCUREMENT) OR 18 (SEALED-BID PROCUREMENT) AS APPLICABLE						
17. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18. <input type="checkbox"/> SEALED-BID AWARD (Contractor is not required to sign this document.) Your bid on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the terms listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your bid, and (b) this award/contract. No further contractual document is necessary. (Block 18 should be checked only when awarding a sealed-bid contract.)		
19A. NAME AND TITLE OF SIGNER (Type or Print) ROD A. BECKSTROM PRESIDENT & CEO, ICAANN				20A. NAME OF CONTRACTING OFFICER KATHLEEN M. MCGRATH		
19B. NAME OF CONTRACTOR BY  (Signature of person authorized to sign)				19C. DATE SIGNED JUL 29, 2012		20B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)
				20C. DATE SIGNED JUL 02, 2012		

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STANDARD FORM 26 (REV. 5/2011)  
Prescribed by GSA - FAR (48 CFR) 53.214(e)

SCHEDULE Continued					
ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE \$	AMOUNT \$
	<p>Contracting Officer: Mona-Lisa Dunn, 202-482-1470</p> <p>Primary Contracting Officer Representative: Vernita D. Harris, 202-482-4686, vharris@NTIA.doc.gov</p> <p>Alternate Contracting Officer Representative(s):</p> <p>Technical Point of Contact: Vernita D. Harris, 202-482-4686, vharris@NTIA.doc.gov</p> <p>The Contractor shall provide the services in accordance with the terms, conditions, and prices described herein.</p> <p>The Contractor's proposal dated May 31, 2012 and as amended through agreed terms and conditions dated June 23, 2012 and June 26, 2012 are hereby incorporated by reference.</p>				
0001	<p>BASE YEAR - October 1, 2012 - September 30, 2015. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Period of Performance: 10/01/2012 to 09/30/2015</p>	0.00	EA	0.00	0.00
0002	<p>OPTION YEAR 1 - October 1, 2015 - September 30, 2017. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Accounting and Appropriation Data: 61.12.1200012.100.0012.010102000. 0400000000000000.25970000.000000 \$0.00 Period of Performance: 10/01/2015 to 09/30/2017 Pricing Option: Time and Material</p>	1.00	JB	0.00	OPT 0.00
0003	<p>OPTION YEAR 2 - October 1, 2017 - September 30, 2019. The Contractor shall provide the services necessary for the operation of the Internet Assigned Numbers Authority (IANA) in accordance with the attached Statement of Work. The Contractor may not charge the United States Government for performance of the requirements of this contract.</p> <p>Accounting and Appropriation Data: 61.12.1200012.100.0012.010102000. 0400000000000000.25970000.000000 \$0.00 Period of Performance: 10/01/2017 to 09/30/2019 Pricing Option: Time and Material</p>	1.00	JB	0.00	OPT 0.00

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

This is a no cost, \$0.00 time and material contract.

#### **B.2 COST/PRICE**

The Contractor may not charge the United States Government to perform the requirements of this Contract. The Contractor may establish and collect fees from third parties provided the fee levels are approved by the Contracting Officer and are fair and reasonable. If fees are charged, the Contractor shall base any proposed fee structure on the cost of providing the specific service for which the fee is charged and the resources necessary to monitor the fee driven requirements. The Contractor may propose an interim fee for the first year of the contract, which will expire one year after the contract award. If the Contractor intends to establish and collect fees from third parties beyond the first year of the Contract, the Contractor must collaborate with the interested and affected parties as enumerated in Section C.1.3 to develop a proposed fee structure based on a methodology that tracks the actual costs incurred for each discrete IANA function. The Contractor must submit a copy of proposed fee structure, tracking methodology and description of the collaboration efforts and process to the Contracting Officer.

#### **B.3 PRE-AWARD SURVEY – FAR 9.106 and 9.106-4(a)**

At the discretion of the Contracting Officer, a site visit to the Offeror's facility (ies) may also be requested and conducted by the Department of Commerce (Commerce) or its designee. The purpose of this visit will be to gather information relevant to the Offeror's responsibility and prospective capability to perform the requirements under any contract that may be awarded. The Contracting Officer will arrange such a visit at least seven (7) days in advance with the Offeror.

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## **SECTION C – DESCRIPTION / SPECS / WORK STATEMENT**

### **STATEMENT OF WORK/SPECIFICATIONS**

The Contractor shall furnish the necessary personnel, materials, equipment, services and Facilities (except as otherwise specified) to perform the following Statement Work/Specifications.

#### **C.1 BACKGROUND**

**C.1.1** The U.S. Department of Commerce (DoC), National Telecommunications and Information Administration (NTIA) has initiated this contract to maintain the continuity and stability of services related to certain interdependent Internet technical management functions, known collectively as the Internet Assigned Numbers Authority (IANA).

**C.1.2** Initially, these interdependent technical functions were performed on behalf of the Government under a contract between the Defense Advanced Research Projects Agency (DARPA) and the University of Southern California (USC), as part of a research project known as the Tera-node Network Technology (TNT). As the TNT project neared completion and the DARPA/USC contract neared expiration in 1999, the Government recognized the need for the continued performance of the IANA functions as vital to the stability and correct functioning of the Internet.

**C.1.3** The Contractor, in the performance of its duties, must have or develop a close constructive working relationship with all interested and affected parties to ensure quality and satisfactory performance of the IANA functions. The interested and affected parties include, but are not limited to, the multi-stakeholder, private sector led, bottom-up policy development model for the domain name system (DNS) that the Internet Corporation for Assigned Names and Numbers (ICANN) represents; the Internet Engineering Task Force (IETF) and the Internet Architecture Board (IAB); Regional Internet Registries (RIRs); top-level domain (TLD) operators/managers (e.g., country codes and generic); governments; and the Internet user community.

**C.1.4** The Government acknowledges that data submitted by applicants in connection with the IANA functions may be confidential information. To the extent required by law, the Government shall accord any confidential data submitted by applicants in connection with the IANA functions with the same degree of care as it uses to protect its own confidential information, but not less than reasonable care, to prevent the unauthorized use, disclosure, or publication of confidential information. In providing data that is subject to such a confidentiality obligation to the Government, the Contractor shall advise the Government of that obligation.

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## **C.2 CONTRACTOR REQUIREMENTS**

**C.2.1** The Contractor must perform the required services for this contract as a prime Contractor, not as an agent or subcontractor. The Contractor shall not enter into any subcontracts for the performance of the services, or assign or transfer any of its rights or obligations under this Contract, without the Government's prior written consent and any attempt to do so shall be void and without further effect. The Contractor shall be a) a wholly U.S. owned and operated firm or fully accredited United States University or College operating in one of the 50 states of the United States or District of Columbia; b) incorporated within one of the fifty (50) states of the United States or District of Columbia; and c) organized under the laws of a state of the United States or District of Columbia. The Contractor shall perform the primary IANA functions of the Contract in the United States and possess and maintain, throughout the performance of this Contract, a physical address within the United States. The Contractor must be able to demonstrate that all primary operations and systems will remain within the United States (including the District of Columbia). The Government reserves the right to inspect the premises, systems, and processes of all security and operational components used for the performance of all Contract requirements and obligations.

**C.2.2** The Contractor shall furnish the necessary personnel, material, equipment, services, and facilities, to perform the following requirements without any cost to the Government. The Contractor shall conduct due diligence in hiring, including full background checks.

**C.2.3** The Contractor may not charge the United States Government for performance of the requirements of this contract. The Contractor may establish and collect fees from third parties provided the fee levels are approved by the Contracting Officer (CO) and are fair and reasonable. If fees are charged, the Contractor shall base any proposed fee structure on the cost of providing the specific service for which the fee is charged. The Contractor may propose an interim fee for the first year of the contract, which will expire one year after the contract award. The documentation must be based upon the anticipated cost for providing the specific service for which the fee is charged, including start up costs, if any, equipment, personnel, software, etc. If the Contractor intends to establish and collect fees from third parties beyond the first year of the contract, the Contractor must collaborate with the interested and affected parties as enumerated in Section C.1.3 to develop a proposed fee structure based on a methodology that tracks the actual costs incurred for each discrete IANA function enumerated and described in C.2.9. The Contractor must submit a copy of any proposed fee structure including tracking methodology and description of the collaboration and process efforts for fees being proposed after the first year contract award to the Contracting Officer. The performance exclusion C.8.3 shall apply to any fee proposed.

**C.2.4** The Contractor is required to perform the IANA functions, which are critical for the operation of the Internet's core infrastructure, in a stable and secure manner. The IANA functions are administrative and technical in nature based on established policies developed by

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interested and affected parties, as enumerated in Section C.1.3. The Contractor shall treat each of the IANA functions with equal priority and process all requests promptly and efficiently.

**C.2.5 Separation of Policy Development and Operational Roles** -- The Contractor shall ensure that designated IANA functions staff members will not initiate, advance, or advocate any policy development related to the IANA functions. The Contractor's staff may respond to requests for information requested by interested and affected parties as enumerated in Section C.1.3 to inform ongoing policy discussions and may request guidance or clarification as necessary for the performance of the IANA functions.

**C.2.6 Transparency and Accountability** -- Within six (6) months of award, the Contractor shall, in collaboration with all interested and affected parties as enumerated in Section C.1.3, develop user instructions including technical requirements for each corresponding IANA function and post via a website.

**C.2.7 Responsibility and Respect for Stakeholders** -- Within six (6) months of award, the Contractor shall, in collaboration with all interested and affected parties as enumerated in Section C.1.3, develop for each of the IANA functions a process for documenting the source of the policies and procedures and how it will apply the relevant policies and procedures for the corresponding IANA function and post via a website.

**C.2.8 Performance Standards** -- Within six (6) months of award, the Contractor shall develop performance standards, in collaboration with all interested and affected parties as enumerated in Section C.1.3, for each of the IANA functions as set forth at C.2.9 to C.2.9.4 and post via a website.

**C.2.9 Internet Assigned Numbers Authority (IANA) Functions** -- include (1) the coordination of the assignment of technical Internet protocol parameters; (2) the administration of certain responsibilities associated with the Internet DNS root zone management; (3) the allocation of Internet numbering resources; and (4) other services related to the management of the ARPA and INT top-level domains (TLDs).

**C.2.9.1 Coordinate The Assignment Of Technical Protocol Parameters including the management of the Address and Routing Parameter Area (ARPA) TLD** -- The Contractor shall review and assign unique values to various parameters (*e.g.*, operation codes, port numbers, object identifiers, protocol numbers) used in various Internet protocols based on established guidelines and policies as developed by interested and affected parties as enumerated in Section C.1.3. The Contractor shall disseminate the listings of assigned parameters through various means (including on-line publication via a website) and shall review technical documents for consistency with assigned values. The Contractor shall operate the ARPA TLD within the current registration policies for this TLD, as documented in RFC 3172-Management Guidelines & Operational Requirements for the Address and Routing Parameter Area Domain,



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and any further clarification of this RFC. The Contractor shall also implement DNSSEC in the ARPA TLD.

**C.2.9.2 Perform Administrative Functions Associated With Root Zone Management** -- The Contractor shall facilitate and coordinate the root zone of the domain name system, and maintain 24 hour-a-day/7 days-a-week operational coverage. The process flow for root zone management involves three roles that are performed by three different entities through two separate legal agreements: the Contractor as the IANA Functions Operator, NTIA as the Administrator, and VeriSign (or any successor entity as designated by the U.S. Department of Commerce) as articulated in Cooperative Agreement Amendment 11, as the Root Zone Maintainer. The Requirements are detailed at Appendix 1 entitled Authoritative Root Zone Management Process that is incorporated by reference herein as if fully set forth. The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, in the performance of this function.

**C.2.9.2.a Root Zone File Change Request Management** -- The Contractor shall receive and process root zone file change requests for TLDs. These change requests include addition of new or updates to existing TLD name servers (NS) and delegation signer (DS) resource record (RR) information along with associated 'glue' (A and AAAA RRs). A change request may also include new TLD entries to the root zone file. The Contractor shall process root zone file changes as expeditiously as possible.

**C.2.9.2.b Root Zone "WHOIS" Change Request and Database Management** -- The Contractor shall maintain, update, and make publicly accessible a Root Zone "WHOIS" database with current and verified contact information for all TLD registry operators. The Root Zone "WHOIS" database, at a minimum, shall consist of the TLD name; the IP address of the primary nameserver and secondary nameserver for the TLD; the corresponding names of such nameservers; the creation date of the TLD; the name, postal address, email address, and telephone and fax numbers of the TLD registry operator; the name, postal address, email address, and telephone and fax numbers of the technical contact for the TLD registry operator; and the name, postal address, email address, and telephone and fax numbers of the administrative contact for the TLD registry operator; reports; and date record last updated; and any other information relevant to the TLD requested by the TLD registry operator. The Contractor shall receive and process root zone "WHOIS" change requests for TLDs.

**C.2.9.2.c Delegation and Redefinition of a Country Code Top Level-Domain (ccTLD)** --The Contractor shall apply existing policy frameworks in processing requests related to the delegation and redefinition of a ccTLD, such as RFC 1591 Domain Name System Structure and Delegation, the Governmental Advisory Committee (GAC) Principles And Guidelines For The Delegation And Administration Of Country Code Top Level Domains, and any further clarification of these policies by interested and affected parties as enumerated in Section C.1.3. If a policy framework does not exist to cover a specific instance, the Contractor will consult with the interested and affected parties, as enumerated in Section C.1.3; relevant public authorities;



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and governments on any recommendation that is not within or consistent with an existing policy framework. In making its recommendations, the Contractor shall also take into account the relevant national frameworks and applicable laws of the jurisdiction that the TLD registry serves. The Contractor shall submit its recommendations to the COR via a Delegation and Redelegation Report.

**C.2.9.2d Delegation and Redelegation of a Generic Top Level Domain (gTLD)** -- The Contractor shall verify that all requests related to the delegation and redelegation of gTLDs are consistent with the procedures developed by ICANN. In making a delegation or redelegation recommendation, the Contractor must provide documentation verifying that ICANN followed its own policy framework including specific documentation demonstrating how the process provided the opportunity for input from relevant stakeholders and was supportive of the global public interest. The Contractor shall submit its recommendations to the COR via a Delegation and Redelegation Report.

**C.2.9.2.e Root Zone Automation** -- The Contractor shall work with NTIA and the Root Zone Maintainer, and collaborate with all interested and affected parties as enumerated in Section C.1.3, to deploy a fully automated root zone management system within nine (9) months after date of contract award. The fully automated system must, at a minimum, include a secure (encrypted) system for customer communications; an automated provisioning protocol allowing customers to manage their interactions with the root zone management system; an online database of change requests and subsequent actions whereby each customer can see a record of their historic requests and maintain visibility into the progress of their current requests; and a test system, which customers can use to meet the technical requirements for a change request ; an internal interface for secure communications between the IANA Functions Operator; the Administrator, and the Root Zone Maintainer.

