

SOLICITATION, OFFER AND AWARD			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 179				
2. CONTRACT NO.		3. SOLICITATION NO. DACW21-02-R-0005	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED 08 Nov 2002	6. REQUISITION/PURCHASE NO. W33SJG-2122-3089					
7. ISSUED BY US ARMY ENGINEER DISTRICT SAVANNAH ATTN: SHARON GODBEE (CT-P) 100 WEST OGLETHORPE AVE SAVANNAH GA 31401-3640 CODE CT-P TEL: (912) 652-5400 FAX: (912) 652-6061			8. ADDRESS OFFER TO (If other than Item 7) See Item 7 CODE TEL: FAX:							
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".										
SOLICITATION										
9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in _____ until <u>04:30 PM</u> local time <u>10 Dec 2002</u> (Hour) (Date)										
CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.										
10. FOR INFORMATION CALL:		A. NAME SHARON H GODBEE		B. TELEPHONE (Include area code) (NO COLLECT CALLS) 912/652-5400		C. E-MAIL ADDRESS sharon.h.godbee@sas02.usace.army.mil				
11. TABLE OF CONTENTS										
<input checked="" type="checkbox"/>	SEC.	DESCRIPTION		PAGE(S)	<input checked="" type="checkbox"/>	SEC.	DESCRIPTION		PAGE(S)	
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<input checked="" type="checkbox"/>	C	DESCRIPTION/ SPECS./ WORK STATEMENT		10 - 46	<input checked="" type="checkbox"/>	J	LIST OF ATTACHMENTS		151	
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OFFER (Must be fully completed by offeror)										
NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.										
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.										
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)										
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):				AMENDMENT NO.		DATE		AMENDMENT NO.		DATE
15A. NAME AND ADDRESS OF OFFEROR		CODE		FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)				
15B. TELEPHONE NO (Include area code)		<input type="checkbox"/>		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.			17. SIGNATURE		18. OFFER DATE	
AWARD (To be completed by Government)										
19. ACCEPTED AS TO ITEMS NUMBERED				20. AMOUNT		21. ACCOUNTING AND APPROPRIATION				
22. 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) ()						23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)		ITEM		
24. ADMINISTERED BY (If other than Item 7)				CODE		25. PAYMENT WILL BE MADE BY				CODE
26. NAME OF CONTRACTING OFFICER (Type or print) TEL: EMAIL:						27. UNITED STATES OF AMERICA (Signature of Contracting Officer)		28. AWARD DATE		
IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.										

Section B - Supplies or Services and Prices

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Maintenace, Repair, Minor Construction, CPAF and Operation of the J. Strom Thurmond Project for the period March 01, 2003 thru February 28, 2004 PURCHASE REQUEST NUMBER: W33SJG-2122-3089				
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001AA	Estimated Cost, TP-T CPAF (Base Period)		Lump Sum		
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001AB	Estimated Cost, TP-TL CPAF (Basic Period)		Lump Sum		
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002 OPTION	Maintenance, Repair, Minor Construction, CPAF and Operation of the J. Strom Thurmond Project for the period 01, 2004 thru February 29, 2005			March	
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002AA			Lump Sum		
OPTION	Estimated Cost, TP-T CPAF (Option Year 1)				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002AB			Lump Sum		
OPTION	Estimated Cost, TP-TL CPAF (Option Year 1)				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003	Maintenace, Repair, Minor				
OPTION	CPAF				
	Construction, and Operation of the J. Strom Thurmond Project for the period				
	March 1, 2005 through February 28, 2006				
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	<hr/>
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003AA			Lump		
OPTION	Estimated Cost, TP-T		Sum		
	CPAF				
	(Option Year 2)				
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	<hr/>
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003AB			Lump Sum		
OPTION	Estimate Cost, TP-TL CPAF (Option Year 2)				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004					
OPTION	Maintenance, Repair, Minor CPAF Construction, and Operation of the J. Strom Thurmond Project for the period March 1, 2006 through February 28, 2007.				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004AA			Lump Sum		
OPTION	Estimated Cost, TP-P CPAF (Option Year 3)				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0004AB			Lump Sum		
OPTION	Estimated Cost, TP-TL CPAF (OptionYear 3)				
				ESTIMATED COST	
				BASE FEE	<hr/>
				SUBTOTAL EST COST + BASE	
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0005	Maintenance, Repair, Minor Construction, CPAF				
OPTION	and Operation of the J. Strom Thurmond Proejct for the period March 01, 2007 through February 29, 2008.				
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	<hr/>
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0005AA	Estimated Cost, TP-P		Lump Sum		
OPTION	CPAF (Option Year 4)				
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	<hr/>
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0005AB	Estimated Cost, TP-TL CPAF (Option Year 4)		Lump Sum		
OPTION					
				ESTIMATED COST	
				BASE FEE	
				SUBTOTAL EST COST + BASE	<hr/>
				MAX AWARD FEE	
				TOTAL EST COST + FEE	

FOB: Destination

Section C - Descriptions and Specifications

SCOPE OF WORK

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THURMOND PROJECT

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Technical Provisions
Section TP-T-1
GENERAL INFORMATION

TP-T-1.0 PURPOSE parks, n: The purpose of this contract is to provide for maintenance, repair, minor construction, and operation of the Thurmond Project Managers Office, Powerplant and Dam, New Savannah Bluff Lock and Dam, campgrounds, day-use navigational and beach buoy systems, boating access areas, and other project resources as specified in Section C.

