

SPONSORING AGREEMENT
Between
THE DEPARTMENT OF HOMELAND SECURITY
and
THE MITRE CORPORATION
to Operate the
HOMELAND SECURITY SYSTEMS ENGINEERING and DEVELOPMENT INSTITUTE (SEDI)
FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC)

1. PURPOSE OF THIS AGREEMENT

This Sponsoring Agreement (this Agreement) sets forth the policies and requirements for the operation of the Homeland Security Systems Engineering and Development Institute (HS SEDI or SEDI) Federally Funded Research and Development Center (FFRDC) by **THE MITRE CORPORATION**. The Homeland Security Systems Engineering and Development Institute (HS SEDI or SEDI) Federally Funded Research and Development Center (FFRDC) (hereafter referred to as the SEDI) shall be operated by **THE MITRE CORPORATION** as an autonomous organization or an identifiable separate operating unit of a parent organization in support of the Secretary of Homeland Security (DHS), the Under Secretary for Science and Technology (S&T), and the DHS Operating Elements. The Under Secretary for Science and Technology (S&T) is the Primary Sponsor of this Agreement.

This Agreement is in compliance with Federal Acquisition Regulation (FAR) Part 35.01 7. Additionally, the DHS Management Directive Number 143-04 "Establishing or Contracting with Federally Funded Research and Development Centers (FFRDCs) and National Laboratories" dated May 25,2007, as amended, is hereby incorporated by this reference into and made a part of this Agreement.

This Agreement will be incorporated by reference into and made a part of the DHS contract with **THE MITRE CORPORATION** for the operation of the SEDI (the Contract). If conflicts exist between this Agreement and the Contract, the Contract will take precedence and will control.

Portions of this Agreement are based on Federal government-wide and DHS policies, and future changes in these policies might necessitate changes to this Agreement. This Agreement may be amended, and its provisions may be modified or waived, by mutual written agreement of the parties. Capitalized terms used within this Agreement shall have the meanings ascribed to them herein or in the Contract.

2 BACKGROUND OF THE MITRE CORPORATION

The Mitre Corporation is a private, nonprofit corporation, under Section 501(c)(3) of the Internal Revenue Code, originally established in 1958 to provide independent and objective systems engineering and development expertise in the public interest to solve critical problems of national importance. The corporation operates FFRDCs exclusively. The Mitre Corporation is governed by a Board of Trustees that provides an overall strategic direction. The Mitre Corporation is located in McLean, Virginia.

3. PURPOSE AND MISSION OF THE FFRDC

The purpose of the homeland Security Systems Engineering and Development Institute (SEDI) is to provide special technical expertise to Department program managers that transforms program-level operational requirements and performance metrics, constrained by cost and schedule, into a preferred documented configuration of sustainable deliverables. Program objectives are generally achieved through the insertion of new technologies, prototypes, commercial off the shelf technologies (COTS), and/or modifications of existing hardware and software, into homeland security enterprise (e.g., federal, state, local, tribal, public and private sector) systems and platforms. The SEDI shall generally work on the most complex homeland security systems that will evolve capabilities through pre-planned spiral developments. The SEDI will promote fair and open competition for the development and delivery of Department capabilities by providing independent and objective technical expertise in the development of technical concepts,

standardized technical data packages, development modeling and simulation, and development testing and lab experiments, in tandem with the government's acquisition process. The SEDI shall ensure a logical optimization of system and sub-system level tradeoffs across the system's lifecycle. Overtime, this FFRDC will help the Department develop a DHS system of systems approach that will promote development process efficiencies and synergies through best practices and standardized documentation. Through its long term relationship with the Department, the SEDI shall promote compatibilities across the various homeland security platforms and equipment to reduce our Nation's risk to terrorism and catastrophic incidents through, among other things, improved interoperability and information sharing within the homeland security enterprise.