**C.2.9.2.f Root Domain Name System Security Extensions (DNSSEC) Key Management** --The Contractor shall be responsible for the management of the root zone Key Signing Key (KSK), including generation, publication, and use for signing the Root Keyset. As delineated in the Requirements at Appendix 2 entitled Baseline Requirements for DNSSEC in the Authoritative Root Zone that is incorporated by reference herein as if fully set forth. The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, in the performance of this function.

**C.2.9.2.g Customer Service Complaint Resolution Process (CSCR)** --The Contractor shall work with NTIA and collaborate with all interested and affected parties as enumerated in Section C.1.3 to establish and implement within six (6) months after date of contract award a process for IANA function customers to submit complaints for timely resolution that follows industry best practice and includes a reasonable timeframe for resolution.

**C.2.9.3 Allocate Internet Numbering Resources** --The Contractor shall have responsibility for allocated and unallocated IPv4 and IPv6 address space and Autonomous System Number (ASN)

space based on established guidelines and policies as developed by interested and affected parties as enumerated in Section C.1.3. The Contractor shall delegate IP address blocks to Regional Internet Registries for routine allocation typically through downstream providers to Internet end-users within the regions served by those registries. The Contractor shall also reserve and direct allocation of space for special purposes, such as multicast addressing, addresses for private networks as described in RFC 1918-Address Allocation for Private Internets, and globally specified applications.

**C.2.9.4 Other services** -- The Contractor shall operate the INT TLD within the current registration policies for the TLD. Upon designation of a successor registry by the Government, if any, the Contractor shall cooperate with NTIA to facilitate the smooth transition of operation of the INT TLD. Such cooperation shall, at a minimum, include timely transfer to the successor registry of the then-current top-level domain registration data. The Contractor shall also implement modifications in performance of the IANA functions as needed upon mutual agreement of the parties.

**C.2.10** The performance of the IANA functions as articulated in Section C.2 Contractor Requirements shall be in compliance with the performance exclusions enumerated in Section C. 8.

**C.2.11** The Contracting Officer's Representative(COR) will perform final inspection and acceptance of all deliverables and reports articulated in Section C.2 Contractor Requirements. *Prior to publication/posting of reports the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

**C.2.12.a Program Manager.** The contractor shall provide trained, knowledgeable technical personnel according to the requirements of this contract. All contractor personnel who interface with the CO and COR must have excellent oral and written communication skills. "Excellent oral and written communication skills" is defined as the capability to converse fluently, communicate effectively, and write intelligibly in the English language. The IANA Functions Program Manager organizes, plans, directs, staffs, and coordinates the overall program effort; manages contract and subcontract activities as the authorized interface with the CO and COR and ensures compliance with Federal rules and regulations and responsible for the following:

- Shall be responsible for the overall contract performance and shall not serve in any other capacity under this contract.
- Shall have demonstrated communications skills with all levels of management.
- Shall meet and confer with COR and CO regarding the status of specific contractor activities and problems, issues, or conflicts requiring resolution.
- Shall be capable of negotiating and making binding decisions for the company.
- Shall have extensive experience and proven expertise in managing similar multi-task contracts of this type and complexity.

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- Shall have extensive experience supervising personnel.
- Shall have a thorough understanding and knowledge of the principles and methodologies associated with program management and contract management.

**C.2.12.b** The Contractor shall assign to this contract the following key personnel: IANA Functions Program Manager (C.2.9); IANA Function Liaison for Technical Protocol Parameters Assignment (C.2.9.1); IANA Function Liaison for Root Zone Management (C.2.9.2); IANA Function Liaison for Internet Number Resource Allocation (C.2.9.3).

### **C.3 SECURITY REQUIREMENTS**

**C.3.1 Secure Systems** -- The Contractor shall install and operate all computing and communications systems in accordance with best business and security practices. The Contractor shall implement a secure system for authenticated communications between it and its customers when carrying out all IANA function requirements. The Contractor shall document practices and configuration of all systems.

**C.3.2 Secure Systems Notification** -- The Contractor shall implement and thereafter operate and maintain a secure notification system at a minimum, capable of notifying all relevant stakeholders of the discrete IANA functions, of such events as outages, planned maintenance, and new developments. In all cases, the Contractor shall notify the COR of any outages.

**C.3.3 Secure Data** -- The Contractor shall ensure the authentication, integrity, and reliability of the data in performing each of the IANA functions.

**C.3.4 Security Plan** --The Contractor shall develop and execute a Security Plan that meets the requirements of this contract and Section C.3. The Contractor shall document in the security plan the process used to ensure information systems including hardware, software, applications, and general support systems have effective security safeguards, which have been implemented, planned for, and documented. The Contractor shall deliver the plan to the COR after each annual update.

**C.3.5 Director of Security** -- The Contractor shall designate a Director of Security who shall be responsible for ensuring technical and physical security measures, such as personnel access controls. The Contractor shall notify and consult in advance the COR when there are personnel changes in this position. The Director of Security shall be one of the key personnel assigned to this contract.

### **C.4 PERFORMANCE METRIC REQUIREMENTS**

**C.4.1 Meetings** -- Program reviews and site visits shall occur annually.

**C.4.2 Monthly Performance Progress Report** -- The Contractor shall prepare and submit to the COR a performance progress report every month (no later than 15 calendar days following the end of each month) that contains statistical and narrative information on the performance of the IANA functions (*i.e.*, assignment of technical protocol parameters; administrative functions associated with root zone management; and allocation of Internet numbering resources) during the previous calendar month. The report shall include a narrative summary of the work performed for each of the functions with appropriate details and particularity. The report shall also describe major events, problems encountered, and any projected significant changes, if any, related to the performance of requirements set forth in C.2.9 to C.2.9.4.

**C.4.3 Root Zone Management Dashboard** -- The Contractor shall work collaboratively with NTIA and the Root Zone Maintainer, and all interested and affected parties as enumerated in Section C.1.3, to develop and make publicly available via a website, a dashboard to track the process flow for root zone management within nine (9) months after date of contract award.

**C.4.4 Performance Standards Reports** -- The Contractor shall develop and publish reports for each discrete IANA function consistent with Section C.2.8. The Performance Standards Metric Reports will be published via a website every month (no later than 15 calendar days following the end of each month) starting no later than six (6) months after date of contract award.

**C.4.5 Customer Service Survey (CSS)** --The Contractor shall collaborate with NTIA to develop and conduct an annual customer service survey consistent with the performance standards for each of the discrete IANA functions. The survey shall include a feedback section for each discrete IANA function. No later than 30 days after conducting the survey, the Contractor shall submit the CSS Report to the COR.

**C.4.6 Final Report** -- The Contractor shall prepare and submit a final report on the performance of the IANA functions that documents standard operating procedures, including a description of the techniques, methods, software, and tools employed in the performance of the IANA functions. The Contractor shall submit the report to the CO and the COR no later than 30 days after expiration of the contract.

**C.4.7 Inspection and Acceptance** -- The COR will perform final inspection and acceptance of all deliverables and reports articulated in Section C.4. *Prior to publication/posting of reports, the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

## **C.5 AUDIT REQUIREMENTS**

**C.5.1 Audit Data** -- The Contractor shall generate and retain security process audit record data for one year and provide an annual audit report to the CO and the COR. All root zone management operations shall be included in the audit, and records on change requests to the root zone file. The Contractor shall retain these records in accordance with the clause at

52.215-2. The Contractor shall provide specific audit record data to the CO and COR upon request.

**C.5.2 Root Zone Management Audit Data** -- The Contractor shall generate and publish via a website a monthly audit report based on information in the performance of *Provision C.9.2(a-g) Perform Administrative Functions Associated With Root Zone Management*. The audit report shall identify each root zone file and root zone "WHOIS" database change request and the relevant policy under which the change was made as well as identify change rejections and the relevant policy under which the change request was rejected. The Report shall start no later than nine (9) months after date of contract award and thereafter is due to the COR no later than 15 calendar days following the end of each month.

**C.5.3 External Auditor** - - The Contractor shall have an external, independent, specialized compliance audit which shall be conducted annually and it shall be an audit of all the IANA functions security provisions against existing best practices and Section C.3 of this contract.

**C.5.4 Inspection and Acceptance** -- The COR will perform final inspection and acceptance of all deliverables and reports articulated in Section C.5. *Prior to publication/posting of reports, the Contractor shall obtain approval from the COR.* The COR shall not unreasonably withhold approval.

## **C. 6 CONFLICT OF INTEREST REQUIREMENTS**

**C.6.1** The Contractor shall take measures to avoid any activity or situation that could compromise, or give the appearance of compromising, the impartial and objective performance of the contract (e.g., a person has a conflict of interest if the person directly or indirectly appears to benefit from the performance of the contract). The Contractor shall maintain a written, enforced conflict of interest policy that defines what constitutes a potential or actual conflict of interest for the Contractor. At a minimum, this policy must address conflicts based on personal relationships or bias, financial conflicts of interest, possible direct or indirect financial gain from Contractor's policy decisions and employment and post-employment activities. The conflict of interest policy must include appropriate sanctions in case of non-compliance, including suspension, dismissal and other penalties.

**C.6.2** The Contractor shall designate a senior staff member to serve as a Conflict of Interest Officer who shall be responsible for ensuring the Contractor is in compliance with the Contractor's internal and external conflict of interest rules and procedures. The Conflict of Interest Officer shall be one of the key personnel assigned to this contract.

**C.6.2.1** The Conflict of Interest Officer shall be responsible for distributing the Contractor's conflict of interest policy to all employees, directors, and subcontractors upon their election, re-election or appointment and annually thereafter.

**C.6.2.2** The Conflict of Interest Officer shall be responsible for requiring that each of the Contractor's employees, directors and subcontractors complete a certification with disclosures of any known conflicts of interest upon their election, re-election or appointment, and annually thereafter.

**C.6.2.3** The Conflict of Interest Officer shall require that each of the Contractor's employees, directors, and subcontractors promptly update the certification to disclose any interest, transaction, or opportunity covered by the conflict of interest policy that arises during the annual reporting period.

**C.6.2.4** The Conflict of Interest Officer shall develop and publish subject to applicable laws and regulations, a Conflict Of Interest Enforcement and Compliance Report. The report shall describe major events, problems encountered, and any changes, if any, related to Section C.6.

**C.6.2.5** See also the clause at H.5. Organizational Conflict of Interest

## **C. 7 CONTINUITY OF OPERATIONS**

**C.7.1 Continuity of Operations (COP)** – The Contractor shall, at a minimum, maintain multiple redundant sites in at least 2, ideally 3 sites, geographically dispersed within the United States as well as multiple resilient communication paths between interested and affected parties as enumerated in Section C.1.3 to ensure continuation of the IANA functions in the event of cyber or physical attacks, emergencies, or natural disasters.

**C.7.2 Contingency and Continuity of Operations Plan (The CCOP)** – The Contractor shall collaborate with NTIA and the Root Zone Maintainer, and all interested and affected parties as enumerated in Section C.1.3, to develop and implement a CCOP for the IANA functions within nine (9) months after date of contract award. The Contractor in collaboration with NTIA and the Root Zone Maintainer shall update and test the plan annually. The CCOP shall include details on plans for continuation of each of the IANA functions in the event of cyber or physical attacks, emergencies, or natural disasters. The Contractor shall submit the CCOP to the COR after each annual update.

**C.7.3 Transition to Successor Contractor** – In the event the Government selects a successor contractor, the Contractor shall have a plan in place for transitioning each of the IANA functions to ensure an orderly transition while maintaining continuity and security of operations. The plan shall be submitted to the COR eighteen (18) months after date of contract award, reviewed annually, and updated as appropriate.

## **C.8 PERFORMANCE EXCLUSIONS**

**C.8.1** This contract does not authorize the Contractor to make modifications, additions, or deletions to the root zone file or associated information. (This contract does not alter the root

zone file responsibilities as set forth in Amendment 11 of the Cooperative Agreement NCR-9218742 between the U.S. Department of Commerce and VeriSign, Inc. or any successor entity as designated by the U.S. Department of Commerce). See Amendment 11 at [http://ntia.doc.gov/files/ntia/publications/amend11\\_052206.pdf](http://ntia.doc.gov/files/ntia/publications/amend11_052206.pdf).

**C.8.2** This contract does not authorize the Contractor to make material changes in the policies and procedures developed by the relevant entities associated with the performance of the IANA functions. The Contractor shall not change or implement the established methods associated with the performance of the IANA functions without prior approval of the CO.

**C.8.3** The performance of the functions under this contract, including the development of recommendations in connection with Section C.2.9.2, shall not be, in any manner, predicated or conditioned on the existence or entry into any contract, agreement or negotiation between the Contractor and any party requesting such changes or any other third-party. Compliance with this Section must be consistent with C.2.9.2d.



**Appendix 1: Authoritative Root Zone Management Process<sup>1</sup>**

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<sup>1</sup> The Root Zone management partners consist of the IANA Functions Operator (per the IANA functions contract), NTIA/Department of Commerce, and the Root Zone Maintainer (per the Cooperative Agreement with VeriSign (or any successor entity as designated by the U.S. Department of Commerce).

## Appendix 2: Baseline Requirements for DNSSEC in the Authoritative Root Zone

DNSSEC at the authoritative Root Zone requires cooperation and collaboration between the root zone management partners and the Department.<sup>2</sup> The baseline requirements encompass the responsibilities and requirements for both the IANA Functions Operator and the Root Zone Maintainer as described and delineated below.

### General Requirements

The Root Zone system needs an overall security lifecycle, such as that described in ISO 27001, and any security policy for DNSSEC implementation must be validated against existing standards for security controls.

The remainder of this section highlights security requirements that must be considered in developing any solution. ISO 27002:2005 (formerly ISO 17799:2005) and NIST SP 800-53 are recognized sources for specific controls. Note that reference to SP 800-53 is used as a convenient means of specifying a set of technical security requirements.<sup>3</sup> It is expected that the systems referenced in this document will meet all the SP 800-53 technical security controls required by a HIGH IMPACT system.<sup>4</sup>

Whenever possible, references to NIST publications are given as a source for further information. These Special Publications (SP) and FIPS documents are not intended as a future auditing checklist, but as non-binding guidelines and recommendations to establish a viable IT security policy. Comparable security standards can be substituted where available and appropriate. All of the NIST document references can be found on the NIST Computer Security Research Center webpage (<http://www.csrc.nist.gov/>).

### 1) Security Authorization and Management Policy

- a) Each partner<sup>5</sup> in the Root Zone Signing process shall have a security policy in place; this security policy must be periodically reviewed and updated, as appropriate.

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<sup>2</sup> The Root Zone management partners consist of the IANA Functions Operator (per the IANA functions contract), NTIA/Department of Commerce, and Root Zone Maintainer (per the Cooperative Agreement with VeriSign). This document outlines requirements for both the IANA Functions Operator and Root Zone Maintainer in the operation and maintenance of DNSSEC at the authoritative root zone.

