

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of United States Department of the Army (collectively the "United States") and The Informatics Applications Group, Inc. ("TIAG") (hereafter collectively referred to as "the Parties"), through their authorized representatives. This Agreement is neither an admission of liability by TIAG nor a concession by the United States that its claims are not well founded.

RECITALS

A. At all times relevant to this Agreement, the United States Army contracted with TIAG to provide Systems Architecture Support services, pursuant to Contract No. W81K04-10-C-0013 ("the Contract"), at the United States Army Medical Information Technology Center (USAMITC) at Fort Sam Houston, San Antonio, Texas.

B. The United States alleges and contends that it has certain civil claims against TIAG arising from acts taken during its performance of the Contract from June through September 2012. The conduct described in subparagraphs 1-6 below is referred to in this Agreement as the Covered Conduct.

1. Pursuant to the Contract, TIAG employees were provided access to USAMITC, its network, computers and other resources. This access was solely for purposes of performing work on USAMITC Information Technology systems pursuant to the Contract.

2. As a condition of the Contract, in order to gain access to the USAMITC resources, TIAG employees were required to sign agreements,

including an Acceptable Use Policy, a Privileged Access Agreement, and a Certificate of Non-Disclosure (collectively, the “agreements”). These agreements prohibited TIAG employees from, among other things, utilizing DOD information systems for any purposes other than for work authorized under the Contract. The agreements specifically prohibited TIAG employees from using their access for commercial financial gain, from disclosing information that might compromise network security, and from accessing, removing or distributing Proprietary, Sensitive or other protected information that violated information release policies.

3. The United States contends that the Contract provided that TIAG’s failure to ensure that its employees adhered to the terms of the agreements constituted default on the part of the contractor.

4. The United States contends that, beginning in June 2012 and continuing through September 2012, during its performance of the USAMITC Contract, certain TIAG employees utilized the USAMITC network for prohibited purposes, including to access information that they deemed to be useful to TIAG’s efforts to obtain other government contracts. These TIAG employees at USAMITC searched for and obtained multiple documents from the USAMITC network, including documents restricted to those with Privileged Access.

5. The United States contends that these documents were sought for, and were used in, preparing TIAG proposals for three government Requests for Proposals: W81K04-12-R-0040 (Enterprise Network Information Technology Support to the United States Army Medical Network Operations and Security Center (MEDNOSC); W81K04-12-R-0041 (Enterprise Service Desk); and

W81K04-12-R-0049 (Theater Enterprise Wide Logistics System). None of these contracts were awarded to TIAG, however, and TIAG contends that it withdrew from consideration its proposal for the Enterprise Service Desk contract before any award decision was made.

6. The United States contends that TIAG's conduct placed it in default under the Contract, and that TIAG nonetheless knowingly submitted false claims for payment under the Contract, including during the period when the United States contends a default occurred, specifically: 1) invoice no. MITCESA1206, dated July 6, 2012, in the amount of \$69,934.10; 2) invoice no. MITCSA1207, dated August 1, 2012, in the amount of \$64,488.00; 3) invoice no, MITCSA1208, dated September 5, 2012, in the amount of \$66,483.00; and invoice no. MITCSA1209R, dated November 20, 2012, in the amount of \$71,245.50. These invoices were for services claimed to be rendered between June 1 and September 30, 2012 pursuant to the Contract.

D. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. TIAG shall pay to the United States \$400,000.00 (Settlement Amount). The payment shall be made by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Western District of Texas no later than 30 days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3 (concerning excluded claims) below, and conditioned upon and in consideration of TIAG's full payment of the Settlement Amount, the United States fully and finally releases TIAG, together with its predecessors, successors, subsidiaries, parents, and assigns, and current and former officers, directors, employees, agents, and shareholders, from any civil or administrative monetary claim the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Procurement Integrity Act, 41 U.S.C. § 2105(b)(2), or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in paragraph 2 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct, including for any prohibited use of the USAMITC network, USAMITC information, or other act

unrelated to a government procurement listed in paragraph B(5) above;

- e. Any liability based upon obligations created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due; or
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. TIAG waives and shall not assert any defenses TIAG may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. TIAG fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any and all liabilities, obligations, claims, demands, actions and causes of action (including attorney's fees, costs, and expenses of every kind and however denominated) that TIAG has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents,

employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of TIAG, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) TIAG's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment TIAG makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by TIAG and TIAG shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, TIAG shall identify

and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by TIAG or any of its subsidiaries or affiliates from the United States. TIAG agrees that the United States, at a minimum, shall be entitled to recoup from TIAG any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine TIAG's books and records and to disagree with any calculations submitted by TIAG or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by TIAG, or the effect of any such Unallowable Costs on the amount of such payments.

7. This Agreement is intended to be for the benefit of the Parties and their related entities and persons as set forth in paragraphs 2 and 5 only.

8. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

9. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without duress or compulsion.

10. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Western District of Texas. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

11. This Agreement constitutes the complete agreement between the Parties.

This Agreement may not be amended except by written consent of the Parties.

12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

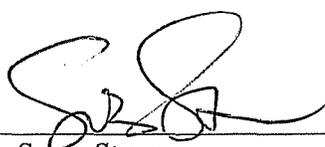
13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

14. This Agreement is binding on TIAG's successors, transferees, heirs, and assigns.

15. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

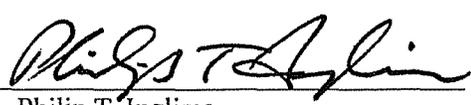
16. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: May 7, 2015 BY: 
Susan Strawn
Assistant United States Attorney
Western District of Texas

THE INFORMATICS APPLICATIONS GROUP, INC.

DATED: May 5, 2015 BY: 
Dalita Harmon,
President & Chief Executive Officer

DATED: May 6, 2015 BY: 
Philip T. Ingle
Andy Liu
Counsel for
The Informatics Applications Group, Inc.