The work performed by the SEDI will: (a) be authoritative, objective, and free from conflicts of interest caused by involvement with and benefit from commercial or other interests; (b) ensure confidentiality and protect sensitive homeland security, intelligence, and government planning information; (c) ensure confidentiality and protect proprietary commercial information; and (d) constitute high-quality research and advice.

The work will be responsive to sponsor needs as the SEDI addresses issues of both long-term and immediate homeland security concern. The SEDI research program will be composed of projects of varying length, from quick response analyses to intermediate length studies to multi-year efforts, in areas of established expertise. As implied above, the work will often require privileged access to information, including sensitive Government information and industry proprietary data not normally available to non-Government organizations.

4. SCOPE OF WORK

The Contractor shall be responsible for providing technical and integration expertise to Department of Homeland Security (DHS) program leadership as a trusted agent, particularly in the evolution of the most complex and critical homeland security programs. The purpose of the SEDI FFRDC is to help the Department address "How" to accomplish program goals and objectives by the spiral insertion of new technologies, experimental prototypes, and commercial off-the-shelf (COTS) software and hardware into new and existing operational systems and platforms. The program risk must be carefully managed to tight cost and schedule constraints while maintaining critical performance requirements. The SEDI will provide the government with the necessary expertise to provide best "lifecycle" value while promoting fair and open systems acquisitions and deployments through the following core competencies:

- Development of Acquisition Program Baselines (APB) and Integrated Master Schedules (IMS), development test and evaluation plans, and other milestone decision documentation in accordance with DHS guidelines and directives to support the Departments' most critical and complex programs
- Development of functional analysis models, component tradeoff simulations, and tools and metrics to evaluate system tradeoffs and integration strategies
- Development of unique test-beds, critical lab experiments, and evaluation techniques to support the evolution of system concepts
- Develop homeland security systems software development models, standards, and protocols that are consistent with interoperability and spiral developments
- Develop and promote standardization of program risk, schedule and cost models based on system lifecycle costs
- Develop system technical standards for use by DHS program offices in the management and quality control/assurance of system, integration/development, and sub-system contracts in support of major acquisitions
- Develop and promote standardization of effective and efficient system engineering best practices in homeland security program development to integrate the system with the user community through analysis and planning for: configuration management, deployment logistics, manufacturability, training, operations and maintenance, infrastructure, safety and environment, and disposal
- Development of specific complex integration descriptions for system and sub-system technical data packages, particularly critical functional, physical, logical and operational interface protocols and standards
- Develop and promote standardization of technical data package elements to promote cross-program synergies over time

- Promote the identification of critical capability gap descriptions particularly in areas where technology may be expected to contribute substantially to solutions
- Promote the identification and standardization of technical standards, prototypes, systems engineering, and system/sub-system technical data packages which address the need for solutions to new and evolving systems requirements involving the instantiation within DHS systems and programs of capabilities to provide and promote security, privacy, and the protection of civil rights and civil liberties
- Promote ethics in acquisition through an understanding of: the need for objective development of operational requirements and performance metrics, and operational test and evaluation planning and analysis independent from the development program; promotion of fair and open competition in acquisitions through high quality technical data packages and quality oversight, trusted agent relationships with the government task sponsors and the SEDI program office, establishment of staff and organizational conflict or interest protocols.

Within and across these core areas, DHS sponsors' specific needs are expected to evolve over time, and the HS SEDI's capabilities and areas of concentration will evolve accordingly. The SEDI tasks may include quick-response ad-hoc in-depth technical program analysis and review (up to three months in duration); and/or medium-term studies (3-12 months) to provide in-depth technical program support to re-align a program with cost, schedule and performance objectives. However, most HS SEDI tasks are expected to be long-term tasks (more than 1 year) that align with the most complex and critical major acquisition programs.

The Contractor will also implement a broad-based consultative strategy to extend beyond the in-house staff and include perspectives from experts in industry, academia, and the non-profit sector. The Contractor will also be expected to have broad access to facilities that can provide unique test-bed support, lab experiments, and simulation and modeling in support of development program concept evolution and trade-off analysis across all areas of homeland security mission areas, including but not limited to (classified and unclassified): information technology and management, intelligence and information sharing, borders and maritime security (sensor and data networks), chemical and biological detection and protection, transportation system and critical infrastructure protection and security, cyber security and protection, biometric identification, communications interoperability and security, and emergency planning and response..