<sup>3</sup> Note in particular that the use of the requirements in SP 800-53 does not imply that these systems are subject to other Federal Information Security Management Act (FISMA) processes.

<sup>4</sup> For the purpose of identifying SP 800-53 security requirements, the Root Zone system can be considered a HIGH IMPACT system with regards to integrity and availability as defined in FIPS 199.

<sup>5</sup> For this document, the roles in the Root Zone Signing process are those associated with the Key Signing Key holder, the Zone Signing Key holder, Public Key Distributor, and others to be conducted by the IANA Functions Operator and the Root Zone Maintainer.

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- i) Supplemental guidance on generating a Security Authorization Policy may be found in NIST SP 800-37.
- b) These policies shall have a contingency plan component to account for disaster recovery (both man-made and natural disasters).<sup>6</sup>
  - i) Supplemental guidance on contingency planning may be found in SP 800-34.
- c) These policies shall address Incident Response detection, handling and reporting (see 4 below).
  - i) Supplemental guidance on incident response handling may be found in NIST SP 800-61.

## 2) IT Access Control

- a) There shall be an IT access control policy in place for each of the key management functions and it shall be enforced.
  - i) This includes both access to hardware/software components and storage media as well as ability to perform process operations.
  - ii) Supplemental guidance on access control policies may be found in NIST SP 800-12.
- b) Users without authentication shall not perform any action in key management.
- c) In the absence of a compelling operational requirement, remote access to any cryptographic component in the system (e.g. HSM) is not permitted.<sup>7</sup>

## 3) Security Training

- a) All personnel participating in the Root Zone Signing process shall have adequate IT security training.
  - i) Supplemental guidance on establishing a security awareness training program may be found in NIST SP 800-50.

## 4) Audit and Accountability Procedures

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<sup>6</sup> For the IANA Functions Operator, the contingency plan must be consistent with and/or included in the "Contingency and Continuity of Operations Plan" as articulated in Section C.7 of the IANA functions contract.

<sup>7</sup> Remote access is any access where a user or information system communicates through a non-organization controlled network (e.g., the Internet).

- a) The organization associated with each role shall develop, disseminate, and periodically review/update: (1) a formal, documented, audit and accountability policy that addresses purpose, scope, roles, responsibilities, management commitment, coordination among organizational entities, and compliance; and (2) formal, documented procedures to facilitate the implementation of the audit and accountability policy and associated audit and accountability controls.
  - i) Supplemental guidance on auditing and accountability policies may be found in NIST SP 800-12.
  - ii) Specific auditing events include the following:
    - o Generation of keys
    - o Generation of signatures
    - o Exporting of public key material
    - o Receipt and validation of public key material (i.e., from the ZSK holder or from TLDs)
    - o System configuration changes
    - o Maintenance and/or system updates
    - o Incident response handling
    - o Other events as appropriate
- b) Incident handling for physical and exceptional cyber attacks<sup>8</sup> shall include reporting to the Department's National Telecommunications and Information Administration (NTIA) in a timeframe and format as mutually agreed by the Department, IANA Functions Operator, and Root Zone Maintainer.
- c) The auditing procedures shall include monthly reporting to NTIA.<sup>9</sup>
- d) The auditing system shall be capable of producing reports on an ad-hoc basis.
- e) A version of these reports must be made publically available.

## 5) Physical Protection Requirements

- a) There shall be physical access controls in place to only allow access to hardware components and media to authorized personnel.
  - i) Supplemental guidance on token based access may be found in NIST SP 800-73 and FIPS 201.
  - ii) Supplemental guidance on token based access biometric controls may be found in

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<sup>8</sup> Non-exceptional events are to be included in monthly reporting as required in 4 c.

<sup>9</sup> For the IANA Functions Operator, audit reporting shall be incorporated into the audit report as articulated in C.5.2 of the IANA functions contract.

NIST SP 800-76.

- b) Physical access shall be monitored, logged, and registered for all users and visitors.
- c) All hardware components used to store keying material or generate signatures shall have short-term backup emergency power connections in case of site power outage. (See, SP 800-53r3)
- d) All organizations shall have appropriate protection measures in place to prevent physical damage to facilities as appropriate.

## 6) All Components

- a) All commercial off the shelf hardware and software components must have an established maintenance and update procedure in place.
  - i) Supplemental guidance on establishing an upgrading policy for an organization may be found in NIST SP 800-40.
- b) All hardware and software components provide a means to detect and protect against unauthorized modifications/updates/patching.

## Role Specific Requirements

### 7) Root Zone Key Signing Key (KSK) Holder<sup>10</sup>

The Root Zone KSK Holder (RZ KSK) is responsible for: (1) generating and protecting the private component of the RZ KSK(s); (2) securely exporting or importing any public key components, should this be required (3) authenticating and validating the public portion of the RZ Zone Signing Key (RZ ZSK); and (4) signing the Root Zone's DNSKEY record (ZSK/KSK).

#### a) Cryptographic Requirements

- i) The RZ KSK key pair shall be an RSA key pair, with a modulus of at least 2048 bits.
- ii) RSA key generation shall meet the requirements specified in FIPS 186-3.<sup>11</sup> In particular, key pair generation shall meet the FIPS 186-3 requirements for exponent size and primality testing.
- iii) The RZ KSK private key(s) shall be generated and stored on a FIPS 140-2 validated

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<sup>10</sup> The Root Zone KSK Holder is a responsibility performed by the IANA Functions Operator.

<sup>11</sup> Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections a and b, rather than supplemental guidance.

- hardware cryptographic module (HSM)<sup>12</sup>, validated at Level 4 overall.<sup>13</sup>
- iv) RZ KSK Digital Signatures shall be generated using SHA-256.
  - v) All cryptographic functions involving the private component of the KSK shall be performed within the HSM; that is, the private component shall only be exported from the HSM with the appropriate controls (FIPS 140-2) for purposes of key backup.

**b) Multi-Party Control**

At least two persons shall be required to activate or access any cryptographic module that contains the complete RZ KSK private signing key.

- i) The RZ KSK private key(s) shall be backed up and stored under at least two-person control. Backup copies shall be stored on FIPS 140-2 compliant HSM, validated at Level 4 overall, or shall be generated using m of n threshold scheme and distributed to organizationally separate parties.
- ii) Backup copies stored on HSMs shall be maintained in different physical locations<sup>14</sup>, with physical and procedural controls commensurate to that of the operational system.
- iii) In the case of threshold secret sharing, key shares shall be physically secured by each of the parties.
- iv) In all cases, the names of the parties participating in multi-person control shall be maintained on a list that shall be made available for inspection during compliance audits.

**c) Root Zone KSK Rollover**

- i) Scheduled rollover of the RZ KSK shall be performed.<sup>15</sup> (See Contingency planning for unscheduled rollover.)
- ii) RZ KSK rollover procedures shall take into consideration the potential future need for algorithm rollover.
- iii) DNSSEC users shall be able to authenticate the source and integrity of the new RZ KSK using the previously trusted RZ KSK's public key.

**d) Contingency Planning**

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<sup>12</sup> FIPS 140 defines hardware cryptographic modules, but this specification will use the more common HSM (for hardware security module) as the abbreviation.

<sup>13</sup> Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections a and b, rather than supplemental guidance.

<sup>14</sup> Backup locations are to be within the United States.

<sup>15</sup> The Department envisions the timeline for scheduled rollover of the RZ KSK to be jointly developed and proposed by the IANA Functions Operator and Root Zone Maintainer, based on consultation and input from the affected parties (e.g. root server operators, large-scale resolver operators, etc). Note that subsequent test plans may specify more or less frequent RZ KSK rollover to ensure adequate testing.

- i) Procedures for recovering from primary physical facility failures (e.g., fire or flood that renders the primary site inoperable) shall be designed to reconstitute capabilities within 48 hours.
- ii) Procedures for emergency rollover of the RZ KSK shall be designed to achieve key rollover and publication within 48 hours. These procedures, which are understood to address DNSSEC key provision only, should accommodate the following scenarios:
  - (1) The current RZ KSK has been compromised; and
  - (2) The current RZ KSK is unavailable, but is not believed to be compromised.

**e) DNS Record Generation/Supporting RZ ZSK rollover**

- i) The RZ KSK Holder shall authenticate the source and integrity of RZ ZSK public key material
  - (1) Mechanisms must support proof of possession and verify the parameters (i.e., the RSA exponent)
- ii) The signature on the root zone's DNSKEY record shall be generated using SHA-256.

**f) Audit Generation and Review Procedures**

- i) Designated Audit personnel may not participate in the multi-person control for the RZ ZSK or RZ KSK.
- ii) Audit logs shall be backed up offsite at least monthly.
- iii) Audit logs (whether onsite or offsite) shall be protected from modification or deletion.
- iv) Audit logs shall be made available upon request for Department review.

**8) RZ KSK Public Key Distribution**

- a) The RZ KSK public key(s) shall be distributed in a secure fashion to preclude substitution attacks.
- b) Each mechanism used to distribute the RZ KSK public key(s) shall either
  - i) Establish proof of possession of the RZ KSK private key (for public key distribution); or
  - ii) Establish proof of possession of the previous RZ KSK private key (for Root zone key rollover).

**9) RZ Zone Signing Key (RZ ZSK) Holder<sup>16</sup>**

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<sup>16</sup> The RZ ZSK holder is a function performed by the Root Zone Maintainer, NOT the IANA Functions Operator.



The Root Zone ZSK Holder (RZ ZSK) is responsible for (1) generating and protecting the private component of the RZ ZSK(s); (2) securely exporting or importing any public key components, should this be required and (3) generating and signing Zone File Data in accordance to the DNSSEC specifications.

**a) Cryptographic Requirements**

- i) The RZ ZSK key pair shall be an RSA key pair, with a modulus of at least 1024 bits.<sup>17</sup>
- ii) RSA key generation shall meet the requirements specified in FIPS 186-3.<sup>18</sup> In particular, key pair generation shall meet the FIPS 186-3 requirements for exponent size and primality testing.
- iii) RZ ZSK Digital Signatures shall be generated using SHA-256.
- iv) The RZ ZSK private key(s) shall be generated and stored on a FIPS 140-2 compliant HSM. At a minimum, the HSM shall be validated at Level 4 overall.
- v) All cryptographic functions involving the private component of the RZ ZSK shall be performed within the HSM; that is, the private component shall not be exported from the HSM except for purposes of key backup.

**b) Multi-Party Control**

- i) Activation of the RZ ZSK shall require at least two-person control. This requirement may be satisfied through a combination of physical and technical controls.
- ii) If the RZ ZSK private key(s) are backed up, they shall be backed up and stored under at least two-person control. Backup copies shall be stored on FIPS 140-2 validated HSM, validated at Level 4 overall.<sup>19</sup>
  - (1) Backup copies shall be maintained both onsite and offsite<sup>20</sup>, with physical and procedural controls commensurate to that of the operational system.
  - (2) The names of the parties participating in multi-person control shall be maintained on a list and made available for inspection during compliance audits.

**c) Contingency Planning**

- i) Procedures for recovery from failure of the operational HSM containing the RZ ZSK shall be designed to re-establish the capability to sign the zone within 2 hours.
- ii) Procedures for emergency rollover of the RZ ZSK shall be designed to achieve key

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<sup>17</sup> Note that these requirements correspond to those articulated in NIST SP 800-78 for authentication keys. Since there is no forward security requirement for the DNSSEC signed data, the more stringent requirements imposed on long term digital signatures do not apply.

<sup>18</sup> Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections 8a and 8 b, rather than as supplemental guidance.

<sup>19</sup> Note that FIPS 186-3 and FIPS 140-2 are referenced as requirements in sections 8a and 8 b, rather than as supplemental guidance.

<sup>20</sup> The Department expects backup locations to be within the United States.

rollover within a technically feasible timeframe as mutually agreed among the Department, Root Zone Maintainer, and the IANA functions operator. These procedures must accommodate the following scenarios:

- (1) The current RZ ZSK has been compromised; and
- (2) The current RZ ZSK is unavailable (e.g. destroyed), but is not believed to be compromised.

**d) Root Zone ZSK Rollover**

- i) The RZ ZSK shall be rolled over every six months at a minimum.<sup>21</sup>
- ii) DNSSEC users shall be able to authenticate the source and integrity of the new RZ ZSK using the previously trusted RZ ZSK's public key.
- iii) RZ ZSK holder shall be able to authenticate the source and integrity of the new RZ ZSK.

**e) Audit Generation and Review Procedures**

- i) Designated Audit personnel may not participate in the control for the RZ ZSK or RZ ZSK.
- ii) Audit logs shall be backed up offsite at least monthly.
- iii) Audit logs (whether onsite or offsite) shall be protected from unauthorized access, modification, or deletion.
- iv) Audit logs shall be made available upon request for NTIA review.

**Other Requirements**

**10) Transition Planning**

- a) The IANA Functions Operator and Root Zone Maintainer shall have plans in place for transitioning the responsibilities for each role while maintaining continuity and security of operations. In the event the IANA Functions Operator or Root Zone Maintainer are no longer capable of fulfilling their DNSSEC related roles and responsibilities (due to bankruptcy, permanent loss of facilities, etc.) or in the event the Department selects a successor, that party shall ensure an orderly transition of their DNSSEC roles and responsibilities in cooperation with the Department.<sup>22</sup>

**11) Personnel Security Requirements**

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<sup>21</sup> The timelines specified in this document apply to the operational system. Subsequent test plans may specify more or less frequent RZ ZSK rollover to ensure adequate testing.

<sup>22</sup> For the IANA Functions Operator, the transition plan shall be incorporated into that which is called for in section C.7.3 of the IANA functions contract.

**a) Separation of Duties**

- i) Personnel holding a role in the multi-party access to the RZ KSK may not hold a role in the multi-party access to the RZ ZSK, or vice versa.
- ii) Designated Audit personnel may not participate in the multi-person control for the RZ ZSK or KSK.
- iii) Audit Personnel shall be assigned to audit the RZ KSK Holder or the RZ ZSK Holder, but not both.

**b) Security Training**

- i) All personnel with access to any cryptographic component used with the Root Zone Signing process shall have adequate training for all expected duties.

**12) Root Zone Maintainer Basic Requirements**

- a) Ability to receive NTIA authorized TLD Resource Record Set (RRset) updates from NTIA and IANA Functions Operator
- b) Ability to integrate TLD RRset updates into the final zone file
- c) Ability to accept NTIA authorized signed RZ keyset(s) and integrate those RRsets into the final zone file

**13) IANA Functions Operator Interface Basic Functionality**

- a) Ability to accept and process TLD DS records. New functionality includes:
  - i) Accept TLD DS RRs
    - (1) Retrieve TLD DNSKEY record from the TLD, and perform parameter checking for the TLD keys, including verify that the DS RR has been correctly generated using the specified hash algorithm.
  - ii) Develop with, and communicate to, TLD operators procedures for:
    - (1) Scheduled roll over for TLD key material
    - (2) Supporting emergency key roll over for TLD key material.
    - (3) Moving TLD from signed to unsigned in the root zone.
- b) Ability to submit TLD DS record updates to NTIA for authorization and inclusion into the root zone by the Root Zone Maintainer.
- c) Ability to submit RZ keyset to NTIA for authorization and subsequent inclusion into the root zone by the Root Zone Maintainer.