TP-T-1.1 SCOPE OF WORK: Section C is divided into two (2) major groups of Technical Provisions:

1. TP-T is "Overall" Thurmond Project Technical Provisions.
2. TP-TL is "Specific" to Thurmond Project Performance Technical Provisions.

TP-T-1.1.1 Except as provided for elsewhere in these specifications, the contractor shall furnish all necessary management, personnel, materials, supplies, parts, tools, equipment, vehicles and fuel. All contractor-furnished items are required to be as specified and in strict accordance with all terms, conditions, general, specific and technical provisions, drawings, attachments, appendices, etc., contained herein or incorporated by reference.

TP-T-1.1.2 The contractors' work and responsibility includes, but shall not be limited to, all planning, programming, administration, Quality Control and Management necessary to assure that all services and minor construction are performed in accordance with the contract and all applicable laws, regulations, codes, or directives. The contractor shall insure that all work meets or exceeds quality standards, Appendix (P) and tolerances specified or included in referenced documents and applicable publications in TP-T-1.2. The contractor shall perform all related contractor administrative services necessary to perform the work such as supply, procurement, quality control, contractor financial control, and maintenance of accurate and complete records and files.

TP-T-1.1.3 Areas of work to be performed by the contractor are contained in drawings as specified in Section J - List of Attachments.

TP-T-1.2 Applicable Documents and References: The contractor shall perform technical work in accordance with the following individual standards and codes, manuals, and other documents as applicable.

Underwriter's Laboratories, Inc.

National Electrical Code

National Fire Protection Association

American Society of Heating, Air Conditioning,
and Refrigeration Institution

American Society of Heating, Refrigeration, and
Air Conditioning Engineers

American Welding Society D1.1, D1.3, D1.4

American National Standards Institute

American Concrete Institute

OSHA Safety Standards

Asphalt Institute

National Plumbing Standards Code Illustrated

American Society for Testing and Materials

GA or SC DOT Standard Specifications for
construction of Road and Bridges (Latest Edition)

American Association of Nurserymen, Inc.

Vehicle and Equipment Manufacturer's Repair and
Operating Manuals

TP-T-1.2.1 J. Strom Thurmond Project is located within Columbia, Elbert, Lincoln, Warren, McDuffie, Richmond and Wilkes Counties in Georgia, and Abbeville, Akin and McCormick Counties in South Carolina. The Project Managers Office, Powerplant and Dam is located on U.S. Highway 221 in South Carolina. The remaining work sites, such as campgrounds, day use parks, New Savannah Bluff Lock and Dam and other project lands, are located throughout the Savannah River Basin of the ten-county area.

TP-T-1.2.2 The government may undertake or award other contracts. The contractor shall fully cooperate with such other contractors and government employees and carefully fit their own work to such other additional work as may be directed by the Contracting Officer's Representative (COR). The contractor shall not commit or permit any act which will interfere with the performance of work by another contractor or by government employees. The COR may alter the work schedules of the other contractors, government employees, or the contractor, to avoid possible conflicts.

TP-T-1.2.3 The contractor shall maintain the schedule of services regardless of inclement weather. Exceptions can be approved by the COR when severe conditions make it impracticable or dangerous to perform the work.

TP-T-1.2.4 During the performance of this contract, the government will make available for the contractors use, the existing government service area compounds located on U.S. Highway 221 in South Carolina, Appendix (N) identifies buildings and other facilities within the provided service area. Additionally, the Government will provide two storage rooms within the Power Plant for the contractors use for performing janitorial services. The rooms are located on elevations 218 and 270, and consists of approximately 200 Sq Ft each.

TP-T-1.3 Mobilization and Start-Up: The contractor shall provide a plan for the mobilization of necessary equipment, personnel and inventory necessary for the performance of services immediately following award of the contract. The plan should clearly indicate a realistic time frame for the initiation of prompt contract services to minimize performance delays in the applicable Technical Provisions.

TP-T-1.4 Safeguarding Government and Contractor Property: The contractor shall cooperate with government personnel in safeguarding government property. The contractor shall be responsible for reporting to the COR and appropriate local law enforcement agencies, all acts of vandalism, larceny, pilferage, or other damage on the day of occurrence. In all instances where government property and/or equipment is damaged by contractor employees, a full written report of the incident and extent of such damage shall be submitted to the COR within two work days (less weekends and holidays) of the occurrence.

TP-T-1.5 Identification of Contractor Employees: Within thirty days of award, the contractor shall provide to his employees (except management and clerical) uniforms which must be worn while performing maintenance or other

work associated with this contract. Company identification will be accomplished by a patch on the breast pocket or left shoulder. Identification methods shall be employed for any sub-contractor employees working in the power plant. Vehicles and equipment shall also be identified with company name or logo.

TP-T-1.6 Pework Conference: The contractor shall attend a prework conference at which time the COR will establish the line of authority and government procedures for contractual, administrative and work matters. A review of critical aspects of the contract will be conducted as well as attention brought to specific FAR, Technical and Special Contract Clauses.

TP-T-1.6.1 A thorough review, discussion and understanding of the Award Fee Determination Plan will be reached. A brief review of the program submittals as referenced in paragraph TP-T-2.17 will be performed. A letter of record, documenting all prework conference discussions, will be furnished by the government to all attendees.