Other Duties. In addition to those services described in this Section 4 (Scope of Work), DHS may require the SEDI to perform other services within the SEDI core competencies.

5. POLICY

a. The SEDI will maintain the capabilities (high-quality research staff, other management and technical capabilities, analytic tools, models and simulations, computing resources, knowledge of sponsor needs, etc.) necessary to address any issue consistent with the FFRDC's purpose, mission, and scope of work. The SEDI will work on many classified and highly sensitive projects and shall strictly comply with the provisions of the National Industrial Security Program – including the provisions dealing with foreign ownership, control or influence (FOCI) – as set forth in DOD Directive 5220.22-M as amended.

b. All DHS components and Operating Elements are potential sponsors of SEDI tasks.

c. SEDI tasks will be undertaken by mutual consent between the SEDI and the sponsors in accordance with procedures instituted by the Primary Sponsor or designee and the SEDI Advisory Group, as appropriate. All tasks must be approved by the SEDI program management office. (Prior to execution, tasks require signature approval of the SEDI Program Manager.) Funding for specific tasks may come from various program elements available to sponsoring offices.

d. Proposals for work to be undertaken by the SEDI may originate with any sponsoring office or with the SEDI itself. Tasks may be initiated at any time during a fiscal year, and may extend over several fiscal years in accordance with the funding appropriation. The SEDI, in conjunction with its Primary Sponsor (or the Primary Sponsor's designee), will prepare an annual research plan representing collectively the research agenda of the sponsoring community. Changes to the plan, consistent with the SEDI's core statement may be made throughout the year. These changes must be approved by the Executive Agent (as defined in Section 6(a)(6)).

e. The sponsoring community as represented by the SEDI Advisory Group will: (1) maintain and strengthen the “special relationship” between the SEDI and its sponsors; (2) serve as a link between the SEDI sponsor community and THE MITRE CORPORATION management, providing feedback on DHS needs, interests, and priorities; and (3) assist and advise the Primary Sponsor in ensuring that the SEDI produces work consistent with this Agreement and the DHS Management Directive 143-04.

f. The Primary Sponsor will assure a reasonable continuity in the level of support to the SEDI, consistent with DHS needs and the terms of this Agreement, and contingent on available funding (as required by the FAR 35.017-2).

g. The SEDI may accept work from non-sponsoring agencies (i.e., organizations not specified in sections 5.b. above), including non-DHS Government entities, state and municipal governments, and public charities, provided that the work is: (1) determined to be consistent with the SEDI core statement; (2) approved by the Executive Agent (using the criteria set forth in Section 7 below and the DHS Management Directive Number 143-04 for determining the feasibility of and appropriateness of FFRDC work) and coordinated with the SEDI Program Manager and Contracting Officer’s Representative (COR); and (3) does not interfere with the priority of the work that SEDI is performing for the sponsors (i.e., SEDI has adequate resources to perform work for non-sponsoring agencies and still meet the time frames for its deliverables to the SEDI DHS sponsors).

h. The SEDI’s sponsors will provide access to classified and sensitive data, facilities, plans and related information, including proprietary data, as necessary to ensure that the SEDI’s work takes full account of the best available information, including that which is not normally available to non-government organizations.

i. Subject to the requirements set forth in Section 5(j) below, the SEDI may augment its in-house research staff with other technical and analytic resources for work on sponsor problems the scope of which requires temporary access to specialized expertise that is not available within the organization. These resources if not included in the research plan will be coordinated with the Executive Agent and/or the Program Manager.