**14) Root Zone Management Requirements<sup>23</sup>**

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<sup>23</sup> The Department envisions the IANA Functions Operator and Root Zone Maintainer jointly agree to utilizing pre-existing processes and/or deciding and proposing new methods by which each of these requirements are designed and implemented, subject to Department approval.

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- a) Ability and process to store TLD delegations and DS RRs
- b) Ability and process to store multiple keys for a delegation with possibly different algorithms
- c) Ability and process to maintain a history of DS records used by each delegation
- d) Procedures for managing scheduled roll over for TLD key material
- e) Procedures for managing emergency key roll over for TLD key material.<sup>24</sup>
- f) Procedures for managing the movement of TLD from signed to unsigned.<sup>25</sup>
- g) Procedures for DNSSEC revocation at the root zone and returning the root zone to its pre-signed state.

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<sup>24</sup> To the extent possible, on 24 hour notice under the existing manual system and on 12 hours notice once the automated system is utilized.

<sup>25</sup> To the extent possible, this must be within 48 hours.

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**SECTION D - PACKAGING AND MARKING**

**RESERVED**

## **SECTION E - INSPECTION AND ACCEPTANCE**

### **E.1 INSPECTION AND ACCEPTANCE**

The Contracting Officer's Representative (COR) will perform final inspection and acceptance of all work performed, written communications regardless of form, reports, and other services and deliverables related to Section C prior to any publication/posting called for by this Contract. The CO reserves the right to designate other Government agents as authorized representatives upon unilateral written notice to the Contractor, which may be accomplished in the form of a transmittal of a copy of the authorization. The Government reserves the right to inspect the premises, systems, and processes of all security and operational components used for the performance of all Contract requirements and obligations.

### **E.2 INSPECTION -- TIME-AND-MATERIAL AND LABOR-HOUR (FAR 52.246-6) (MAY 2001)**

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

"Contractor's managerial personnel" means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of --

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operation at any one plant or separate location where the contract is being performed; or
- (3) A separate and complete major industrial operation connected with the performance of this contract.

"Materials" includes data when the contract does not include the Warranty of Data clause.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, work, and services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance.

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The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) Unless otherwise specified in the contract, the Government shall accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(f) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (h) of this clause, the cost of replacement or correction shall be determined under the Payments Under Time-and-Materials and Labor-Hour Contracts clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(g)

(1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may --

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(ii) Terminate this contract for default.

(2) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute.

(h) Notwithstanding paragraphs (f) and (g) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to --



(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(i) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(j) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(k) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

**SECTION F - DELIVERIES AND PERFORMANCE**

**F.1 PERIOD OF PERFORMANCE**

The period of performance of this contract is: October 1, 2012 – September 30, 2015.

**F.2 PLACE OF PERFORMANCE**

The Contractor shall perform all work at the Contractor’s facilities.

**F.3 DISTRIBUTION OF DELIVERABLES**

The Contractor shall submit **one (1) copy** to the COR.

**F.4 DELIVERABLES**

The listed below are the deliverables required by this contract. Section C of this contract contains information about the deliverables.

<b>Clause No.</b>	<b>Clause</b>	<b>Deliverable</b>	<b>Due Date</b>
C.2.6	Transparency and Accountability	User instructional documentation including technical requirements	Six months after award
C.2.7	Responsibility and Respect for Stakeholders	Documenting the source of the policies and procedures.	Six months after award
C.2.8	Performance Standards	Performance Standards	Six months after award
C.2.9.2e	Root Zone Automation	Automated Root Zone	Nine months after award
C.2.9.2g	Customer Service Complaint Resolution Process (CSCRCP)	Customer Compliant Process	Six months after award
C.3.4	Security Plan	Documenting Practices and configuration of all systems	Annually
C.4.1	Monthly Performance Progress Report includes DNSSEC	Report based on C.2	Monthly
C.4.2	Root Zone Management	Root Zone Management	Nine months

Clause No.	Clause	Deliverable	Due Date
	Dashboard	Dashboard	after award
C.4.3	Performance Standards Reports	Performance Standards Report	Six months after award and monthly thereafter
C.4.4	Customer Service Survey	Customer Service Survey	Annual Report of Customer Survey
C.4.5	Final Report	Final Report	Expiration of Contract
C.5.1	Audit Data	Audit Report	Annually
C.5.2	Root Zone Management Audit Data	Root Zone Management Audit Report	Nine Months after award and Monthly Report thereafter
C.5.3	External Auditor	External Audit Report	Annually
C.6.2.4	Conflict of Interest Enforcement and Compliance Report	Enforcement and Compliance Report	Annually
C.7.2	Contingency and Continuity of Operations Plan (The CCOP)	Contingency and Continuity of Operations for the continuation of the IANA Functions in case of an emergency.	Annually
C.7.3	Transition to Successor	Transition plan in case of successor contractor.	Eighteen (18) months after date of contract award

**F.5 GOVERNMENT RIGHTS TO DELIVERABLES**

All deliverables provided under this contract become the property of the U.S. Government.

**F.6 GOVERNMENT REVIEW OF DELIVERABLES**

The Government shall review all deliverables and determine acceptability. Any deficiencies shall be corrected by the Contractor and resubmitted to the Government within ten (10) workdays after notification.

**F.7 REQUIRED DELIVERABLES**

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The Contractor shall transmit all deliverables so the deliverables are received by the parties listed above on or before the indicated due dates.

**F.8 MEETINGS**

Program reviews will be scheduled monthly and site visits will occur annually.

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

Notwithstanding the Contractor's responsibility for total management during the performance of the contract, the administration of the contract will require maximum coordination between the Department of Commerce and the Contractor. The following individuals will be the Department of Commerce points of contact during the performance of the contract.

### **G.1 CONTRACTING OFFICER'S AUTHORITY**

#### **CONTRACTING OFFICER'S AUTHORITY (CAR 1352.201-70) (APR 2010)**

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of this contract, and, notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event the contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract terms and conditions, including price.

#### **CONTRACTING OFFICER'S REPRESENTATIVE (COR) (CAR 1352.201-72) (APR 2010)**

(a) **Vernita D. Harris, Deputy Associate Administrator** is hereby designated as the Contracting Officer's Representative (COR). The COR may be changed at any time by the Government without prior notice to the contractor by a unilateral modification to the contract.

The COR is located at:

1401 Constitution Avenue, N.W., Room 4701, Washington, DC 20230

PHONE NO: 202.482.4686

Email: [vharris@ntia.doc.gov](mailto:vharris@ntia.doc.gov)

(b) The responsibilities and limitations of the COR are as follows:

(1) The COR is responsible for the technical aspects of the contract and serves as technical liaison with the contractor. The COR is also responsible for the final inspection and acceptance of all deliverables and such other responsibilities as may be specified in the contract.

(2) The COR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes which affect the contract price, terms or conditions. Any contractor request for changes shall be referred to the Contracting Officer directly or through the COR. No such changes shall be made without the express written prior authorization of the Contracting Officer. The Contracting Officer may designate assistant or alternate COR(s) to act for the COR by naming such

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assistant/alternate(s) in writing and transmitting a copy of such designation to the contractor.

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

### H.1 AUDIT AND RECORDS – NEGOTIATION (FAR 52.215-2) (OCT 2010)

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor’s plants, or parts of them, engaged in performing the contract.

(c) *Certified cost or pricing data.* If the Contractor has been required to submit certified cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to --

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

(d) *Comptroller General—*

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the



right to examine and audit the supporting records and materials, for the purpose of evaluating -

-

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability*. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition --

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and --

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which certified cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

*Alternate I (Mar 2009)*. As prescribed in [15.209](#) (b)(2), substitute the following paragraphs (d)(1) and (g) for paragraphs (d)(1) and (g) of the basic clause:

(d) *Comptroller General or Inspector General*.

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(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials, shall have access to and the right to—

(i) Examine any of the Contractor's or any subcontractor's records that pertain to and involve transactions relating to this contract or a subcontract hereunder; and

(ii) Interview any officer or employee regarding such transactions.

(g)(1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract. The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(2) The authority of the Inspector General under paragraph (d)(1)(ii) of this clause does not flow down to subcontracts.

*Alternate II (Apr 1998).* As prescribed in 15.209(b)(3), add the following paragraph (h) to the basic clause:

(h) The provisions of OMB Circular No.A-133, "Audits of States, Local Governments, and Nonprofit Organizations," apply to this contract.

*Alternate III (Jun 1999).* As prescribed in 15.209(b)(4), delete paragraph (d) of the basic clause and redesignate the remaining paragraphs accordingly, and substitute the following paragraph (e) for the redesignated paragraph (e) of the basic clause:

(e) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), and (d) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition—

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

## H.2 PATENT RIGHTS -- OWNERSHIP BY THE CONTRACTOR (FAR 52.227-11) (DEC 2007)

(a) As used in this clause—

“Invention” means any invention or discovery that is or may be patentable or otherwise protectable under title 35 of the U.S. Code, or any variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq.*)

“Made” means—

- (1) When used in relation to any invention other than a plant variety, the conception or first actual reduction to practice of the invention; or
- (2) When used in relation to a plant variety, that the Contractor has at least tentatively determined that the variety has been reproduced with recognized characteristics.

“Nonprofit organization” means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

“Practical application” means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

“Subject invention” means any invention of the Contractor made in the performance of work under this contract.

(b) *Contractor’s rights.*

(1) *Ownership.* The Contractor may retain ownership of each subject invention throughout the world in accordance with the provisions of this clause.

(2) *License.*

(i) The Contractor shall retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, unless the Contractor fails to disclose the invention within the times specified in paragraph (c) of this clause. The Contractor’s license extends to any domestic subsidiaries and affiliates within the corporate structure of which the Contractor

is a part, and includes the right to grant sublicenses to the extent the Contractor was legally obligated to do so at contract award. The license is transferable only with the written approval of the agency, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(ii) The Contractor's license may be revoked or modified by the agency to the extent necessary to achieve expeditious practical application of the subject invention in a particular country in accordance with the procedures in FAR 27.302(i)2() and 27.(304(f).

*(c) Contractor's obligations.*

(1) The Contractor shall disclose in writing each subject invention to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The disclosure shall identify the inventor(s) and this contract under which the subject invention was made. It shall be sufficiently complete in technical detail to convey a clear understanding of the subject invention. The disclosure shall also identify any publication, on sale (*i.e.*, sale or offer for sale), or public use of the subject invention, or whether a manuscript describing the subject invention has been submitted for publication and, if so, whether it has been accepted for publication. In addition, after disclosure to the agency, the Contractor shall promptly notify the Contracting Officer of the acceptance of any manuscript describing the subject invention for publication and any on sale or public use.

(2) The Contractor shall elect in writing whether or not to retain ownership of any subject invention by notifying the Contracting Officer within 2 years of disclosure to the agency. However, in any case where publication, on sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor shall file either a provisional or a nonprovisional patent application or a Plant Variety Protection Application on an elected subject invention within 1 year after election. However, in any case where a publication, on sale, or public use has initiated the 1-year statutory period during which valid patent protection can be obtained in the United States, the Contractor shall file the application prior to the end of that statutory period. If the Contractor files a provisional application, it shall file a nonprovisional application within 10 months of the filing of the provisional application. The Contractor shall file patent applications in additional countries or international patent offices within either 10 months of the first filed patent application (whether provisional or nonprovisional) or 6 months from the date permission is granted by the Commissioner

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of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) The Contractor may request extensions of time for disclosure, election, or filing under paragraphs (c)(1), (c)(2), and (c)(3) of this clause.

(d) *Government's rights—*

(1) *Ownership.* The Contractor shall assign to the agency, on written request, title to any subject invention—

(i) If the Contractor fails to disclose or elect ownership to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain ownership; provided, that the agency may request title only within 60 days after learning of the Contractor's failure to disclose or elect within the specified times.

(ii) In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the agency, the Contractor shall continue to retain ownership in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(2) *License.* If the Contractor retains ownership of any subject invention, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice, or have practiced for or on its behalf, the subject invention throughout the world.

(e) *Contractor action to protect the Government's interest.*

(1) The Contractor shall execute or have executed and promptly deliver to the agency all instruments necessary to—

(i) Establish or confirm the rights the Government has throughout the world in those subject inventions in which the Contractor elects to retain ownership; and

(ii) Assign title to the agency when requested under paragraph (d) of this clause and to enable the Government to obtain patent protection and plant variety protection for that subject invention in any country.

(2) The Contractor shall require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in the Contractor's format, each subject invention in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this clause, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, as to the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor shall notify the Contracting Officer of any decisions not to file a nonprovisional patent application, continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response or filing period required by the relevant patent office.

(4) The Contractor shall include, within the specification of any United States nonprovisional patent or plant variety protection application and any patent or plant variety protection certificate issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by (identify the agency). The Government has certain rights in the invention."

(f) *Reporting on utilization of subject inventions.* The Contractor shall submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining utilization of the subject invention that are being made by the Contractor or its licensees or assignees. The reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and other data and information as the agency may reasonably specify. The Contractor also shall provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (h) of this clause. The Contractor also shall mark any utilization report as confidential/proprietary to help prevent inadvertent release outside the Government. As required by 35 U.S.C. 202(c)(5), the agency will not disclose that information to persons outside the Government without the Contractor's permission.

(g) *Preference for United States industry.* Notwithstanding any other provision of this clause, neither the Contractor nor any assignee shall grant to any person the exclusive right to use or sell any subject invention in the United States unless the person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement

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for an agreement may be waived by the agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States, or that under the circumstances domestic manufacture is not commercially feasible.

(h) *March-in rights*. The Contractor acknowledges that, with respect to any subject invention in which it has retained ownership, the agency has the right to require licensing pursuant to 35 U.S.C. 203 and 210(c), and in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency in effect on the date of contract award.

(i) Special provisions for contracts with nonprofit organizations. If the Contractor is a nonprofit organization, it shall—

(1) Not assign rights to a subject invention in the United States without the written approval of the agency, except where an assignment is made to an organization that has as one of its primary functions the management of inventions, provided, that the assignee shall be subject to the same provisions as the Contractor;

(2) Share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (but through their agency if the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) Use the balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions for the support of scientific research or education; and

(4) Make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business concerns, and give a preference to a small business concern when licensing a subject invention if the Contractor determines that the small business concern has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business concerns; provided, that the Contractor is also satisfied that the small business concern has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor.

(5) Allow the Secretary of Commerce to review the Contractor's licensing program and decisions regarding small business applicants, and negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of paragraph (i)(4) of this clause.

