

IT Policy and Governance

- 1) Any IP addressable device that requires connection to a network switch may only be connected through a GSA-provided switch. The only permissible IP network connectivity is that which is provided via the GSA network.
- 2) Any contractor/vendor- provided hardware requiring access to the GSA network, must be pre-approved for use by the GSA. All IP-enabled devices will be evaluated and scanned to determine any potential IT Security vulnerabilities. GSA will provide a report indicating the required configuration changes to the device that must be made in order for installation to be acceptable and approved. Contractors must make any required configuration changes before their product will be accepted for use. Configuration changes are not a change in scope and are not subject to equitable adjustment under the contract.
- 3) IP devices deemed by GSA IT Security to have critical security vulnerabilities must have these vulnerabilities remediated prior to connection to the GSA network. IP devices that are part of the proposed solution shall not contain critical security vulnerabilities as identified by the latest version of NIST 800.53 and NIST 800-82. It is the Contractor's sole responsibility to correct critical security vulnerabilities identified by GSA IT Security.
- 4) GSA Project Managers can provide additional information on IT Security device scanning procedures.
- 5) Any required computer or server hardware (i.e. PC, laptop) and peripherals (i.e. mouse, keyboard, monitor) and/or routing and switching equipment, used to provide GSA network connectivity, must be government furnished and must be provided by the GSA, unless otherwise explicitly approved by GSA.
- 6) The Contractor shall use TCP/IP settings as specified by GSA for all IP network devices.
- 7) Devices shall not be added to the network until TCP/IP and BACnet parameters have been confirmed in coordination with the designated GSA representative.
- 8) A network diagram of all IP-addressable devices that terminate on the GSA network shall be provided to the GSA PM at the completion of design development of the system. The GSA shall be included in the design phase of the network infrastructure. The network diagram must be approved by GSA prior to initiating work on construction documents. Vendor-provided diagrams must be submitted in digital display in Microsoft Visio or PDF. GSA shall have a minimum of ten (10) business days to review diagrams.
- 9) Contractor shall obtain the required HSPD12 clearance to access systems and hardware on the GSA Network. Contractor shall comply with the requirements pertaining to mandatory HSPD-12 security clearances: The mandatory minimum security clearance level for contractor access to any GSA IT system and VPN is the preliminary adjudication of the National Agency Check with Inquires (NACI), which is a prerequisite to acquiring ENT (GSA user domain) credentials, necessary to access any GSA furnished workstation or server. Administrative access to GSA servers requires a full adjudication of the Minimum Background Investigation clearance.

- 10) The contractor must provide reasonable assurance to GSA that all applicable system- specific security controls are in place prior to implementing the given IT application or system, in a production environment. This is achieved through a security evaluation of the IT application or system which shall be accomplished by following the latest version of NIST Special Publication 800-53 and NIST 800-82. In addition, GSA IT Security Procedural Guide 06-30, "Managing Enterprise Risk", provides guidelines for how GSA will conduct the evaluation process. The scanning of vendor provided hardware/software and the security evaluation can only be executed by the GSA, unless it is a low-risk system. The IT application or system must undergo a security evaluation in order to obtain a valid Approval to Operate (ATO) signed by the Federal government. It is incumbent upon the vendor selected to review and understand the above-mentioned government and GSA IT security requirements.
- 11) GSA shall ensure that all configuration hardening settings are compliant to Federal Information Security Management Act (FISMA).
- 12) The aforementioned security evaluation will be administered by and to the standards of the GSA. The selected vendor's participation to provide documentation, assessment and proposed mitigation of identified vulnerabilities is required to achieve formal acceptance from the AO. The ability to integrate the entire systems or portions thereof on to the GSA network may be contingent on that formal acceptance.
- 13) Contractor shall provide the GSA means to access BAS controllers via an IP network.
- 14) All proposed standard installation, operation, maintenance, updates, and/or patching of software installed on government-furnished equipment shall not alter the configuration settings from the approved Federal Desktop Core Configuration FDCC configuration (<http://nvd.nist.gov/fdcc/index.cfm>).
- 15) Any Contractor proposed non-standard software must be pre-approved by GSA "nonstandard software" is defined as software which is not widely dispersed and commercially available on desktops. The software must be compatible with the standard GSA image (configuration). The GSA standard image utilizes a Windows operating environment, with the most current updates, as recommended by Microsoft. All software that is pre-installed on the image is updated with the latest security patches. Contractor proposed application software and server software must be compatible with the most current version of GSA standard desktop software (i.e. Windows, Adobe, JAVA and McAfee) and server software (VMware) Vendor software shall be current in accordance with industry standard. An updated list of the version of standard currently required for GSA workstations and servers can be provided by GSA.
- 16) Before contractor provided software is installed on a GSA workstation or server, the End User License Agreements (EULA) or Terms of Service (TOS) will need to be reviewed by GSA. The EULAs cannot be inconsistent with federal statutes. Many solutions containing significant amounts of information technology contain EULAs or TOS' which must be executed by the end-user. In some instances, some of the terms are contrary to statutes enacted by Congress and the US Government as end-user cannot agree to these terms. The prime contractor is responsible for negotiating any End User License Agreements or Terms of Service according to the following matrix:

	FAILS	Stock Language (Language in bold print is language to be inserted into the EULA)
1	Definition of contracting parties, typically using "You" or "You agree" language, or "if you use or install this"	<p>This language must be deleted or supplemented with the following language inserted:</p> <p>When the end user is an instrumentality of the US government, this agreement is a contract with the US Government and becomes effective when signed by the contractor and the GSA Contracting Officer as an addendum to the Contract. If this is an ID/IQ contract or Schedule Contract, ordering activities placing orders against the Schedule or ID/IQ contract are subject to this agreement as a term of the contract. This EULA (or TOS as applicable) shall bind the government, subject to federal law. This agreement shall not operate to bind a government employee or person acting on behalf of the government in his or her personal capacity.</p>
2	General Indemnity	<p>Delete the indemnity clause or supplement with:</p> <p>When the end user is an instrumentality of the US Government, the general indemnity requirement shall not apply. Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. While a dispute is pending the Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.</p>
3	Patent indemnity	<p>Contract clauses that the contractor must control any patent or other intellectual property infringement are not allowable, insofar as only the US Department of Justice is authorized to represent the US Government. This clause must be deleted, and this language inserted:</p> <p>If a third party claims that products or services delivered under this contract infringes that party's patent or copyright, the contractor will indemnify the Government against liability, at the contractor's expense and pay all costs, damages, and attorneys fees that a court finally awards or that are included in</p>

		<p>a settlement approved by contractor, provided that the Government: A. Promptly notifies the contractor in writing of the claim; and B. Gives the contractor such opportunity as is offered by applicable laws, rules or regulations to participate in the defense thereof. The Government shall make every effort to permit the contractor to fully participate in the defense and/or in any settlement of such claim. However, the contractor understands that such participation will be under the control of the Department of Justice.</p> <p>Or</p> <p>When the end user is an instrumentality of the US Government, representation of the US Government in any patent indemnity action is by the US Department of Justice.</p>
4	<p>Automatic renewals: term-limited products or services (e.g., term licenses for software, or maintenance) renew automatically, and renewal charges fall due automatically, unless the customer takes action to opt out or terminate</p>	<p>Automatic renewals create the possibility of Anti-deficiency Act violations. This clause must be deleted, or supplemented with this language:</p> <p>When the end user is an instrumentality of the U.S. Government, automatic renewal shall not apply.</p>
5	<ul style="list-style-type: none"> • Audits 	<p>Price changing clauses: A contract that claims that one party may change the terms unilaterally is an illusory contract. This clause must be deleted.</p> <p>When the end user of this contract is an instrumentality of the US Government, discrepancies found in an audit may result in a charge by the contractor to the government user. This charge, if disputed, will be resolved through the disputes clause. The cost of the audit is paid by the contractor, not the government. Any request for audit shall be subject to applicable customer requirements pertaining to security matters, including without limitation clearances to be held and non-disclosure agreements to be executed by auditors, badging or escorting requirements for access to premises, and other applicable requirements.</p>