j. The SEDI may utilize subcontractors and consultants (including reach-back employees from the parent organization) for DHS related work subject to the following conditions: (i) SEDI has received the Executive Agent’s approval prior to retaining a subcontractor or consultant for DHS related work; (ii) the Contracting Agent may require that SEDI terminate a subcontractor or consultant from performing DHS related work; and (iv) SEDI will require every subcontractor and consultant to sign nondisclosure agreements (containing the terms set forth in Section 9(g) below with the exception of Section 9(g)(2)) and conflict of interest agreements. Both agreements must have been approved by the DHS Office of the General Counsel prior to SEDI allowing a subcontractor or consultant to perform DHS-related work. SEDI will maintain signed copies of every non-disclosure and conflict of interest agreement for a period of at least five (5) years from the signature date on each document.

k. The SEDI’s independent research program will be used primarily to assist in building and maintaining research capabilities in support of the SEDI’s mission, purpose, and scope of work, consistent with DHS-wide guidelines for independent research and development activities.

l. No member of THE MITRE CORPORATION Board of Trustees who is also serving as a member of a Board of Directors, Trustees, or Overseers or any similar governance board for any other for-profit or non-profit entity that is engaged in providing professional services or research and development in the government services market shall be permitted to serve on panels or committees reasonably related to the SEDI or vote on decisions reasonably related to the SEDI unless such automatic recusal of the Board of Trustees member is waived by the DHS Executive Agent.

6. RESPONSIBILITIES AND OVERSIGHT

a. The ultimate sponsor of the SEDI is the Department of Homeland Security. The Under Secretary for Science and Technology acts for DHS as the Primary Sponsor of SEDI. The Primary Sponsor (U/S Science and Technology):

- (1) Ensures that the SEDI is used for its intended purposes.

- (2) Ensures that individual sponsors make appropriate use of the SEDI's work.
- (3) Ensures that the SEDI produces high-quality work of value to sponsors.
- (4) Ensures that the costs of services provided by SEDI are reasonable.
- (5) Determines whether to continue or terminate the sponsorship of the SEDI upon completion of each five-year comprehensive review.

(6) Designates an Executive Agent (the Executive Agent) to provide DHS oversight of the SEDI, consistent with the terms of this Agreement, the SEDI contract, and any additional policies and procedures established for the SEDI.

b. The Executive Agent:

- (1) Designates membership and chairs the SEDI Advisory Group. Designates replacements for SEDI Advisory Group members.
- (2) Provides oversight through the SEDI program management office which includes the SEDI Program Manager and the Contracting Officer's Representative.
- (3) Reviews and approves DHS-sponsored research plan.
- (5) Reports to the Contracting Officer any organizational conflicts of interest associated with THE MITRE CORPORATION performance under the contract as soon as conflicts are identified (or appear to be identified). The Executive Agent shall provide a recommended disposition of the conflict and solicit advice as needed from the Contracting Officer.
- (6) Designates the Program Manager and replacements for such individual.
- (7) Reviews and approves each non-DHS sponsored research task conducted by THE MITRE CORPORATION (and any affiliate thereof) involving the same core work as the SEDI, as elaborated in Section 4 of this Agreement, subject to the following terms and conditions:
 - a. All work to be performed by THE MITRE CORPORATION for the Department of Homeland Security will be approved in advance by the Executive Agent. The Executive Agent will approve/disapprove all such work requests within four working days following being notified in writing by THE MITRE CORPORATION of its intention to enter into a contract or bid on work with the Department of Homeland Security.
 - b. All work performed by THE MITRE CORPORATION for all other public sector entities and public charities will be reported on a quarterly basis to the Executive Agent. The first such report on non-FFRDC work by THE MITRE CORPORATION will be due at the end of the first quarter following conclusion of this Agreement and each quarter thereafter.
 - c. DHS reserves the right to require pre-approval of all new non-FFRDC work involving the same core work of the SEDI to be conducted by THE MITRE CORPORATION under the notice and approval procedures set forth in subparagraph (a) of this Section 6(b)(7).
- (8) Reviews and approves each non-DHS sponsored research task conducted by the SEDI.
- (9) Reviews and approves the classification, publication, and distribution of SEDI publications prepared for DHS Operating Elements, non-DHS Government entities, state and municipal governments, and public charities.
- (10) Oversees SEDI's use of subcontractors and consultants subject to the restrictions set forth in Section 5(j).