TP-T-1.7 Safety and Security Requirements: The contractor shall comply with all current provisions of the Occupational Safety and Health Act (OSHA) in addition to the standards of the Corps of Engineers Manual, EM385-1-1, "Safety and Health Requirements Manual".

TP-T-1.8 Equipment To Be Furnished By The Government: The government will furnish equipment listed below for work to be accomplished as outlined in Section C.

BAR CODE #	SERIAL NO.	NOMENCLATURE	MAKE
06373	2HTD11250CCA17588	Truck, Cargo Star	International
06377	7984733	Dozer, Crawler	Case
07040	10HHBC108D1000	Trailer, Fbed Tandem	Hudson Brothers
07041	10HHBC106D1000	Trailer, Fbed Tandem	Hudson Brothers
07083	10HHSE160J1000	Trailer, Flatbed	Hudson Brothers
07100	G	Pump, Pneumatic Drum Mount	Lincoln
07101	3471	Pump, Pneumatic Drum Mount	Doughton
07112	416060H701026	Truck, Loadstar	International
07113	2943	Hydroseeder, Truck Mounted	Reinco
07132	NSN	Tank, Above ground 500 Gal	
07133	NSN	Tank, Above ground 500 Gal	
07233	NSN	System, Public Address	TEI
07236	24797	Winch, W/Gasoline Engine	Minn/Molin
07258	10HHS1406D1000	Trailer, Flatbed	Hudson Brothers
08007	1803822	Saw, Band Vertical	Rockwell
08024	910565	Dispenser Oasis	Ebco
08099	NSN	Building, Storage	Evans Equipment
08107	3966	Crimper, Hose Fitting	Dana
08108	3004	Saw, Cut Off 14 Rubber	Jepson
08113	201220	Tractor, 4 Wheel Diesel	Ditchwitch
08128	0877-H	Trailer, Tandem Haulette	Massey Fer
08201	B04780	Trailer, Equipment	Yarbrough
08214	50224	Forklift, 10,000 Lb.	Euclid
08230	226682	Compressor	Powerex
08341	1349	Bulldozer, D6	Caterpillar
13929	NSN	Carrier, Truck Bed	Fontaine
14825	5019-M-26210	Loader, Bobcat #5	Bobcat

BAR CODE #	SERIAL NO.	NOMENCLATURE	MAKE
15858	NSN	Tank, Storage 500 Gal.	
28201	7065505	Monitor, 17	Dell
28203	53341A1GPS28	Monitor, 17	Dell
28204	D50LK	Processor, Disc Drive	Dell
28208	D50L9	Processor, Disc Drive	Dell
28310	7095433	Monitor, 17	Dell
28765	8316580	Monitor, 17	Dell
28769	G0145	Processor, Disc Drive	Dell
28770	G013M	Processor, Disc Drive	Dell
28771	G013X	Processor, Disc Drive	Dell
28773	G013J	Processor, Disc Drive	Dell
15859	NSN	Tank, Storage 250 Gal.	
15860	NSN`	Tank, Storage 250 Gal.	
15888	3112A44384	Printer, Laserjet II Printer, Laserjet	Hewlett Packard
15927	9152718	Loader, Scoop 2 ½ Yard	Case
15928	7GB00868	Grader, Motor	Caterpillar
17762	ALF0063211191	Boat, 40 Ft. Work	Munson
17866	1272334	Depth Finder LCD	Lowrance
28309	NSN	Changer, Tire	FMC Corp.
26532	7NMTF	Processor, File Server	Dell
27362	U4072390AH	Tape Drive, External	Iomega
27584	8097505	Monitor, 17	Dell
27585	C3KTB	Processor, Disc Drive	Dell
27587	C3KT1	Processor, Disc Drive	Dell
27590	87098C2GBVA7	Monitor, 17	Dell
27594	87098C1MTQ97	Monitor, 17	Dell
27595	C3KSY	Processor, Disc Drive	Dell
27600	8064528	Monitor, 17	Dell
27602	8064518	Monitor, 17	Dell

Technical Provisions
Section TP-T-2
MANAGEMENT

TP-T-2.0 Scope of Work: The Contractor shall provide management services for all tasks related to the operation, maintenance, repair, and minor construction work included in this contract.

TP-T-2.1 Reference and compliance Documents:

ER-1130-2-400 - "Management of Natural Resources and Outdoor Recreation at Civil Works Water Resource Projects"

ER-1130-2-413 - "Pest Control Program for Civil Works Projects"

EM 385-1-1 - "Safety and Health Requirements Manual"

ER-700-1-1 - USACE "Supply Policies and Procedures"

EP-1165-2-316 - "Rules and Regulations Governing Public Use of Corps of Engineers Water Resource Development Projects"

CFR-Title 36 - "Code of Federal Regulations"

40 CFR-260

EP 310-1-6a and 6b USACE Sign Manual and ER 37-2-10

ERGO Environmental Review Guide for Operations

TP-T-2.2 Contractor Quality Control (CQC): The Contractor shall develop and maintain an effective quality control plan incorporating Preparatory, Initial and Follow Up inspection process. A preliminary draft of the plan shall be submitted for approval at the pre-work conference. The contractor shall complete and resubmit the QC plan revision within 30 calendar days after receiving the Contracting Officers review comments. The plan must include an organizational chart identifying lines of authority, letters of appointments detailing specific duties, responsibilities and limitations, and positions within the contractor's organization.