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(j) *Communications.* [Complete according to agency instructions.]

(k) *Subcontracts.*

(1) The Contractor shall include the substance of this clause, including this paragraph (k), in all subcontracts for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization.

(2) The Contractor shall include in all other subcontracts for experimental, developmental, or research work the substance of the patent rights clause required by FAR Subpart 27.3.

(3) At all tiers, the patent rights clause must be modified to identify the parties as follows: references to the Government are not changed, and the subcontractor has all rights and obligations of the Contractor in the clause. The Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(4) In subcontracts, at any tier, the agency, the subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (h) of this clause.

### **H.3 RESERVED**

### **H.4 RIGHTS IN DATA – SPECIAL WORKS (FAR 52.227-17) (DEC 2007)**

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

“Data” means recorded information, regardless of form or the medium on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

“Unlimited rights” means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) *Allocation of Rights.*

(1) The Government shall have—



(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) of this clause for copyright.

(ii) The right to limit assertion of copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in that data, in accordance with paragraph (c)(1) of this clause.

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) of this clause.

(2) The Contractor shall have, to the extent permission is granted in accordance with paragraph (c)(1) of this clause, the right to assert claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright—*

(1) *Data first produced in the performance of this contract.*

(i) The Contractor shall not assert or authorize others to assert any claim to copyright subsisting in any data first produced in the performance of this contract without prior written permission of the Contracting Officer. When copyright is asserted, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all delivered data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in paragraph (c)(1)(i) of this clause, the Contracting Officer shall direct the Contractor to assign (with or without registration), or obtain the assignment of, the copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contain the copyright notice of 17 U.S.C. 401 or 402, unless the

Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use, release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and these provisions do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

#### **H.5 RIGHTS IN DATA -- EXISTING WORKS (FAR 52.227-18) (DEC 2007)**

(a) Except as otherwise provided in this contract, the Contractor grants to the Government, and others acting on its behalf, a paid-up nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, and perform publicly and display publicly, by or on behalf of the Government, for all the material or subject matter called for under this contract, or for which this clause is specifically made applicable.

(b) The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication or use of any data furnished under this contract; or (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense of the claim or suit, and obtains the Contractor's consent to the settlement of any claim or suit other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

#### **H.6 BANKRUPTCY (FAR 52.242-13) (JUL 1995)**

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

**H.7 PRINTING (CAR 1352.208-70) (APR 2010)**

(a) The contractor is authorized to duplicate or copy production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 production units in the aggregate of multiple pages. Such pages may not exceed a maximum image size of 103/4by 141/4inches. A "production unit" is one sheet, size 81/2x 11 inches (215 x 280 mm), one side only, and one color ink. Production unit requirements are outlined in the Government Printing and Binding Regulations.

(b) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the contractor to respond to the terms of the contract).

(c) Costs associated with printing, duplicating, or copying in excess of the limits in paragraph (a) of this clause are unallowable without prior written approval of the Contracting Officer. If the contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating or copying, it shall immediately provide written notice to the Contracting Officer and request approval prior to proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with FAR 8.802.

(d) The contractor shall include in each subcontract which may involve a requirement for any printing, duplicating, and copying in excess of the limits specified in paragraph (a) of this clause, a provision substantially the same as this clause, including this paragraph (d).

**H.8 KEY PERSONNEL (CAR 1352.237-75) (APR 2010)**

(a) The contractor shall assign to this contract the following key personnel:

NAME	POSITION
<b>Elise Gerich</b>	IANA Functions Program Manager

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<b>Michelle Cotton</b>	IANA Function Liaison for Technical Protocol Parameters Assignment
<b>Kim Davies</b>	IANA Function Liaison for Root Zone Management
<b>Leo Vegoda</b>	IANA Function Liaison for Internet Number Resource Allocation
<b>Tomofumi Okubo</b>	Security Director
<b>Steve Antonoff</b>	Conflict of Interest Officer

(b) The contractor shall obtain the consent of the Contracting Officer prior to making key personnel substitutions. Replacements for key personnel must possess qualifications equal to or exceeding the qualifications of the personnel being replaced, unless an exception is approved by the Contracting Officer.

(c) Requests for changes in key personnel shall be submitted to the Contracting Officer at least 15 working days prior to making any permanent substitutions. The request should contain a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The Contracting Officer will notify the contractor within 10 working days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes.

#### **H.9 ORGANIZATIONAL CONFLICT OF INTEREST (CAR 1352.209-74) (APR 2010)**

(a) Purpose. The purpose of this clause is to ensure that the contractor and its subcontractors:

(1) Are not biased because of their financial, contractual, organizational, or other interests which relate to the work under this contract, and

(2) Do not obtain any unfair competitive advantage over other parties by virtue of their performance of this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor, its parents, affiliates, divisions and subsidiaries, and successors in interest (hereinafter collectively referred to as "contractor") in the activities covered by this clause as a prime contractor, subcontractor, co-sponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

(c) Warrant and Disclosure. The warrant and disclosure requirements of this paragraph apply with full force to both the contractor and all subcontractors. The contractor warrants that, to the best of the contractor's knowledge and belief, there are no relevant facts or circumstances which would give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, and that the contractor has disclosed all relevant information regarding any actual or potential conflict. The contractor agrees it shall make an immediate and full disclosure, in writing, to the

Contracting Officer of any potential or actual organizational conflict of interest or the existence of any facts that may cause a reasonably prudent person to question the contractor's impartiality because of the appearance or existence of bias or an unfair competitive advantage. Such disclosure shall include a description of the actions the contractor has taken or proposes to take in order to avoid, neutralize, or mitigate any resulting conflict of interest.

(d) Remedies. The Contracting Officer may terminate this contract for convenience, in whole or in part, if the Contracting Officer deems such termination necessary to avoid, neutralize or mitigate an actual or apparent organizational conflict of interest. If the contractor fails to disclose facts pertaining to the existence of a potential or actual organizational conflict of interest or misrepresents relevant information to the Contracting Officer, the Government may terminate the contract for default, suspend or debar the contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(e) Subcontracts. The contractor shall include a clause substantially similar to this clause, including paragraphs (f) and (g), in any subcontract or consultant agreement at any tier expected to exceed the simplified acquisition threshold. The terms "contract," "contractor," and "Contracting Officer" shall be appropriately modified to preserve the Government's rights.

(f) Prime Contractor Responsibilities. The contractor shall obtain from its subcontractors or consultants the disclosure required in FAR Part 9.507-1, and shall determine in writing whether the interests disclosed present an actual, or significant potential for, an organizational conflict of interest. The contractor shall identify and avoid, neutralize, or mitigate any subcontractor organizational conflict prior to award of the contract to the satisfaction of the Contracting Officer. If the subcontractor's organizational conflict cannot be avoided, neutralized, or mitigated, the contractor must obtain the written approval of the Contracting Officer prior to entering into the subcontract. If the contractor becomes aware of a subcontractor's potential or actual organizational conflict of interest after contract award, the contractor agrees that the Contractor may be required to eliminate the subcontractor from its team, at the contractor's own risk.

(g) Waiver. The parties recognize that this clause has potential effects which will survive the performance of this contract and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, the contractor may at any time seek a waiver from the Head of the Contracting Activity by submitting such waiver request to the Contracting Officer, including a full written description of the requested waiver and the reasons in support thereof.

#### **H.10 RESTRICTIONS AGAINST DISCLOSURE (CAR 1352.209-72) (APR 2010)**

(a) The contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in

the strictest confidence. The contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the contractor's possession, to those employees needing such information to perform the work described herein, *i.e.*, on a "need to know" basis. The contractor agrees to immediately notify the Contracting Officer in writing in the event that the contractor determines or has reason to suspect a breach of this requirement has occurred.

(b) The contractor agrees that it will not disclose any information described in subsection (a) to any person unless prior written approval is obtained from the Contracting Officer. The contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

#### **H.11 COMPLIANCE WITH LAWS (CAR 1352.209-73) (APR 2010)**

The contractor shall comply with all applicable laws, rules and regulations which deal with or relate to performance in accord with the terms of the contract.

#### **H.12 DUPLICATION OF EFFORT (CAR 1352.231-71) (APR 2010)**

The contractor hereby certifies that costs for work to be performed under this contract and any subcontracts hereunder are not duplicative of any costs charged against any other Government contract, subcontract, or other Government source. The contractor agrees to advise the Contracting Officer, in writing, of any other Government contract or subcontract it has performed or is performing which involves work directly related to the purpose of this contract. The contractor also certifies and agrees that any and all work performed under this contract shall be directly and exclusively for the use and benefit of the Government, and not incidental to any other work, pursuit, research, or purpose of the contractor, whose responsibility it will be to account for it accordingly.

#### **H.13 HARMLESS FROM LIABILITY**

The Contractor shall hold and save the Government, its officers, agents, and employees harmless from liability of any nature or kind, including costs and expenses to which they may be subject, for or on account of any or all suits or damages of any character whatsoever resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this contract, arising or resulting in whole or in part from the fault, negligence, wrongful act or wrongful omission of the Contractor, or any subcontractor, their employees, and agents.

#### **H.14 CONTRACTOR IDENTIFICATION RESPONSIBILITIES**

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(a) All Contractor personnel attending meetings, answering Government telephones, and working in other situations where their Contractor status is not obvious to third parties, are required to identify themselves as such to avoid creating an impression in the minds of the public that they are Government officials.

(b) All documents or reports produced by the Contractor shall be suitably marked as Contractor products or that Contractor participation is appropriately identified.

#### **H.15 NOTICE REQUIREMENT**

The Contractor agrees that it will immediately inform the Contracting Officer and the Contracting Officer's Representative in the event that the Contractor's Chairman of the Board of Directors initiates any investigation by an independent auditor of potential corporate insolvency.

#### **H.16 CERTIFICATION REGARDING TERRORIST FINANCING IMPLEMENTING EXECUTIVE ORDER 13224**

(a) By signing and submitting this application, the prospective Contractor provides the certification set out below:

(1) The Contractor, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts, as that term is defined in Executive Order 13224.

(2) Before providing any material support or resources to an individual or entity, the Contractor will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it must be aware.

(3) The Contractor also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

(b) For the purposes of this certification, the Contractor's obligations under paragraph "a" are not applicable to the procurement of goods and/or services by the Contractor that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, unless the Contractor has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

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(c) This certification is an express term and condition of any agreement issued as a result of this application, and any violation of it shall be grounds for unilateral termination of the agreement by DoC prior to the end of its term.



## SECTION I - CONTRACT CLAUSES

### FEDERAL ACQUISITION REGULATION (FAR)

#### I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

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

#### I.2 52.202-1 DEFINITIONS (JUL 2004)

#### I.3 52.203-3 GRATUITIES (APR 1984)

#### I.4 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

#### I.5 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

#### I.6 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)

#### I.7 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

#### I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007)

#### I.9 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)

#### I.10 52.204-2 SECURITY REQUIREMENTS (AUG 2000)

#### I.11 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

#### I.12 52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991)

#### I.13 52.215-8 ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT (OCT 1997)

#### I.14 52.216-7 ALLOWABLE COST AND PAYMENT (JUN 2011)

#### I.15 RESERVED

#### I.16 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

#### I.17 52.222-26 EQUAL OPPORTUNITY (MAR 2007)

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- I.18 52.222.35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- I.19 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
- I.20 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)
- I.21 52.222-50 COMBATTING TRAFFICKING IN PERSONS (FEB 2009)
- I.22 52.222.54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)
- I.23 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)
- I.24 52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)
- I.25 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- I.26 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)
- I.27 52.227-2 NOTICE OF ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)
- I.28 52.227-3 PATENT INDEMNITY (APR 1984)
- I.29 52.227-14 RIGHTS IN DATA—GENERAL, ALTERNATES I, II, III, IV (DEC 2007)
- I.30 52.229-3 FEDERAL, STATE AND LOCAL TAXES (APR 2003)
- I.31 52.232-20 LIMITATION OF COST (APR 1984)
- I.32 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)
- I.33 52.232-25 PROMPT PAYMENT (OCT 2008)
- I.34 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)
- I.35 52.233-1 DISPUTES (JUL 2002), ALTERNATE I (DEC 1991)
- I.36 52.233-3 PROTEST AFTER AWARD (AUG 1996)

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- I.37 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)
- I.38 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)
- I.39 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)
- I.40 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)
- I.41 52.242-13 BANKRUPTCY (JUL 1995)
- I.42 52.242-14 SUSPENSION OF WORK (APR 1984)
- I.43 52.242-15 STOP-WORK ORDER (AUG 1989)
- I.44 52.243-1 CHANGES-FIXED PRICE (AUG 1987) Alternate I (APR 1984)
- I.45 52.243-2 CHANGES--COST-REIMBURSEMENT (AUG 1987), ALTERNATE I (APR 1984)
- I.46 52.244-2 SUBCONTRACTS (OCT 2010)
- I.47 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)
- I.48 52.245-1 GOVERNMENT PROPERTY (APR 2012)
- I.49 52.246-20 WARRANTY OF SERVICES (MAY 2001)  
[The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 120 days from the date of acceptance by the Government.]
- I.50 52.246-25 LIMITATION OF LIABILITY—SERVICES (FEB 1997)
- I.51 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (MAY 2004) ALT II (SEP 1996)
- I.52 52.249-5 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (EDUCATIONAL AND OTHER NONPROFIT INSTITUTIONS) (SEP 1996)
- I.53 52.249-6 TERMINATION (COST REIMBURSEMENT) (MAY 2004) (ALT V) (SEP 1996)
- I.54 52.249-14 EXCUSABLE DELAYS (APR 1984)
- I.55 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

**CLAUSES INCORPORATED IN FULL TEXT**

**I.56 52.204-7 CENTRAL CONTRACTOR REGISTRATION (FEB 2012)**

(a) Definitions. As used in this clause—

*“Central Contractor Registration (CCR) database”* means the primary Government repository for Contractor information required for the conduct of business with the Government.

*“Data Universal Numbering System (DUNS) number”* means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

*“Data Universal Numbering System+4 (DUNS+4) number”* means the DUNS number means the number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

*“Registered in the CCR database”* means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)

(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS+4” followed by the DUNS or DUNS+4 number that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

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(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of

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assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423, or 269-961-5757.

**I.57 52.216-11 COST CONTRACT – NO FEE (APR 1984)**

(a) The Government shall not pay the Contractor a fee for performing this contract.

**I.58 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 15 calendar days of expiration of the contract.

**I.59 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor **within 15 calendar days before the expiration of the contract**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend **at least 30 calendar days before the contract expires**. The preliminary notice does not commit the Government to an extension.

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed seven years.

**I.60 52.233-2 SERVICE OF PROTEST (SEP 2006)**

(a) Protests, as defined in section 31.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer addressed as follows: Mona-Lisa Dunn, Contracting Officer, 1401 Constitution Avenue, NW, Room 6521, Washington, DC 20230 by obtaining written and dated acknowledgment of receipt from Mona-Lisa Dunn.