c. The Program Manager

- (1) Administers the day-to-day SEDI relationship with the Government as approved by the Executive Agent.
- (2) Ensures compliance with DHS and FFRDC policies.
- (3) Coordinates and works with the staff points of contact for the SEDI Advisory Group members to implement Advisory Group decisions, and assists the Executive Agent in administering the SEDI strategic relationship as required.
- (4) Establishes procedures for processing task orders.
- (5) Reviews and approves DHS-sponsored tasks.
- (6) Provides procurement liaison to the Contracting Officer for tasks placed under the contract for SEDI performance.
- (7) Acts as the DHS focal point for contact with SEDI. Once tasks are approved, sponsors deal directly with the SEDI on specific technical matters related to SEDI research.
- (8) Assists sponsoring offices in providing information on the SEDI research to other DHS offices and Government agencies.
- (9) Ensures SEDI receives access to Government information needed to conduct approved research projects. Ordinarily, sponsors release classified, privileged, no-contractor, and other sensitive material directly to SEDI.
- (10) Conducts and presents to the Advisory Group the Annual Assessment required by DHS' FFRDC Management Plan.

d. The SEDI Advisory Group:

- (1) Ensures the proposed research program addresses senior management concerns and priorities.
- (2) Identifies cross-cutting or other issues important to senior management for joint sponsorship and funding.
- (3) Confirms that the research program is appropriate for an FFRDC and consistent with the SEDI's core statement.
- (4) Identifies ways to strengthen the strategic relationship between DHS sponsors and the SEDI.
- (5) Reviews the results of annual performance reviews and takes appropriate action to resolve problems.
- (6) Provides feedback to THE MITRE CORPORATION management on DHS' needs, interests, and priorities for the upcoming year and over the longer term.

e. Sponsoring Offices:

- (1) Identify research and technical topics to be undertaken by SEDI, and formulate these topics into task orders, consulting as appropriate with the executive agent (or designee) and the SEDI.
- (2) Identify project funding and provide documentation necessary to initiate the task, consistent with established procedures. These procedures require signature approval for each task from the SEDI Program

Manager. Before a task can be placed on contract, a written justification showing that the work is appropriate for the SEDI (i.e., satisfies the criteria included in the core statement) must be prepared. This justification can be incorporated in the project's task order.

(3) Monitor the execution of research projects, including the quality and timeliness of the work, and its value to DHS.

(4) Participate as appropriate in meetings of the SEDI Advisory Group and related activities.

(5) Provide SEDI full access to the information necessary to carry out the research tasks.

f. THE MITRE CORPORATION and SEDI Management:

(1) Manages the operations of the SEDI consistent with the provisions of the SEDI contract with the Government, this Agreement, and THE MITRE CORPORATION's corporate charter.

(2) Develops and maintains research capabilities necessary to address any issue consistent with the FFRDC's purpose, mission, and scope of work; with sponsor needs; and with the availability of funds.

(3) Develops, on occasion, proposals for research topics, particularly research on cross-cutting issues of interest to several SEDI sponsors. In conjunction with sponsors and the Executive Agent, prepares and presents an annual research plan to the SEDI Advisory Group.

(4) Executes the research program, maintaining quality control over the research products.

(5) Prepares other materials requested by the Advisory Group, and works with the sponsoring offices and the Advisory Group, if necessary, to resolve any problems related to the SEDI research program.

(6) Maintains a written, rigorous, corporate-wide, organizational and staff conflict of interest regimen in accordance with a conflict of interest policy reviewed and approved in writing by DHS. Any changes made to an SEDI conflict of interest policy, or THE MITRE CORPORATION's conflict of interest policy regarding the SEDI, must be approved in writing by the DHS Executive Agent.