TP-T-2.2.1 Contractor proposed changes to the Quality Control plan shall be submitted to the COR prior to its implementation.

TP-T-2.2.2 CQC will provide for the preparatory planning and inspection of all work activities to ensure conformance to specifications, preparatory inspection agreements, drawings, and referenced documents. CQC will also be responsible for inspection and documentation of findings only, for contract work performance, inventory control, procurement activities, safety implementation and other areas of contract performance. CQC shall not be directly responsible for the direction of on site corrective actions for performance deficiencies.

TP-T-2.2.3 Government Quality Assurance personnel will assure that Contractor Quality Control is complete, but the presence or absence of Government Quality Assurance shall not relieve the contractor of his responsibility for the proper execution of work in accordance with the contract.

TP-T-2.2.4 All compliance inspections shall be recorded on a form as proposed by the contractor but approved by the COR. This recorded information shall be provided to the project manager and a copy furnished to the COR within 24 Hours following the period of performance the report covers. The form should make provisions to address safety, equipment usage, weather, personnel and type of work being performed, performance results, QC testing and results, discussions with Government personnel, directions and agreements as a minimum.

TP-T-2.2.5 The text of compliance inspection reports shall address acceptable as well as deficient performance in Management, Quality Control and "Workmanship" Performance. Quality Control is to evaluate performance in all respects and report to "Management" through daily reports, their findings and other observations concerning the above. The reports must also recommend corrective action to project management, as well as documenting management directed corrective actions. If, in the opinion of the COR, recurrent deficiencies indicate that the Quality Control system is inadequate, corrective action will be taken as directed by the COR.

TP-T-2.2.6 The Quality Control system shall be organized with a chief and supplemental personnel as deemed necessary to perform effective quality control. The Chief and/or his assistant(s) shall be:

- a. Employed directly by the Contractor, with no assigned duties other than evaluation and documentation.
- b. Independent of the Contractor's field and Supervisory organization.
- c. Responsible only to the Contractor's top level managers and/or owners.
- d. Have a minimum experience of five (5) years in Quality Control work. (Chief Only)

TP-T-2.3 Supervision: The Contractor shall give his personal superintendence to the work, or have a competent superintendent on the site. The superintendent must have access to the necessary budgetary information and available manpower allocation to effectively plan and manage the on-site work, including accurate budget projecting and personnel management. The superintendent shall possess authority to act on behalf of the Contractor. Such authorization shall be submitted in writing to the COR.

TP-T-2.3.1 Service mechanics, technicians, and consultants shall have the education and/or experience to enable them to comprehensively understand the systems and components to be operated, maintained, and repaired under these specifications. All employees shall be subject to such Government regulations as are applicable during the time spent on Government property.

TP-T-2.4 Removal of Contractor's Employees: The COR may direct the dismissal and immediate removal of any contractor employee who is incompetent or who endangers persons or property or whose physical or mental condition is such that it would impair the employee's ability to perform his work. Notification for removal shall be in writing. However, notification may be made telephonically and later confirmed in writing if time and circumstances warrant. Personnel changes, regardless of cause, shall not reduce the Contractor's obligation to perform all work required under this contract.

TP-T-2.5 Minimum Manpower Requirements: The Contractor shall provide an adequate number of fully qualified personnel to supervise, maintain, repair and operate, the Thurmond Project. A minimum number of personnel required to accomplish these tasks and to handle emergency situations must be available, on call, 24 hours per day, 7 days per week. The Contractor shall provide the COR with telephone numbers to call when the Government recognizes the need of emergency repairs and services. The Contractor, when notified, shall have such personnel as may be required to effect necessary repairs and services present within two (2) hours of receipt of the notification.

TP-T-2.5.1 All work that would necessitate an interruption to the use of the project facilities or system or otherwise disrupt building occupants and/or the visiting public shall be fully coordinated and advance approval obtained from the COR prior to the commencement of the work.

TP-T-2.6 Determination of Work to be Performed: It is the intent of this contract, that the determination of all work required to maintain, clean or repair as specified or necessary, all facilities, buildings, structures, vehicles, navigational aids, landscaping, signs, and all other project infrastructure, in a safe and efficient operating condition, is the responsibility of the Contractor. However, the COR may direct the Contractor to perform necessary facility repairs or maintenance in instances where such services or maintenance has failed to have been provided. Such notices will be provided to the Project Superintendent in the form of "Deficiency Notice" as cases occur. New work requests as noted throughout the specifications "as directed by the COR", will be requested by the issuance of "Work Orders" (WO), authorized by the COR **only**.

TP-T-2.6.1 At the beginning of each contract year, the contractor shall provide to the COR an "Annual Work Plan" which identifies the various requirements of the contract specifications. Particularly those requirements with specified periods of performance and or locations, to ensure performance of these services are scheduled and performed as required. A quarterly update shall be provided to the COR indicating activity completion or rescheduling to an alternative date.

TP-T-2.7 Job Order Accounting System: The contractor shall establish a system to effectively prioritize and schedule the performance of tasks, whether initiated through the contractor's own initiatives or through a COR initiated WO. The system shall incorporate a method by which the contractor provides feedback to the COR that Deficiency notices or Work Orders's have been scheduled and/or services performed.

TP-T-2.7.1 The system shall be capable of establishing a budgeted cost as well as capturing all costs associated with the completion of the above work tasks. Costs shall be appropriately charged to the applicable Technical Provision as referenced in Section H, Job Order Accounting System.