	<ul style="list-style-type: none"> • Attorney Fees & Costs • Equitable relief • Arbitration 	<p>When the end user of this contract is an instrumentality of the US Government equitable relief, award of attorney fees, costs or interest is only allowed against when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act.) Disputes will be resolved according to the Disputes clause, and binding arbitration will not be used.</p>
6	Taxes	<p>FAR 29.302 states that "Generally, purchases and leases made by the Federal Government are immune from State and local taxation."</p> <p>Use this language:</p> <p>If software is licensed to an instrumentality of the US Government, any taxes to be paid by the Government as end user will be submitted to the Contracting Officer for adjudication.</p> <p>Clauses purporting to make the Government customer responsible for all taxes must be deleted from the contract. Any taxes the vendor believes to be payable by the Government should be submitted individually to the contracting officer for adjudication.</p>
7	Third Party Terms/Nested Agreements	<p>Terms provided in other EULA documents cannot bind the government unless those terms are made an attachment to the contract, which requires incorporation into the company's EULA. Incorporation by reference is not available as the content on the web is always changing.</p> <p>When the end user is an instrumentality of the US Government no license terms bind the government unless included verbatim (not by reference) in the EULA/TOS and the EULA/TOS is made an attachment to the contract.</p>
8	Venue Arbitration Statute of Limitations	<p>Venue and jurisdiction clauses are deleted or supplemented by the following language:</p> <p>When the end user is an instrumentality of the US Government, this is a contract with the US Government and is subject to the Federal Acquisition Regulation. Venue, jurisdiction and statute of limitations for any disputes are determined by the applicable federal statute (federal tort claims act, contract disputes act, etc.). In lieu of any provisions of this agreement requiring arbitration, the process set forth under the disputes clause shall apply.</p> <p>Arbitration clauses must be deleted. The following language may</p>

		<p>be inserted as appropriate:</p> <p>Recourse against the United States, if any, must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. While a dispute is pending the Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.</p>
10	Equitable remedies, injunctions	<p>Clauses that indicate that company may apply or request for equitable relief are of no significance and may be retained. Clauses that indicate that the company is entitled to equitable relief in general invade the province of the trial court and must be deleted. Clauses that provide for equitable relief for copyright, trademark or patent infringement by the government are contrary to statute and must be deleted.</p> <p>When the end user is an instrumentality of the US Government, equitable relief is not available as the US Court of Federal Claims is only authorized to grant money damages as a remedy.</p>
9	Unilateral termination by contractor for breach	<p>These termination clauses must be deleted. The following language must be inserted: When the end user is an instrumentality of the US Government, recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. During any dispute under the disputes clause the Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.</p> <p>Or</p> <p>When the end user is an instrumentality of the US Government, recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. Award of equitable relief,</p>

		<p>award of attorney fees, costs or interest is only allowed against the United States when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act.) Disputes will be resolved according to the Disputes clause, and binding arbitration will not be used. During any dispute under the disputes clause the Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.</p>
1 0	Unilateral modification: the vendor reserves the right to unilaterally change the license terms or terms of service, with or without notice to the customer	<p>A contract that claims that one party may change the terms unilaterally is an illusory contract. This clause must be deleted.</p> <p>This clause may be used:</p> <p>When the end user is an instrumentality of the US Government, any clause of this agreement claiming that one party to the agreement may change any terms unilaterally is of no effect.</p>
1 1	Assignment by licensor	<p>This clause must be deleted or supplemented with this language:</p> <p>When the end user is an instrumentality of the US Government, assignment of government contracts without the government's prior approval is prohibited by statute, except for assignment of payment to a financial institution.</p>
1 2	Confidentiality	<p>Schedule Contracts: Clauses that claim that the unit prices for supplies or services are confidential information must be deleted.</p> <p>When the end user is an instrumentality of the US Government, neither the EULA (this document) or the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect.</p> <p>Notwithstanding anything in this Agreement to the contrary, the government may retain such Confidential Information as required by law, regulation or its bona fide internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Agreement.</p>

		<p>All other contracts: Clauses that claim that the unit prices for supplies or services are confidential information must be deleted unless the company can convince the contracting officer that release of this information would result in competitive harm.</p> <p>Insofar as the EULA terms are incorporated into the terms of the contract, the terms of the EULA are never confidential information. Clauses that claim that the EULA is confidential must be deleted.</p>
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