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(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

**I.61 52.237-3 CONTINUITY OF SERVICES (JAN 1991)**

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to --

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice,

(1) furnish phase-in, phase-out services for up to 90 days after this contract expires and

(2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

**COMMERCE ACQUISITION REGULATION (CAR) CLAUSES INCORPORATED IN FULL TEXT**

**I.62 1352.208-70 RESTRICTIONS ON PRINTING AND DUPLICATING (APR 2010)**



(a) The contractor is authorized to duplicate or copy production units provided the requirement does not exceed 5,000 production units of any one page or 25,000 production units in the aggregate of multiple pages. Such pages may not exceed a maximum image size of 10-3/4 by 14-1/4 inches. A "production unit" is one sheet, size 8-1/2 x 11 inches (215 x 280 mm), one side only, and one color ink. Production unit requirements are outlined in the Government Printing and Binding Regulations.

(b) This clause does not preclude writing, editing, preparation of manuscript copy, or preparation of related illustrative material as a part of this contract, or administrative duplicating/copying (for example, necessary forms and instructional materials used by the contractor to respond to the terms of the contract).

(c) Costs associated with printing, duplicating, or copying in excess of the limits in paragraph (a) of this clause are unallowable without prior written approval of the Contracting Officer. If the contractor has reason to believe that any activity required in fulfillment of the contract will necessitate any printing or substantial duplicating or copying, it shall immediately provide written notice to the Contracting Officer and request approval prior to proceeding with the activity. Requests will be processed by the Contracting Officer in accordance with FAR 8.802.

(d) The contractor shall include in each subcontract which may involve a requirement for any printing, duplicating, and copying in excess of the limits specified in paragraph (a) of this clause, a provision substantially the same as this clause, including this paragraph (d).

**I.63 1352.209-72 RESTRICTIONS AGAINST DISCLOSURE (APR 2010)**

(a) The contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the contractor's possession, to those employees needing such information to perform the work described herein, *i.e.*, on a "need to know" basis. The contractor agrees to immediately notify the Contracting Officer in writing in the event that the contractor determines or has reason to suspect a breach of this requirement has occurred.

(b) The contractor agrees that it will not disclose any information described in subsection (a) to any person unless prior written approval is obtained from the Contracting Officer. The contractor agrees to insert the substance of this clause in any consultant agreement or subcontract hereunder.

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**I.64 1352.209-73 COMPLIANCE WITH THE LAWS (APR 2010)**

The contractor shall comply with all applicable laws, rules and regulations which deal with or relate to performance in accord with the terms of the contract.

**I.65 1352.233-70 AGENCY PROTESTS (APR 2010)**

(a) An agency protest may be filed with either: (1) The Contracting Officer, or (2) at a level above the Contracting Officer, with the appropriate agency Protest Decision Authority. See 64 FR 16,651 (April 6, 1999).

(b) Agency protests filed with the Contracting Officer shall be sent to the following address:

**Ms. Mona-Lisa Dunn, Contracting Officer**  
U.S. Department of Commerce  
Office of Acquisition Management  
Commerce Acquisition Solutions, Room 6521  
14th and Constitution Avenue, NW  
Washington, D.C. 20230  
Fax: 202-482-1470  
Email: mdunn@doc.gov

(c) Agency protests filed with the agency Protest Decision Authority shall be sent to the following address:

**Mr. Mark Langstein, Esquire**  
U.S. Department of Commerce  
Office of the General Counsel  
Contract Law Division--Room 5893  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, NW  
Washington, D.C. 20230.  
FAX: (202) 482-5858

(d) A complete copy of all agency protests, including all attachments, shall be served upon the Contract Law Division of the Office of the General Counsel within one day of filing a protest with either the Contracting Officer or the Protest Decision Authority.

(e) Service upon the Contract Law Division shall be made as follows: U.S. Department of Commerce, Office of the General Counsel, Chief, Contract Law Division, Room 5893, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230. FAX: (202) 482-5858.

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**I.66 1352.233-71 GAO AND COURT OF FEDERAL CLAIMS PROTESTS (APR 2010)**

(a) A protest may be filed with either the Government Accountability Office (GAO) or the Court of Federal Claims unless an agency protest has been filed.

(b) A complete copy of all GAO or Court of Federal Claims protests, including all attachments, shall be served upon (i) the Contracting Officer, and (ii) the Contract Law Division of the Office of the General Counsel, within one day of filing a protest with either GAO or the Court of Federal Claims.

(c) Service upon the Contract Law Division shall be made as follows: U.S. Department of Commerce, Office of the General Counsel, Chief, Contract Law Division, Room 5893, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230. FAX: (202) 482-5858.

**I.67 1352.237-71 SECURITY PROCESSING REQUIREMENTS - LOW RISK CONTRACTS (APR 2010)**

(a) Investigative Requirements for Low Risk Contracts. All contractor (and subcontractor) personnel proposed to be employed under a Low Risk contract shall undergo security processing by the Department's Office of Security before being eligible to work on the premises of any Department of Commerce owned, leased, or controlled facility in the United States or overseas, or to obtain access to a Department of Commerce IT system. All Department of Commerce security processing pertinent to this contract will be conducted at no cost to the contractor.

(b) Investigative requirements for Non-IT Service Contracts are:

- (1) Contracts more than 180 days – National Agency Check and Inquiries (NACI)
- (2) Contracts less than 180 days – Special Agency Check (SAC)

(c) Investigative requirements for IT Service Contracts are:

- (1) Contracts more than 180 days – National Agency Check and Inquiries (NACI)
- (2) Contracts less than 180 days – National Agency Check and Inquiries (NACI)

(d) In addition to the investigations noted above, non-U.S. citizens must have a background check that includes an Immigration and Customs Enforcement agency check.

(e) Additional Requirements for Foreign Nationals (Non-U.S. Citizens). Non-U.S. citizens (lawful permanent residents) to be employed under this contract within the United States must have:

- (1) Official legal status in the United States;
- (2) Continuously resided in the United States for the last two years; and
- (3) Obtained advance approval from the servicing Security Officer in consultation with the Office of Security headquarters.

(f) DoC Security Processing Requirements for Low Risk Non-IT Service Contracts. Processing requirements for Low Risk non-IT Service Contracts are as follows:

- (1) Processing of a NACI is required for all contract employees employed in Low Risk non-IT service contracts for more than 180 days. The Contracting Officer's Representative (COR) will invite the prospective contractor into e-QIP to complete the SF-85. The contract employee must also complete fingerprinting.
- (2) Contract employees employed in Low Risk non-IT service contracts for less than 180 days require processing of Form OFI-86C Special Agreement Check (SAC), to be processed. The Sponsor will forward a completed Form OFI-86C, FD-258, Fingerprint Chart, and Credit Release Authorization to the servicing Security Officer, who will send the investigative packet to the Office of Personnel Management for processing.
- (3) Any contract employee with a favorable SAC who remains on the contract over 180 days will be required to have a NACI conducted to continue working on the job site.
- (4) For Low Risk non-IT service contracts, the scope of the SAC will include checks of the Security/Suitability Investigations Index (SII), other agency files (INVA), Defense Clearance Investigations Index (DCII), FBI Fingerprint (FBIF), and the FBI Information Management Division (FBIN).
- (5) In addition, for those individuals who are not U.S. citizens (lawful permanent residents), the Sponsor may request a Customs Enforcement SAC on Form OFI-86C, by checking Block #7, Item I. In Block 13, the Sponsor should enter the employee's Alien Registration Receipt Card number to aid in verification.
- (6) Copies of the appropriate forms can be obtained from the Sponsor or the Office of Security. Upon receipt of the required forms, the Sponsor will forward the forms to the servicing Security Officer. The Security Officer will process the forms and advise the Sponsor and the Contracting Officer whether the contract employee can commence work prior to completion of the suitability determination based on the type of work and risk to the facility (i.e., adequate controls and restrictions are in place). The Sponsor will notify the contractor of favorable or unfavorable findings of

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the suitability determinations. The Contracting Officer will notify the contractor of an approved contract start date.

(g) Security Processing Requirements for Low Risk IT Service Contracts. Processing of a NACI is required for all contract employees employed under Low Risk IT service contracts.

- (1) Contract employees employed in all Low Risk IT service contracts will require a National Agency Check and Inquiries (NACI) to be processed. The Contracting Officer's Representative (COR) will invite the prospective contractor into e-QIP to complete the SF-85. Fingerprints and a Credit Release Authorization must be completed within three working days from start of work, and provided to the Servicing Security Officer, who will forward the investigative package to OPM.
- (2) For Low Risk IT service contracts, individuals who are not U.S. citizens (lawful permanent residents) must undergo a NACI that includes an agency check conducted by the Immigration and Customs Enforcement Service. The Sponsor must request the ICE check as a part of the NAC.

(h) Notification of Disqualifying Information. If the Office of Security receives disqualifying information on a contract employee, the Sponsor and Contracting Officer will be notified. The Sponsor shall coordinate with the Contracting Officer for the immediate removal of the employee from duty requiring access to Departmental facilities or IT systems. Contract employees may be barred from working on the premises of a facility for any of the following reasons:

- (1) Conviction of a felony crime of violence or of a misdemeanor involving moral turpitude.
- (2) Falsification of information entered on security screening forms or of other documents submitted to the Department.
- (3) Improper conduct once performing on the contract, including criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government regardless of whether the conduct was directly related to the contract.
- (4) Any behavior judged to pose a potential threat to Departmental information systems, personnel, property, or other assets.

(i) Failure to comply with security processing requirements may result in termination of the contract or removal of contract employees from Department of Commerce facilities or denial of access to IT systems.

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(j) Access to National Security Information. Compliance with these requirements shall not be construed as providing a contract employee clearance to have access to national security information.

(k) The contractor shall include the substance of this clause, including this paragraph, in all subcontracts.

**I.68 1352.242-70 POSTAWARD CONFERENCE (APR 2010)**

A post award conference with the successful Offeror may be required. If required, the Contracting Officer will contact the contractor within 10 days of contract award to arrange the conference.

**I.69 1352.246-70 PLACE OF ACCEPTANCE (APR 2010)**

(a) The Contracting Officer or the duly authorized representative will accept supplies and services to be provided under this contract.

(b) The place of acceptance will be:  
U.S Department of Commerce – NTIA  
Office of International Affairs  
1401 Constitution Avenue, NW,  
Room 4701  
Washington, DC 20230

**I.70 1352.270-70 PERIOD OF PERFORMANCE (APR 2010)**

(a) The base period of performance of this contract is from October 1, 2012 through September 30, 2015. If an option is exercised, the period of performance shall be extended through the end of that option period.

(b) The option periods that may be exercised are as follows:

Period	Start Date	End Date
Option I	October 1, 2015	September 30, 2017
Option II	October 1, 2017	September 30, 2019

(c) The notice requirements for unilateral exercise of option periods are set out in FAR 52.217-9 (see Paragraph I.59 above).

# EXHIBIT 2

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## Plan to Transition Stewardship of Key Internet Functions Sent to the U.S. Government

Culmination of a Two-Year Effort by the Global Internet Community

This page is available in:

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[العربية \(http://www.icann.org/news/announcement-2016-03-10-ar\)](http://www.icann.org/news/announcement-2016-03-10-ar) | English



**Marrakech, Morocco...** Internet Corporation for Assigned Names and Numbers (ICANN (Internet Corporation for Assigned Names and Numbers)) Board Chair Dr. Stephen D. Crocker today submitted to the U.S. Government a plan developed by the international Internet community that, if approved, will lead to global stewardship of some key technical Internet functions.

"This plan is a testament to the hard work of the global Internet community and the strength of the multistakeholder model," said Crocker, who transmitted the plan on behalf of the global community. "The plan has now been sent to the U.S. Government for its review, and assuming it meets the necessary criteria, we will have reached an historic moment in the history of the Internet."



The plan provides a comprehensive package to transition the U.S. Government's stewardship of these technical functions, called the IANA (Internet Assigned Numbers Authority) (Internet Assigned Numbers Authority), which are critical to the Internet's smooth operation. It also proposes ways to enhance ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability as a fully independent organization. The transition is the final step in the long-anticipated privatization of the Internet's Domain Name (Domain Name) System (DNS (Domain Name System)), first outlined when ICANN (Internet Corporation for Assigned Names and Numbers) was incorporated in 1998.

The ICANN (Internet Corporation for Assigned Names and Numbers) Board received the package from the community during its 55th public meeting in Morocco, and today transmitted it to the U.S. National Telecommunication and Information Administration (NTIA (US National Telecommunications and Information Agency)).

On 14 March 2014, NTIA (US National Telecommunications and Information Agency) announced its desire to transition its stewardship of the IANA (Internet Assigned Numbers Authority) functions to the global multistakeholder community. The package is the result of an inclusive, global discussion amongst representatives from government, large and small business, technical experts, civil society, researchers, academics and end users.

"The Internet community has exhibited remarkable dedication to the IANA (Internet Assigned Numbers Authority) stewardship transition because we know just how important it is to complete," said Alissa Cooper, Chair of the IANA (Internet Assigned Numbers Authority) Stewardship Transition Coordination Group (ICG (IANA Stewardship Transition Coordination Group)) that coordinated the development of the transition proposal. "Internet users the world over stand to benefit from its stability, security, and accountability enhancements to Internet governance once the proposal takes effect."

The global Internet community has worked tirelessly to develop a plan that meets NTIA (US National Telecommunications and Information Agency)'s criteria, logging more than 600 meetings and calls, more than 32,000 mailing list exchanges and more than 800 working hours.

The package combines the technical requirements of a transition coordinated by the IANA (Internet Assigned Numbers Authority) Stewardship Transition Group (ICG (IANA Stewardship Transition Coordination Group)) and enhancements to ICANN (Internet Corporation for Assigned Names and Numbers)'s accountability identified by the Cross Community Working Group on Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability (CCWG-Accountability). The two groups were composed of volunteers representing a broad range of interests from the wider multistakeholder Internet community.

"This plan enjoys the broadest possible support from this very diverse community and I'm confident it will meet NTIA (US National Telecommunications and Information Agency)'s criteria," said Thomas Rickert, one of the CCWG-Accountability co-Chairs. "The work of this group shows just how well the inclusive multistakeholder approach is working."

The U.S. Government will now review the package to ensure that it meets NTIA (US National Telecommunications and Information Agency)'s criteria. If approved, implementation of the plan is expected to be completed prior to the expiration of the contract between NTIA (US National Telecommunications and Information Agency) and ICANN (Internet Corporation for Assigned Names and Numbers) in September 2016.