(7) Reports any organizational conflicts of interest and their proposed disposition to the Contracting Officer and to the Executive Agent (and/or designee) as soon as such conflicts are identified.

7. DETERMINING SUITABILITY OF WORK FOR SEDI

The task sponsor and the Executive Agent have joint responsibility for determining that a proposed research task is appropriate for the SEDI. Consideration will be given to several criteria related to the nature of the specific project, and the special relationship that the SEDI maintains with its sponsors. The criteria include:

a. Consistency with the SEDI's mission, purpose, and capabilities.

b. Consistency with the SEDI's core competencies, as reflected in the core statement required by DHS' FFRDC Management Plan and summarized in the scope of work statement above. Changes in the details of the core statement can be made by agreement between SEDI and the Executive Agent.

c. Consistency with the SEDI's special relationship with its sponsors, as evidenced by the need for one or more of the following:

(1) Effective performance of objective, high-quality work on subjects integral to the mission and operations of sponsoring offices.

- (2) Freedom from real and perceived conflicts of interest caused by commercial or other involvement.
- (3) Broad access to information, including sensitive Government information, proprietary data from industry, and other information not normally available outside the Government.
- (4) Comprehensive knowledge of sponsor needs, problems, and issues.
- (5) Responsiveness to emerging and evolving needs of sponsors.
- (6) Long-term continuity of knowledge on issues and problems of enduring concern, including both maintaining corporate memory for sponsors when appropriate and responding to quick-response sponsor needs in areas of established expertise.

8. ANNUAL ASSESSMENT PROCEDURES

- a. The COR will conduct an annual assessment (which will then be approved and forwarded by the Executive Agent) as specified in DHS' FFRDC Management Plan.
- b. For the annual assessment, a survey of project sponsors will be conducted. The survey will gather data on sponsors' perceptions of the various aspects of the SEDI work (e.g., technical quality, responsiveness, program value, and timeliness).
- c. The Program Manager will report the results of the annual assessment to the Advisory Group and to the SEDI. The Advisory Group will review the assessment with the SEDI, provide feedback, and assist in resolving any real or perceived problems.
- d. In addition, SEDI will describe for the Advisory Group steps taken to ensure cost-effective operations.
- e. SEDI, and its parent corporation, will provide an annual compliance statement in terms of organizational conflicts of interest and staff non-disclosure agreements and conflicts of interest.

9. OTHER CONSIDERATIONS AND GENERAL UNDERSTANDINGS

- a. Limitations. The strategic relationship between the SEDI and its sponsors requires that the SEDI accept certain restrictions, namely, that the SEDI:
 - (1) May only perform core work as defined in the core statement and in accordance with the guidelines specified in the DHS Management Directive 143-04.
 - (2) May not compete with any non-FFRDC in response to a Federal request for proposals for other than the operation of an FFRDC.
 - (3) May accept no work developing specific components or component prototypes, without written approval of the Executive Agent; who may approve the work when directly related to a specific critical system program development.
 - (4) May accept no work from commercial firms or foreign governments.
 - (5) Shall not, unless authorized by legislation and the contract, undertake quantity production or manufacturing.
 - (6) And its parent corporation and affiliates, if any, shall not, because of the need to eliminate actual or potential conflicts of interest between the interrelated missions of the DHS FFRDCs, operate another DHS

FFRDC or participate as a substantial partner or sub-contractor to another DHS FFRDC contractor. Employees of the SEDI contractor and its parent corporation and affiliates, if any, may participate as consultants on specific tasks conducted by other DHS FFRDCs providing the procedures for approving the consultants are followed.

b. The limitations enumerated above, except 9.a.(6), apply to the SEDI FFRDC, not **THE MITRE CORPORATION**. **THE MITRE CORPORATION** may perform non-FFRDC work, if such work meets the following criteria specified in the DHS Management Directive 143-04 and any additional criteria mutually agreed to between **THE MITRE CORPORATION** and the Primary Sponsor or designee:

(1) Parent institutions operating DHS-sponsored FFRDC(s) may perform non-FFRDC work subject to US(S&T) or its designee review for compliance with established criteria mutually agreed upon by the US(S&T) and the parent institution.