TP-T-2.8 Schedules: The Contractor shall prepare and submit logical and accurate work schedules to the COR for maintenance, service and construction as described below.

TP-T.2.8.1 Cleaning schedules for COR approval, identifying scheduled arrival and departure times of cleaning crews for each park identified in appendix "A" of the contract. A separate schedule shall be prepared specifically for Thurmond Power Plant.

TP-T-2.8.2 Weekly work schedules for facility maintenance tasks shall be submitted on the first day of each week identifying all scheduled routine maintenance. Schedules shall indicate task, location, duration, special equipment and tool needs and personnel requirements.

TP-T-2.8.3 Grass mowing schedules indicating mowing sequence and frequency for which Project areas will be mowed, so as to meet the requirements of that Technical Provision. Revisions to any of the above schedules shall be provided to the COR within 24 hours of that revision.

TP-T-2.8.4 Schedules for construction tasks that will address start and completion dates for different phases of the task. Adequate breakdown of the task shall clearly indicate anticipated duration of construction activities.

TP-T-2.9 Incidental Work: Incidental work items, related to other specific work requirements throughout these specifications but not specifically identified, described, or quantified, may be required of the Contractor. Such incidental work will be limited to support maintenance for the operation of existing facilities that cannot be anticipated.

TP-T-2.10 Improvement or Modification: A facility improvement or modification shall not be initiated without the express approval of the COR. An improvement or modification is defined as any change to the original design of a building or structure or installed systems. Improvements or modifications not specifically approved in advance shall be considered unauthorized and the Contractor may be required to make restoration at no cost to the Government.

TP-T-2.11 Accident Prevention: At the prework orientation, the contractor shall submit a detailed accident prevention plan, prepared in accordance with EM-385-1-1 dated SEP 1996, Section I, Paragraph 01.A.03 for COR review and approval. All accidents shall be verbally reported to the COR immediately. The Contractor shall maintain an accurate record of and shall report to the COR, in the manner and on the forms prescribed by the COR, all accidents within 24 hours of the occurrence.

TP-T-2.11.1 The Contractor shall submit to the COR accident exposure and experience incident to this work, in accordance with EM 385-1-1. An exposure report shall include all contractor employee work hours performed during the reporting period. The work hours should be separated as "Work" and "Administrative" and shall include all lost time accidents and equipment accidents over \$500.00. The report shall be submitted to the COR NLT the 30th of each month.

TP-T-2.11.2 The Contractor will be responsible for safeguarding construction and maintenance sites in public recreation use areas. Appropriate signs, warning devices, and barriers will be used to protect the general public, contractor employees, and Government employees in accordance with applicable provisions of the EM 385-1-1.

TP-T-2.12 Pesticide Applications: All pest control products and application methods shall be in accordance with ER-1130-2-413, a copy of which will be provided to the contractor at the prework orientation. The contractor shall submit NLT 30 days after award of the contract, a pesticide application plan detailing chemicals to be used, application rates for each, user and public safety measures, applicator licensing procedures, Material Safety Data Sheets, disposal plan for unused chemicals and areas anticipated to be treated. Areas to be treated may be grouped by use, i.e., beaches, playgrounds, food plots, buildings, etc. No pesticides shall be applied prior to approval of this plan.

TP-T-2.12.1 The contractor shall provide to the COR, NLT 30 November annually, a description of the anticipated quantity usage of the various chemicals for the upcoming year. The contractor shall also provide to the COR NLT 15 January of each calendar year, a complete listing of actual pesticide applications performed during the previous year. Applications shall be recorded on the form as attached as Appendix (Q).

TP-T-2.13 Hazardous Waste Disposal: All hazardous waste materials as defined in 40 CFR 260, shall be disposed of IAW all applicable County, State, and Federal regulations. Records of disposal shall be maintained for a minimum of five years following the date of individual disposals. Records shall include as a minimum the date, materials, quantity, landfill/recycler as applicable and signature of deliverer.

TP-T-2.14 Inventory Control and Property Management: The contractors inventory management and control plan, including control of Government property, shall be prepared and submitted at the pre-work orientation for approval by the COR.

TP-T-2.14.1 The inventory shall be complete and accurate and contain as a minimum, a code designation for each item listing, the item description, unit price, unit of measure, quantity in stock, the date last issued and the location for all items. The inventory control program shall be computer automated. The Contractor will be subject to monthly property management audits by the Government.

TP-T-2.14.2 Major repair costs for Government Furnished Equipment and vehicles, (i.e., those with a parts acquisition and labor cost in excess of \$500 per line item), shall be coordinated with the COR for approval, prior to initiating repairs.

TP-T-2.14.3 In the event that emergency repair parts are required, and it is not possible to obtain advance service approval from the COR, the Contractor is authorized and shall be required to procure, if available locally, those parts

necessary to effect immediate repair in order to protect personnel and/or property. The COR should be informed of such emergency purchases as soon as possible following the purchase.

TP-T-2.14.4 The Contractor shall maintain daily written records of all operations maintenance and repair of government vehicles and equipment. These records shall include labor (in house and dollar value), supplies, materials and parts costs for each separately scheduled work task.

TP-T-2.15 Preventive Maintenance Plan: The contractor shall develop a PMP for mechanical equipment and operational systems at the various project facilities. The plan must designate the unit, machine or system to be inspected, frequency and date of planned inspections. Records of inspection findings and services performed shall be maintained. A summary report of repairs shall be provided to the COR at the end of each contract year.