##

To see further comments (quotes) on the transmission of the package go here: [https://www.icann.org/resources/pages/iana-stewardship-final-package-quotes \(/resources/pages/iana-stewardship-final-package-quotes\) \[PDF, 46 KB\]](https://www.icann.org/resources/pages/iana-stewardship-final-package-quotes (/resources/pages/iana-stewardship-final-package-quotes) [PDF, 46 KB])

To access the media contacts of Internet organizations involved, go here: [https://www.icann.org/resources/pages/iana-stewardship-final-package-press-contacts \(/resources/pages/iana-stewardship-final-package-press-contacts\) \[PDF, 284 KB\]](https://www.icann.org/resources/pages/iana-stewardship-final-package-press-contacts (/resources/pages/iana-stewardship-final-package-press-contacts) [PDF, 284 KB])

To read the IANA (Internet Assigned Numbers Authority) Stewardship Transition Proposal, go here: [https://www.icann.org/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf \(/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf\) \[PDF, 2.32 MB\]](https://www.icann.org/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf (/en/system/files/files/iana-stewardship-transition-proposal-10mar16-en.pdf) [PDF, 2.32 MB])

To read the Enhancing ICANN (Internet Corporation for Assigned Names and Numbers) Accountability Final Report, go here: [https://www.icann.org/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf \(/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf\) \[PDF, 6.03 MB\]](https://www.icann.org/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf (/en/system/files/files/ccwg-accountability-supp-proposal-work-stream-1-recs-23feb16-en.pdf) [PDF, 6.03 MB])

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# EXHIBIT 3

**INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION (ICDR)  
A Division of the American Arbitration Association (AAA)  
CASE # 50 117 T 1083 13**

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**In the matter of an Independent Review Process pursuant to the Internet Corporation for Assigned Names and Number's (ICANN's) Bylaws, the *International Dispute Resolution Procedures* of the ICDR, and the *Supplementary Procedures for ICANN Independent Review Process***

**Between: DotConnectAfrica (DCA) Trust;  
("Claimant")**

Represented by Mr. Arif H. Ali, Ms. Marguerite Walter and Ms. Erica Franzetti of Weil, Gotshal, Manges, LLP located at 1300 Eye Street, NW, Suite 900, Washington, DC 20005, U.S.A.

**And**

**Internet Corporation for Assigned Names and Numbers (ICANN);  
("Respondent")**

Represented by Mr. Jeffrey A. LeVee of Jones Day, LLP located at 555 South Flower Street, Fiftieth Floor, Los Angeles, CA 90071, U.S.A.

Claimant and Respondent will together be referred to as "Parties".

**DECISION ON INTERIM MEASURES OF PROTECTION**

**Babak Barin, *Chair*  
Prof. Catherine Kessedjian  
Hon. Richard C. Neal (Ret.)**

**12 May 2014**



## **BACKGROUND**

1. DotConnectAfrica (“DCA”) Trust (“Claimant”), is a non-profit organization established under the laws of the Republic of Mauritius on 15 July 2010 with its registry operation – DCA Registry Services (Kenya) Limited – as its principal place of business in Nairobi, Kenya. DCA was formed with the charitable purpose of, among other things, advancing information technology education in Africa and providing a continental Internet domain name to provide access to internet services for the people of Africa and for the public good.
2. In March 2012, DCA Trust applied to the Internet Corporation for Assigned Names and Numbers (“ICANN”) for the delegation of the .Africa top-level domain name in its 2012 General Top-Level Domains (“gTLD”) Internet Expansion Program (the “New gTLD Program”), an internet resource available for delegation under that program.
3. ICANN (“Respondent”) is a non-profit corporation established under the laws of the State of California, U.S.A., on 30 September 1998 and headquartered in Marina del Rey, California. According to its Articles of Incorporation, ICANN was established for the benefit of the Internet community as a whole and is tasked with carrying out its activities in conformity with relevant principles of international law, international conventions, and local law.
4. On 4 June 2013, the ICANN Board New gTLD Program Committee (“NGPC”) posted a notice that it had decided not to accept DCA’s application.
5. On 19 June 2013, DCA Trust filed a request for reconsideration by the ICANN Board Governance Committee (“BGC”), which denied the request on 1 August 2013.
6. On 19 August 2013, DCA Trust informed ICANN of its intention to seek relief before an Independent Review Panel under ICANN’s Bylaws. Between August and October 2013, DCA Trust and ICANN participated in a Cooperative Engagement Process (“CEP”) to try and resolve the issues relating to DCA Trust’s application. Despite several meetings, however, no resolution was reached.
7. On 24 October 2013, DCA Trust filed a Notice of Independent Review Process with the ICDR in accordance with Article IV, Section 3, of ICANN’s Bylaws.

## **INDEPENDENT REVIEW PROCESS**

8. According to DCA Trust, the central dispute between it and ICANN in the Independent Review Process invoked by DCA Trust in October 2013 and

described in its Amended Notice of Independent Review Process submitted to ICANN on 10 January 2014 arises out of:

“(1) ICANN’s breaches of its Articles of Incorporation, Bylaws, international and local law, and other applicable rules in the administration of applications for the .AFRICA top-level domain name in its 2012 General Top-Level Domains (“gTLD”) Internet Expansion Program (the “New gTLD Program”); and (2) ICANN’s wrongful decision that DCA’s application for .AFRICA should not proceed [...]”<sup>1</sup>

9. According to DCA Trust, “ICANN’s administration of the New gTLD Program and its decision on DCA’S application were unfair, discriminatory, and lacked appropriate due diligence and care, in breach of ICANN’s Articles of Incorporation and Bylaws.”<sup>2</sup> DCA Trust also advanced that “ICANN’s violations materially affected DCA’s right to have its application processed in accordance with the rules and procedures laid out by ICANN for the New gTLD Program.”<sup>3</sup>
10. In its Response to Claimant’s Amended Notice submitted to DCA Trust on 10 February 2014<sup>4</sup>, ICANN submitted that in these proceedings, “DCA challenges the 4 June 2013 decision of the ICANN Board New gTLD Program Committee (“NGPC”), which has delegated authority from the ICANN Board to make decisions regarding the New gTLD. In that decision, the NGPC unanimously accepted advice from ICANN’s Governmental Advisory Committee (“GAC”) that DCA application for .AFRICA should not proceed. DCA argues that the NGPC should not have accepted the GAC’s advice. DCA also argues that ICANN’s subsequent decision to reject DCA’s Request for Reconsideration was improper.”<sup>5</sup>
11. ICANN argued that the challenged decisions of ICANN’s Board “were well within the Board’s discretion” and the Board “did exactly what it was supposed to do under its Bylaws, its Articles of Incorporation, and the Applicant Guidebook (“Guidebook”) that the Board adopted for implementing the New gTLD Program.”<sup>6</sup>
12. Specifically, ICANN also advanced that “ICANN properly investigated and rejected DCA’s assertion that two of ICANN’s Board members had conflicts of interest with regard to the .AFRICA applications, [...] numerous African

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<sup>1</sup> Claimant’s Amended Notice of Independent Review Process, *para.* 2.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> ICANN’s Response to Claimant’s Amended Notice contains a typographical error, it is dated “February 10, 2013” rather than 2014.

<sup>5</sup> ICANN’s Response to Claimant’s Amended Notice, *para.* 4

<sup>6</sup> *Ibid.* *para.* 5



countries issued “warnings” to ICANN regarding DCA’s application, a signal from those governments that they had serious concerns regarding DCA’s application; following the issuance of those warnings, the GAC issued “consensus advice” against DCA’s application; ICANN then accepted the GAC’s advice, which was entirely consistent with ICANN’s Bylaws and the Guidebook; [and] ICANN properly denied DCA’s Request for Reconsideration.”<sup>7</sup>

13. In short, ICANN argued that in these proceedings, “the evidence establishes that the process worked exactly as it was supposed to work.”<sup>8</sup>

#### **REQUEST FOR INTERIM MEASURES OF PROTECTION**

14. In an effort to safeguard its rights pending the ongoing constitution of the IRP Panel, on 22 January 2014, DCA Trust wrote to ICANN requesting that it immediately cease any further processing of all applications for the delegation of the .AFRICA gTLD, failing which DCA Trust would seek emergency relief under Article 37 of the ICDR Rules. In addition, DCA Trust indicated that it believed it had the right to seek such relief because there is no standing panel (as anticipated in the Supplementary Procedures for ICANN Independent Review Process), which would otherwise hear requests for emergency relief.

15. In response, in an email dated 5 February 2014, ICANN wrote:

“Although ICANN typically is refraining from further processing activities in conjunction with pending gTLD applications where a competing applicant has a pending reconsideration request, ICANN does not intend to refrain from further processing of applications that relate in some way to pending independent review proceedings. In this particular instance, ICANN believes that the grounds for DCA’s IRP are exceedingly weak, and that the decision to refrain from the further processing of other applications on the basis of the pending IRP would be unfair to others.”<sup>9</sup>

16. In its Request for Emergency Arbitrator and Interim Measures of Protection subsequently submitted to ICANN on 28 March 2014, DCA Trust argued, *inter alia*, that, “in an effort to preserve its rights, in January 2014, DCA requested that ICANN suspend its processing of applications for .AFRICA during the pendency of this proceeding. ICANN, however, summarily refused to do so.”<sup>10</sup>

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<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid. para. 6*

<sup>9</sup> ICANN counsel’s email to DCA Trust counsel dated 5 February 2014.

<sup>10</sup> Request for Emergency Arbitrator and Interim Measures of Protection, *para. 3*

17. DCA Trust also argued that “on 23 March 2014, DCA became aware that ICANN intended to sign an agreement with DCA’s competitor (a South African company called ZACR) on 26 March 2014 in Beijing [...] Immediately upon receiving this information, DCA contacted ICANN and asked it to refrain from signing the agreement with ZACR in light of the fact that this proceeding was still pending. Instead, according to ICANN’s website, ICANN *signed its agreement with ZACR the very next day, two days ahead of plan, on 24 March instead of 26 March.*”<sup>11</sup>
18. According to DCA Trust, that same day, “ICANN then responded to DCA’s request by presenting the execution of the contract as a *fait accompli*, arguing that DCA should have sought to stop ICANN from proceeding with ZACR’s application, as ICANN had already informed DCA of its intention [to] ignore its obligations to participate in this proceeding in good faith.”<sup>12</sup> DCA Trust also argued that on 25 March 2014, as per ICANN’s email to the ICDR, “ICANN for the first time informed DCA that it would accept the application of Article 37 [of the ICDR International Dispute Resolution Procedures, amended and effective June 1, 2009 (“ICDR Rules”)] to this proceeding contrary to the express provisions of the Supplementary Procedures of ICANN has put in place for the IRP Process.”<sup>13</sup>
19. In its Request, DCA Trust argued that it “is entitled to an accountability proceeding with legitimacy and integrity, with the capacity to provide a meaningful remedy. [...] DCA has requested the opportunity to compete for rights to .AFRICA pursuant to the rules that ICANN put into place. Allowing ICANN to delegate .AFRICA to DCA’s only competitor – which took actions that were instrumental in the process leading to ICANN’s decision to reject DCA’s application – would eviscerate the very purpose of this proceeding and deprive DCA of it’s rights under ICANN’s own constitutive instruments and international law.”<sup>14</sup>
20. Finally, DCA Trust requested, among other things, the following interim relief:
- a. An order compelling ICANN to *refrain from any further steps toward delegation of the .AFRICA gTLD*, including but not limited to execution or assessment of pre-delegation testing, negotiations or discussions relating to delegation with the entity ZACR or any of its officers or agents; [...] <sup>15</sup>

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, para. 4.

<sup>14</sup> *Ibid.*, para. 5.

<sup>15</sup> *Ibid.*, para. 6.



21. In its Response to DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection submitted on 4 April 2014, ICANN urged that DCA's request for a stay be denied. ICANN also reproached DCA for having waited five months before initiating its Request for Interim Measures of Protection pursuant to Article 37 of the ICDR Rules.
22. ICANN further argued that Claimant's Request for Interim Relief ought to be denied because "DCA has not demonstrated a reasonable possibility that it will succeed on the merits of this IRP, which the law requires DCA to demonstrate."<sup>16</sup>
23. According to ICANN, "DCA's decision to wait five months before seeking a stay reflects the weakness of DCA's claims and the lack of any corresponding irreparable harm to DCA. This is compounded by the fact that DCA has done nothing to try to expedite these proceedings. To the contrary, DCA has failed to file its fees timely, it sought multiple extensions of time to file its papers, and it requested a very leisurely amount of time for the parties to select the IRP Panel. ICANN, and not the DCA, has been the party trying to expedite these proceedings, and DCA has resisted at every turn."<sup>17</sup>
24. DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection, initially scheduled for a hearing on 14 April 2014 before an emergency arbitrator pursuant to ICDR Rules 21 and 37, was instead referred to this Panel on 13 April 2014 for review and consideration pursuant to Article 37.6 of the ICDR Rules.
25. On 22 April 2014, this Panel held an organizational telephone conference call with the Parties. During that call, it was agreed, among other things, that the telephone hearing for DCA's Request for Interim Measures of Protection will be heard on 5 May 2014, and that ICANN would not take any further steps that would in any way prevent this Panel from granting the full relief requested by DCA Trust in its Request. These and a number of directions given by the Panel to the Parties were reflected in a Procedural Order No. 1 issued on 24 April 2014.
26. On 5 May 2014 this Panel heard the Parties' submissions on their respective written submissions and the Panel's questions sent to them in advance on 2 May 2014.

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<sup>16</sup> ICANN's Response to Claimant's Request for Emergency Arbitrator and Interim Measures of Protection, *para.* 3.

<sup>17</sup> *Ibid.*, *para.* 30.

## DECISION AND REASONS OF THE IRP PANEL

27. After having carefully read DCA Trust's written submissions and the responses filed by ICANN, and after listening to the Parties' respective oral presentations made by telephone on 5 May 2014, for reasons set forth below, the Panel is unanimously of the view that a stay ruling in the form described below is in order in this proceeding and that ICANN must immediately refrain from any further processing of any application for .AFRICA until this Panel has heard the merits of DCA Trust's Notice of Independent Review Process and issued its final decision regarding the same.
28. The Panel finds that interim relief in this proceeding is warranted based on two independent and equally sufficient grounds.
29. First, the Panel is of the view that this Independent Review Process could have been heard and finally decided without the need for interim relief, but for ICANN's failure to follow its own Bylaws (Article IV, Section 3, paragraph 6) and Supplemental Procedures (Article 1), which require the creation of a standing panel as follows:
- "There shall be an omnibus standing panel between six and nine members with a variety of expertise, including jurisprudence, judicial experience, alternative dispute resolution and knowledge of ICANN's mission and work from which each specific IRP Panel shall be selected."
30. This requirement in ICANN's Bylaws was established on 11 April 2013. More than a year later, no standing panel has been created. Had ICANN timely constituted the standing panel, the panel could have addressed DCA Trust's request for an Independent Review Process as soon as it was filed in January 2014. It is very likely that, by now, that proceeding would have been completed, and there would be no need for any interim relief by DCA Trust.
31. In the Panel's unanimous view, therefore, a stay order in this proceeding is proper to preserve DCA Trust's right to a fair hearing and a decision by this Panel before ICANN takes any further steps that could potentially moot DCA Trust's request for an independent review. This is the same opportunity DCA would have enjoyed without a stay, but for ICANN's failure to create the standing panel.
32. Whether the Panel's decision is advisory only, as ICANN contends, or binding, as DCA Trust argues, the Panel is strongly of the view that ICANN's unique, international and important public functions require it to scrupulously honor the procedural protections its Bylaws, rules and regulations purport to offer the internet community. ICANN has been entrusted with the important



responsibility of bringing order to the global internet system. As set out in Article I, Sections 1 and 2 of ICANN's Bylaws:

"[t]he mission of ICANN is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. [...] In performing its mission, the following core values should guide the decisions and actions of ICANN:

6. Introducing and promoting competition in the registration of domain names where practicable and beneficial to public interest.