(2) Non-FFRDC work by parent institutions should be in the national interest, such as addressing economic, social, or governmental issues.

(3) Non-FFRDC work shall not undermine the independence, objectivity, or credibility of the FFRDC by posing an actual or perceived conflict of interest, nor shall it detract from the performance of FFRDC work.

(4) Non-FFRDC work shall not be acquired by taking unfair advantage of the parent institution's operation of its FFRDC(s) or of information that is available to that parent institution only through its FFRDC(s).

(5) Non-FFRDC work may be done for public sector entities and not-for-profit organizations that operate in the public interest; e.g., public charities. Commercial work (i.e., work for for-profit entities) may only be accepted if the primary sponsor, or its designee, grants a specific exception in writing for the commercial work request at issue. If the sponsor grants an exception, such work may not exclusively benefit any individual for-profit entity to avoid the appearance that an FFRDC parent organization is endorsing a particular product, company, or industrial process.

c. **Retained Earnings and Fees.** The parties acknowledge that fees may be appropriate. They can provide the capital and financial flexibility required to sustain professional expertise, obtain necessary facilities, equipment, and special test equipment, and maintain operations capable of supporting requirements of sponsors of SEDI core tasks under the contract. The guidelines for FFRDC Fees included in the DHS Management Directive 143-04 will serve as the guiding document in determining "need-for-fee" and the amount of the fee.

(1) **THE MITRE CORPORATION** will annually submit a fee justification.

(2) In reviewing the fee justification, the Contracting Officer will apply the methodology and considerations of the FAR and DHS Management Directive 143-04, as applicable. The Contracting Officer will consult, as appropriate, with DHS Contract Audit Personnel or DCAA, and the Executive Agent (or designee) for the SEDI.

(3) Fees received by **THE MITRE CORPORATION** for the operation of the SEDI may be commingled with fees earned on other contracts and/or with other income. Similarly, so long as SEDI is operated within **THE MITRE CORPORATION**, it may use fees received under contracts covered by this Agreement for the benefit of the corporation (e.g., for working capital or facilities acquisition).

d. **Cost Elements Requiring Advance Notice.** **THE MITRE CORPORATION** will provide the Executive Agent and the Contracting Officer at least 30 days of advance notice prior to:

(1) The acquisition of real property either by purchase or long-term lease that is to be used primarily by the SEDI.

(2) Any material increase in employee benefits chargeable, directly or indirectly, to a contract or contracts covered by this Agreement (except to the extent such increase is mandated by law).

e. Reports. In addition to the reports described in this Agreement, the SEDI will provide the reports described in Appendix C of the DHS Management Directive 143-04 to DHS. An annual report will be provided to the Primary Sponsor on 01 July.

f. Technology Transfer. If the SEDI wishes to participate in a technology transfer program with private industry, SEDI shall adhere to the technology transfer policies established by S&T. Such policies will include adequate safeguards to ensure the SEDI remains free of organizational conflicts of interest and that the conditions for establishing and maintaining the SEDI are not compromised. S&T shall also review and approve any technology transfer work on a case-by-case basis.

g. Non Disclosure of Sensitive Information. The SEDI acknowledges that in the course of performing work for DHS, SEDI and its personnel (which includes dedicated staff, consultants, and subcontractors) may have access to proprietary and privileged information of DHS and other entities and may also produce information that is proprietary and privileged to DHS. Except as otherwise required by applicable law or regulation or a final order of a court of competent jurisdiction (in which event written notice will be given to DHS prior to disclosure or use of the information in order to give DHS a reasonable opportunity to protect its interests), or as expressly authorized in writing by the DHS Executive Agent, the SEDI agrees on behalf of itself and its personnel, that the SEDI and its personnel will not (a) disclose any Privileged Information (as defined below) related to the work performed for or on behalf of DHS, or (b) use any Privileged Information for the benefit of the SEDI, any of the SEDI personnel, or any third party. SEDI will require all of its personnel to execute non-disclosure agreements approved by the DHS Executive Agent prior to performing work for DHS, and shall ensure that such personnel comply with the provisions of such agreements and this paragraph g.