TP-T-2.16 Capital Improvements: The contractor shall provide to the COR, specific information relating to description and cost of each capital improvement accomplished, during the performance of this contract. Specifics, as to necessary information to be included in the form and submittal frequency will be established at the prework orientation.

TP-T-2.17 Submittals: The contractor shall submit at the prework orientation or as otherwise required and appropriate in the specifications the following plans, programs and certificates;

- a. Section H 52.228-4402 "Required Insurance (FEB 1987) (Ref FAR 28.307)
- b. TP-T-1.3 Mobilization and Start Up Plan
- c. TP-T-2.2 CQC Plan
- d. TP-T-2.3 Letter of Authority for Superintendent
- e. TP-T-2.5 List of Phone Numbers
- f. TP-T-2.6.1 Annual Work Plan
- g. TP-T-2.11 Accident Prevention Plan
- h. TP-T-2.12 Pesticide Plan
- i. TP-T-2.12.1 Pesticide Usage
- j. TP-T-2.14 Inventory Control and Property Management Plan
- k. TP-T-2.15 Preventive Maintenance Plan

Technical Provisions
Section TP-TL-1
CLEANING SERVICES

Thurmond Project

TP-TL-1.0 Scope of work: Provide bulk trash removal, janitorial and general cleaning services of public use areas, Project Managers Office, Thurmond Power Plant, and New Savannah Bluff Lock and Dam. Reference Appendix A note (D).

TP-TL-1.1 Applicable Documents:

- A. EPA 40 CFR CH.1 (7-1-89 Edition)
- B. South Carolina Health and Environmental Control Department, Solid Waste Management, Title 44 Chapter 55, and Title 61.
- C. Georgia DNR EPD Chapter 391-3-4 Solid Waste Management.

TP-TL-1.2 Bulk Trash Removal: Provide sanitary "Green Box" type garbage containers in locations and quantities as indicated in Appendix (A). Each container shall meet applicable State EPA requirements for design.

TP-TL-1.2.1 As a minimum, each container shall be emptied two times per week or as otherwise necessary to remove accumulated waste. An area of approximately 50 ft. around the container shall be maintained free of litter and debris. All litter dropped on the ground around the container at the time of emptying shall be policed up and removed prior to the driver leaving the area.

TP-TL-1.2.2 Container sites shall be monitored to determine actions necessary to control objectionable odors. As necessary, containers shall be replaced or cleaned as well as the immediate pad site.

TP-TL-1.3 Cleaning Services: The contractor shall provide general facility cleaning services at all recreational areas, parks and individual facilities as indicated in Appendix (A), to provide a clean, safe, operable and usable facility for the public. Services shall be provided not less than six (6) days per week, Thursday through Tuesday, or as otherwise directed by the COR to accommodate for extenuating circumstances.

TP-TL-1.3.1 All associated grounds, trails, entrance roads, lake shoreline and other facilities within the established respective parks as listed in Appendix (A), shall be cleaned of litter including pop tops, cigarette butts, and all other waste materials.

TP-TL-1.3.2 All refuse and debris will be disposed of off government property according to County, State, and Federal regulations.

TP-TL-1.3.3 Roadside litter shall be policed up along US Highway 221, from the entrance of West Dam Recreation Area to S.C. Highway 28. Litter pickup will be accomplished for 50 ft. from the center line on each side of the road. Litter pickup will be confined to the roadway between guardrails on the dam.

TP-TL-1.4. Dam Scuppers: Roadside drains on Thurmond Dam shall be maintained free of debris, to allow for designed water drainage. Debris shall be flushed or removed as necessary, from drain piping leading from road scuppers.

TP-TL-1.5 Pack In/Pack Out Areas: Bussey Point, as referenced in Appendix (A) is the only pack in/out area. Clean all noted facilities, remove all litter, debris, and trash not later than 1 March and 1 September annually.

TP-TL-1.6 Bridge Crossings: Bridge crossings will be identified yearly by the COR for annual cleaning. Approximately one to five acres on either side of the bridge will be cleaned of all paper, cans, bottles, and other debris.

TP-TL-1.7 Dead End Roads: The COR will identify annually, dead-end roads for cleaning. In addition to removing all cans, bottles, paper, etc. extensive household trash may be present, which will require pick up and disposal in an authorized landfill.

TP-TL-1.8 Project Managers Office/Visitor's Center: This facility includes nearly 12,000 square feet of floor space including the outside patios. The buildings furnishings include carpet, vinyl composition tile (VCT) and quarry tile, and exposed aggregate concrete flooring. The building consists of eighteen office spaces as well as a conference room, visitor center with many displays, four rest rooms, and two outside courtyards. Ceilings are 10 ft. to 15 ft. suspended, light fixtures recessed, wall surfaces are GWB (Sheet Rock), and glass and glazing consists of approximately 1,300 Sq. Ft. Extensive shrubbery and landscaping exists and shall be maintained IAW TP-TL-4, Maintenance of Grassed and Landscaped Areas.

TP-TL-1.8.1 Janitorial services shall be provided Monday thru Saturday and shall be accomplished between the hours of 10:00 P.M. and 6:30 A.M.