[...]

8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness."

33. In the Panel's unanimous view, it would be unfair and unjust to deny DCA Trust's request for interim relief when the need for such a relief by DCA Trust arises out of ICANN's failure to follow its own Bylaws and procedures.
34. Second, interim relief in this case is independently warranted for reasons unrelated to ICANN's role in creating the need for such relief as explained above.
35. DCA Trust argues that four criteria must be satisfied before interim relief is granted under international law and in international proceedings: urgency, necessity, protection of an existing right, and existence of a *prima facie* case on the merits, without the necessity of prejudging the matter.
36. ICANN agrees with the first three criteria identified by DCA Trust, but disagrees with the fourth. For ICANN, the Panel needs to find more than a *prima facie* case on the merits before ordering interim relief in this proceeding. In its Response to DCA Trust's Request for Emergency Arbitrator and Interim Measures of Protection, ICANN submits that the standard must be the one set out in article 17(A)(1)(b) of the UNCITRAL *Model Law on International Commercial Arbitration*. ICANN explains:

"In fact, it is generally accepted under both international and U.S. law that, in order to demonstrate entitlement to interim relief, the party seeking relief must also demonstrate a reasonable possibility of success on the merits. For example, Article 27 [*sic.*] (A)(1)(b) of the United Nations Commission on International Trade Law's ("UNCITRAL's") *Model Law on International Commercial Arbitration* states that a party requesting an interim measure must demonstrate

that “there is a reasonable possibility that the requesting party will succeed on the merits of the claim.” [...] Likewise, under U.S. law, a party seeking a preliminary injunction must at least demonstrate that “the likelihood of success is such that serious questions going to the merits were raised.”<sup>18</sup>

37. The Panel agrees with the Parties that the four criteria listed above in paragraph 35 form a part of the criteria most commonly used by international and national courts and arbitral tribunals<sup>19</sup> to evaluate a party’s request for interim relief. The Panel, however, does not see a distinction between the demonstration of “a prima facie case” or “a reasonable possibility that the requesting party will succeed on the merits of the claim”. Like the International Law Association (“ILA”), the Panel is of the view that the demonstration of “a prima facie case” and “a reasonable possibility that the requesting party will succeed on the merits of the claim” are in reality one and the same standard.
38. Indeed, as the ILA recommended in its resolution of 1996<sup>20</sup>, the granting of an interim relief should be available “on a showing of a case on the merits on a standard of proof which is less than that required for the merits under the applicable law”.

#### *Urgency*

39. Both DCA Trust and ICANN agree that urgency is one of the criteria that this Panel must consider before it decides to grant interim relief. DCA Trust in particular argues that the orders it requests are needed urgently, because:

“[w]ithout the order compelling ICANN to stay processing of ZACR’s application, DCA will suffer irreparable harm before the IRP process can be concluded... A request for interim measures of protection is considered urgent, if absent the requested measure, an action that is prejudicial to the rights of either party is likely to be taken before such final decision is given. This standard is sometimes termed “imminent harm”. In light of ICANN’s response to DCA’S request that it refrain from signing a Registry Agreement with ZACR – namely, signing the agreement 48 hours ahead of time in order to prevent any effective intervention by DCA – the additional harm DCA seeks to prevent clearly is imminent. Moreover, ZACR claims that it will have received

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<sup>18</sup> *Ibid.*, para. 21.

<sup>19</sup> By “most commonly used”, the Panel means that this standard is used by international or regional courts and tribunals, but also by many domestic courts under their own laws.

<sup>20</sup> ILA Report of the Sixty-Seventh Conference, Helsinki, 1996, p. 202.



all rights to .AFRICA by April 2014, and will begin operating .AFRICA by May 2014.”<sup>21</sup>

40. The Panel is satisfied that the urgency test is met in the present case. Indeed, DCA Trust argues, without being contradicted by ICANN, that in March 2014 the latter officially signed the registry agreement for the .Africa gTLD with ZACR, DCA Trust’s competitor.
41. The urgency test is met as well when the Panel takes into consideration, ICANN’s noncommittal email to it and DCA Trust of 23 April 2014, in which ICANN writes:

“I am writing to follow up...with respect to the timing of the ultimate delegation by ICANN to ZA Central Registry of .AFRICA into the root zone...ICANN will not, as a practical matter, be able to conclude the delegation process prior to 15 May 2014. As a result, the schedule adopted by the Panel...would give ICANN the opportunity to consider the Panel’s recommendation in the event the Panel recommends a stay.” [Emphasis added]

42. The registry agreement being signed, the countdown for the launch of the .Africa gTLD could commence. ZACR announces on its website (<https://www.registry.net.za/launch.php>) that the launch should take place in June 2014. This Panel, even if it works very rapidly, will not be in a position to decide on the merits of DCA’s Request for an Independent Review before June 2014. Therefore, there is absolutely no doubt in the Panel’s mind that DCA Trust’s need for interim relief in this matter is urgent.

#### *Necessity*

43. Both DCA Trust and ICANN agree that a test of necessity must be met before granting the requested interim relief. Indeed, in its Response to Claimant’s Request for Emergency Arbitrator and Interim Measures of Protection, ICANN writes:

“As DCA acknowledges in its Request, in order to show necessity under international law, it must demonstrate proportionality, *i.e.* that the harm it would occur in the absence of interim relief measures would “exceed [] greatly the damage caused to the party affected” by these measures. DCA contends that it would suffer serious harm in the absence of interim relief because the “operation of .AFRICA is a unique right” and “DCA was created expressly for the purpose of campaigning for, competing for and ultimately operating .AFRICA.” But DCA fails to acknowledge that, whatever its unilateral plans might have been, its

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<sup>21</sup> Request for Emergency Arbitrator and Interim Measures of Protection, *para.* 30.

actual probability of harm is greatly diminished by its scant probability of success on the merits. DCA also fails to note the substantial potential harm that ZACR could suffer if the processing of its application for, and the ultimate delegation of, .AFRICA is delayed.”

“ICANN’S decision to proceed with the processing of ZACR’s application for .AFRICA despite DCA’s pending IRP is a reflection of ICANN’s belief that: (i) DCA’s IRP is frivolous and unlikely to succeed on the merits; and (ii) ZACR potentially could suffer substantial harm if the delegation of .AFRICA to it is further delayed.”<sup>22</sup>

44. The Panel is of the opinion that the necessity test requires the Panel to consider the proportionality of the relief requested. The Panel thus must balance the harm caused to DCA Trust if a stay is not granted and the harm that would be caused to ICANN if interim relief were to be ordered. As explained by DCA Trust:

“If [DCA Trust] is deprived of the opportunity even to compete to operate .AFRICA, DCA will be unable to accomplish its charitable aims and will be unable to perform its mandate [...] By contrast, ICANN will suffer no similar harm...Regardless of the outcome of the IRP, ICANN will be able to delegate .AFRICA. [Similarly, ZACR may receive the rights to “AFRICA even if DCA is permitted to compete with it pursuant to ICANN’s rules and procedures for the new gTLD program.] The IRP is meant to be an expedited dispute resolution process. A slight delay in delegation is hardly an undue burden compared to the issues at stake.”<sup>23</sup>

45. It is abundantly clear to the Panel from the facts as explained by both Parties in this case that if a stay is not granted and the registry agreement between ICANN and ZACR is implemented further, the chances of DCA Trust having its Request for an independent review heard and properly considered will be jeopardized.
46. The Panel considers that a stay in the implementation of the registry agreement between ICANN and ZACR is therefore proportionate and adequate to the particular circumstances of this case. Indeed, neither ICANN, nor ZACR will suffer from a few more months of delay if a stay of processing of ZACR’s .AFRICA application is ordered. Indeed, neither ICANN nor ZACR has pointed to any specific prejudice or harm that it will suffer if DCA Trust’s request for interim relief is granted. The same cannot be said about the

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<sup>22</sup> ICANN’s Response to Claimant’s Request for Emergency Arbitrator and Interim Measures of Protection, *paras.* 25 and 26.

<sup>23</sup> Request for Emergency Arbitrator and Interim Measures of Protection, *paras.* 27 and 29.



absence of such a relief for DCA Trust, which clearly would suffer irreparable harm if interim relief is not granted.

*Protection of an existing right*

47. DCA Trust has demonstrated, to the satisfaction of this Panel that, beyond the procedural rights it must enjoy to have its case heard, DCA Trust also enjoys, according to ICANN's own Bylaws, the right to have ICANN's Board decision reviewed by an independent panel, a right which will be lost if interim relief is not granted in this case. Indeed, Article IV, Section 3, paragraph 1 of ICANN's Bylaws unequivocally indicates that:

"In addition to the reconsideration process described in Section 2 of this Article, ICANN shall have in place a separate process for independent third-party review of Board actions alleged by an affected party to be inconsistent with the Articles of Incorporation or Bylaws." [Emphasis added]

Consequently, the Panel has determined that this criterion for the granting of interim relief in this case has also been met.

*A reasonable possibility that the requesting party will succeed on the merits*

48. This criterion was most heavily debated between the Parties. ICANN argues that DCA Trust does not have a case on the merits. In fact, ICANN goes as far as saying that Claimant's Request for an Independent Review Process is frivolous. Therefore, ICANN argues that DCA Trust has not demonstrated that there is a reasonable possibility it would succeed on the merits. In the Panel's view, by doing so, ICANN is asking for more than is required of DCA Trust at this stage of the independent review process.
49. Contrary to ICANN'S submissions, the Panel is of the view that it need not, at this stage, make a full appraisal of the merits of DCA Trust's case, given that the standard of proof for interim relief is lower than the standard of proof required for the evaluation of the merits of the case<sup>24</sup>.
50. Having carefully examined the written submissions of the Parties, heard their oral submissions by telephone and deliberated on the various issues raised by them to date, the Panel is of the view that DCA Trust's case must proceed to the next stage.

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<sup>24</sup> See the report accompanying the ILA resolution of 1996 mentioned in footnote 2. On page 195, the report says that the "standard of proof propounded (...) was one which found wide acceptance" among all the countries studied, except one.

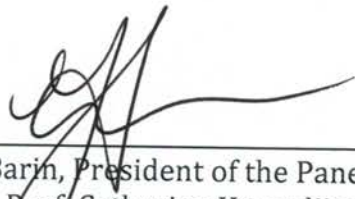
## DECISION OF THE IRP PANEL

51. The Panel therefore concludes that ICANN must immediately refrain from any further processing of any application for .AFRICA until this Panel has heard the merits of DCA Trust's Notice of Independent Review Process and issued its conclusions regarding the same.
52. The Panel reserves its views with respect to the other requests for relief made by DCA Trust in its Request for Emergency Arbitrator and Interim Measures of Protection. The Panel will consider the Parties' respective arguments in that regard if and when required by the Parties and if appropriate.
53. The Panel reserves its decision on the issue of costs relating to this stage of the proceeding until the hearing of the merits.

This Decision on Interim Measures of Protection has thirteen (13) pages. The members of the Panel have all reviewed this decision and agreed that the Chair may sign it alone on their behalf.

Signed in Montreal, Quebec for delivery to the Parties in Los Angeles, California.

Dated 12 May 2014.



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Babak Barin, President of the Panel, on behalf of himself, Prof. Catherine Kessedjian and the Hon. Richard C. Neal (Ret.) as consented to by the Parties in their respective emails to the Panel of 7 May 2014

# EXHIBIT 4

**From:** Sara Colon <sara@bnslawgroup.com>  
**Sent:** March 08, 2016 3:52 PM  
**To:** Contact Information Redacted  
**Cc:** 'Ethan Brown'; kete@bnslawgroup.com  
**Subject:** DCA v. ICANN  
**Attachments:** DCA Filed Documents.zip

Dear Mr. Masilela,

I am counsel for DotAfricaConnect Trust ("DCA") in the matter of DCA v. ICANN et al., pending in the Central District of California. We write to inform you that DCA has filed the attached amended complaint, including ZACR as a defendant, as well as the attached motion for preliminary injunction and temporary restraining order papers.

Please let us know whether you have counsel that will accept service of these documents on your behalf. If you do not, please let us know whether you will accept service of these documents, and future filings, via email.

Please be informed that the rights to .Africa are disputed in this lawsuit. Should you proceed to accept any delegation of rights in .Africa from ICANN during the pendency of this litigation, DCA reserves its right to take all necessary steps to protect its rights.

Best,  
Sara Colon

# EXHIBIT 5

**From:** David Kesselman <dkesselman@kbslaw.com>  
**Sent:** April 01, 2016 11:55 AM  
**To:** Sara Colón  
**Cc:** Ethan Brown  
**Subject:** Re: DCA v. ICANN/ ZACR

Thank you, Sara. I'll circulate a draft stipulation for your review.

Best,  
David

Sent from my iPhone

On Apr 1, 2016, at 11:51 AM, Sara Colón <[sara@bnsklaw.com](mailto:sara@bnsklaw.com)> wrote:

David,

You can have the extension to April 26, 2016.

Best,  
Sara

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**From:** David Kesselman [<mailto:dkesselman@kbslaw.com>]  
**Sent:** Friday, April 1, 2016 10:40 AM  
**To:** 'Ethan Brown' <[ethan@bnslawgroup.com](mailto:ethan@bnslawgroup.com)>; Sara Colon <[sara@bnslawgroup.com](mailto:sara@bnslawgroup.com)>  
**Subject:** DCA v. ICANN/ ZACR

Ethan and Sara,

I hope you are both well.

My firm has been retained to represent ZA Central Registry in the lawsuit filed by your client, DotconnectAfrica Trust.

By my calculation, our response to the First Amended Complaint is due on April 12, 2016. Would you be amendable to a 2 week extension so that the response would be due on April 26, 2016? If so, we can put together a stipulation. My client necessarily reserves all rights including challenging personal jurisdiction.

I'm happy to discuss, too. Thanks.

Best,  
David

David W. Kesselman, Esq.  
Kesselman Brantly Stockinger LLP  
1230 Rosecrans Ave, Suite 690  
Manhattan Beach, CA 90266

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