(1) For purposes of this Agreement, "Privileged Information" means any and all information and data (1) relating to the work performed by the SEDI for or on behalf of DHS, including the products of such work and deliverables; or (2) provided by DHS, S&T, or any of the DHS Operating Elements to the SEDI; or (3) provided by corporate entities working on or advising on DHS matters. "Privileged Information" shall include, but not be limited to, all data, pricing information and cost data information, controlled unclassified information (e.g., Protective Critical Infrastructure Information, Sensitive Homeland Security Information, and Law Enforcement Sensitive Information), know-how, written materials, proposals, memoranda, notes, inventions, devices, technology, designs, copyrighted information, trade secrets, confidential business information, analyses, test and evaluation results, manuals, videotapes, contracts, letters, facsimile transmissions, electronic mail and other correspondence, financial information and projections, and business and marketing plans. "Privileged Information" shall not include any information or data that is in the public domain or becomes part of the public domain by any means other than a breach by SEDI or SEDI personnel of the obligations under this Agreement.

(2) The restrictions set forth in this Agreement with regard to Privileged Information are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

10. NON-RENEWAL, TERMINATION, OR DISSOLUTION

a. This Agreement and **THE MITRE CORPORATION's** operation of the SEDI are based on expectations of a long-term and continuing relationship between the parties. DHS will use its best efforts to inform **THE MITRE CORPORATION** as far as possible in advance if it concludes that such a long-term relationship is no longer in the best interests of the Government.

b. In the event that the contract for the SEDI is terminated (as that term is defined in FAR Part 49) in whole or in part, termination, disposal of assets, and settlement of liabilities will be in accordance with the DHS contract with **THE MITRE CORPORATION** and FAR 52.249-6. Nothing in this Agreement shall be construed as committing the U.S. Government to termination costs.

c. In the event of such termination or of the expiration or non-renewal of this Agreement and of contract(s) for the SEDI, all items that were furnished by the Government or purchased by **THE MITRE CORPORATION** and charged directly to the contract are the property of the Government and will be managed/disposed of in accordance with FAR 52-245-1.

d. Except as otherwise provided in a contract or advance agreement, all other assets (including equipment and leases on real property) will be the property of **THE MITRE CORPORATION** and all liabilities will be the responsibility of **THE MITRE CORPORATION**

e. In the event of dissolution of **THE MITRE CORPORATION**, the Members of the Corporation will designate the successor corporation or a charitable organization or organizations or the Federal Government or any or all of them to be recipients to which will be paid over any or all property or assets remaining after the winding up of **THE MITRE CORPORATION**'s affairs, in accordance with the Corporation's Certificate of Incorporation and By-Laws.

11. TERM OF THIS AGREEMENT

This Agreement will be effective when executed by both parties and shall be made a part of and incorporated by this reference into the Contract. This Agreement will be in force for the duration of the Contract. Subject to a favorable "need determination" resulting from the Comprehensive Review (as described by the FAR Section 35.017 and the DHS Management Directive 143-04) and, if mutually agreed between the Primary Sponsor and **THE MITRE CORPORATION**, this Agreement will continue to be in full force and effect for subsequent renewals of the Contract.

This Agreement obligates no appropriations, and creates no responsibility on the part of DHS to fund work at or provide funds to **THE MITRE CORPORATION**. Funds are obligated and work undertaken only and strictly in accordance with the terms and conditions of the Contract.

(b) (6)

Alfred Grasso
President and Chief Executive Officer
THE MITRE CORPORATION

6 March 2009

(date)



Bradley I. Buswell
Under Secretary for Science and Technology (Acting)
Department of Homeland Security

3/13/09

(date)