TP-TL-1.8.2 Interior services shall include but are not limited to; vacuuming, mopping, stripping and waxing floors as necessary. Washing windows, dusting furnishings, empty trash receptacles, cleaning restrooms, removing spider webs, and other services appropriate to standard janitorial services. Due to the possibility of sensitive materials, individual Corps employee's furniture and desks should not be cleaned or disturbed.

TP-TL-1.9 Power Plant And Dam: This facility generally consists of four major floor elevations consisting of operational spaces and administrative offices. Other sub-elevations exist within the four major elevations that will require janitorial services but are too numerous to identify specifically. Furnishings include carpet, vinyl composition tile (VCT), quarry tile, and exposed concrete flooring. Office ceiling heights are 10 ft. while operational spaces vary from 8 ft. to 50 ft. Wall surfaces are GWB and exposed concrete. Glass and glazing consists of approximately 500 Sq. Ft. Extensive shrubbery and landscaping exists and shall be maintained IAW TP-TL-4, Maintenance of Grassed and Landscaped Areas.

TP-TL-1.9.1 Routine daily janitorial services should be scheduled so as to be completed NLT noon daily.

TP-TL-1.9.2 Interior janitorial services include but are not limited to those services identified in section TP-TL-1.8.2 above. The contractor shall be responsible for determining the methods necessary to maintain all floors in a clean, stripped, waxed and buffed condition as necessary. Services shall be provided five (5) days a week, Monday through Friday.

TP-TL-1.10 Cleaning of Turbine Pits: Cleaning of turbine pits shall consist of the removal of all grease and oil from the upper part of the thrust bearing down to and including the top of the head cover, all deck plates, steps, and handrails, hydraulic servos/motors, and other soiled equipment. Records of waste material disposals shall be maintained IAW TP-T-2.13.

TP-TL-1.10.1 Cleaning solvents shall be non-flammable safety type. Bare/bright metal shall be lightly coated with machine oil immediately after cleaning and thoroughly dried.

TP-TL-1.11 Galleries, Gutters and Sumps: Galleries, gutters, and sumps within the penstock and dam areas shall be cleaned of mud, debris, leaves, and other contaminants. Calcium deposits shall be removed from walls floors and pipes as applicable.

TP-TL-1.11.1 The walls of sumps and gutters shall be scraped and/or washed with pressure washing equipment as necessary. All accumulated waste materials shall be removed from the pen stock areas and disposed of IAW County, State, and Federal regulations for hazardous materials. Hazardous waste materials will consist of petroleum products, such as waste oil and grease. Records of disposal shall be maintained IAW TP-T-2.13.

TP-TL-1.11.2 Removal of calcium deposits shall be accomplished in such a manner so as not to damage the concrete or pipe surfaces below.

TP-TL-1.12 Abutment Piers and Gates: Machinery, walkways, decks, panels, lights, and other appurtenances at Thurmond Power Plant and Dam, and New Savannah Bluff Lock and Dam, shall be cleaned of accumulated debris and bird droppings.

TP-TL-1.12.1 All bird droppings identified for removal shall be considered as contaminated with Cryptococcus Neoformans and/or Histoplasma Capulatum Fungi. Necessary safety precautions shall be employed during its removal. An abatement plan outlining Procedures, safety precautions and disposal areas shall be provided the COR prior to initiating abatement work. Disposal records shall be maintained IAW TP-T-2.13.

TP-TL-1.13 Schedule of work: Initiation of turbine pit cleanings, calcium deposit removals, and abutment pier and gate cleanings will be initiated through the issuance of "Work Orders" as referenced in TP-T-2.6. Cleaning of the wheel pits shall be completed within 48 hours of receipt of the "Work Order". Entry into the wheel pits will only be allowed after coordination with the Power Plant Manager.

Technical Provisions
Section TP-TL-2
GATE ATTENDANT SERVICES
Thurmond Project

TP-TL-2.0 Scope of Work: Provide park attendant services at specified "Day Use" recreational areas.

TP-TL-2.1 Applicable Documents:

1. EP 1165-2-316 - (Title 36), Rules and Regulations Governing Public Use of Corps of Engineers Water Resources Development Project"

2. Visitor Center Handbook

TP-TL-2.2 Park Attendant Services: Provide a minimum of one attendant to provide Park Attendant services at each gate house as referenced in Appendix (A), note C. Services shall generally be provided IAW the following schedule to include all Federal Holidays.

<u>Date</u>	<u>Days</u>	<u>Time</u>
1 April - 30 Sept.	Monday thru Thursday	1000 to 1830 Hrs.
	Friday thru Sunday	0800 to 2030 Hrs.
	Holidays	0800 to 2100 Hrs.

TP-TL-2.2.1 During periods of heavy visitation, generally from 1200 to 1600 Hrs. on Friday, Saturday and Sunday, two attendants may be required. The contractor shall provide for each attendant on duty at each park, a minimum of \$100.00 in small bills and change, to make change during fee collection. Change amount should be adjusted as necessary to ensure fee collection is performed without customer delay.

TP-TL-2.3 Park Attendant Duties: Attendant duties shall include but not be limited to, opening and closing the park entrance gate; posting shelter reservations, fee collection at the gate house, issuance of annual passes, entrance passes and brochures, handling emergency communications for Ranger, law enforcement and/or medical services, disseminating information to and answering questions for the public regarding park rules, available facilities, etc. All attendant interaction with public shall be performed diplomatically, courteously, promptly and in a professional manner.

TP-TL-2.4 Bonding: All contractor employees shall be bonded for the purpose of collecting and remitting fees.

TP-TL-2.5 Fee Collection: The contractor shall collect day use fees at area honor vaults at least weekly. Vaults are currently located at, Cherrokee, Wast Dam, Lake Springs, Clark Hill Park, Morrah's Ramp, Dordon Creek, Parksville, Big Hart, Mt. Carmel, Keg Creek, Broad River, Gill Point, Amity, Scot's Ferry and Ridge Road.

TP-TL-2.6 Orientation: Prior to beginning work, all attendants shall attend an orientation concerning facilities, activities, procedures, policies, and regulations. The orientation will address as a minimum, fee collection procedures, maintenance of ledgers, maintenance of guest registers and facility reservation procedures.

Technical Provisions
Section TP-TL-3
MAINTAIN BUILDINGS, STRUCTURES, MECHANICAL, ELECTRICAL,
WATER SUPPLY, AND SEWAGE DISPOSAL SYSTEMS
Thurmond Project

TP-TL-3.0 Scope of Work: Provide labor and materials to maintain or replace as necessary, all buildings structures, electrical, mechanical, water, septic, docks, playgrounds, and other facilities in the Thurmond Project area as listed in Appendix "A".

TP-TL-3.1 Buildings: Maintenance includes but is not limited to the Project Managers Office, Power Plant and Dam, gatehouses, rest rooms, shower/washhouses, well houses, radio/microwave compound, fish oxygenation system, etc. Services required to keep these facilities in a neat, attractive, and functional condition include: lubrication, refastening, refitting, refinishing, replacing and repairing roofs, walls, ceilings, floors, windows, sky lights, vents, doors, trim, painting, partitions, building hardware, and lighting fixtures.

TP-TL-3.1.1 The contractor shall be responsible for pesticide application to effect the control of insects, rodents, spiders, etc., in the buildings identified above. The Contractor shall apply pesticides, chemically treated baits, etc. to eliminate all pests from all project buildings. Reference: TP-T-2.12.

TP-TL-3.2 Structures: These items include the bulletin boards, shelters, boardwalks, play apparatus, fishing piers, dump stations, towers, floating docks and other structures. Services required to maintain these facilities include lubrication, refastening, refinishing, refitting, repairing and replacing boards, posts, hinges, bolts, framing, glass, shingles, paint, hardware, etc.

TP-TL-3.3 Electrical, Plumbing & Mechanical Systems: These items consist of heating, cooling, ventilating, electrical, water and sewage systems contained within the various recreational facilities, the Project Managers Office, maintenance buildings, and other operational buildings identified in Appendix (A).

TP-TL-3.4 Electrical Systems: Maintenance includes replacing or repairing damaged or malfunctioning electrical components, broken wires, breakers, panel boxes, sewage pump controls, photoelectric cells, heating elements and fixtures, light fixtures, switches, outlets, fuses, bulbs, air conditioning, fire alarm systems, intrusion alarm systems, PA systems, underground wiring, etc.

TP-TL-3.5 Plumbing System: Maintenance includes repairing or replacing broken or malfunctioning water and sewage systems.

TP-TL-3.6 Water Systems: Repair or replace broken or malfunctioning water lines, valves, fountains, fittings, fixtures, drains, pumps, casings, wells, etc.

TP-TL-3.7 Sewage Systems: Repair or replace sewage lines, drain fields, valves, septic tanks, distribution boxes, lift pumps, pump controls, fixtures, hardware, etc., as necessary.

TP-TL-3.8 Well Water Samples: Water Samples shall be collected from all active non community water systems (wells) in the states of Georgia and South Carolina each quarter. The actual schedule will be provided by the COR. Samples shall be delivered to a Georgia or South Carolina approved laboratory for total coliform bacterial analysis, within 8 hours following their collection. Sampled wells not meeting state requirements must be disinfected and retested in accordance with the applicable state requirements. Test results will be provided directly to the applicable state agency and a duplicate copy provided to the COR within five days following submission to the state agency.

TP-TL-3.9 Lake Water Samples: Water samples will be taken from the lake as directed by the COR, adjacent to designated beaches, and tested for fecal coliform as outlined in the annual testing program provided to the contractor. Approximately 21 beaches will be tested annually. These tests are to be performed by a lab as specified in TP-TL-3.8 above. Written results from these tests will be provided to the COR within 5 working days from completion of analysis by the lab.

TP-TL-3.10 Sump Waste Water: Water samples will be taken quarterly from Power Plant discharge outfall, Ser. # 001 and tested for PH, Suspended solids and oil/grease as a minimum. Samples shall be analyzed by the lab as specified TP-TL-3.8 above and written results provided to the COR within 5 working days from completion of analysis by the lab.

TP-TL-3.11 Heating, Air Conditioning, and Ventilation Systems: All equipment shall be maintained in accordance with manufacturer's recommendations, including lubricating pumps and motors, adjusting belts, pulleys, temperature and electronic controls, cleaning and replacing filters, and painting equipment. Repair or replace parts, components as necessary.

TP-TL-3.12 Elevators: Power Plant elevators will be maintained through inspections, adjustments and repairs as necessary. Annual and five year safety inspections and tests will be performed IAW ANSI A.17-1a.

TP-TL-3.13 Records: The Contractor shall provide as-built sketches of any changes occurring as a result of any repairs to structures, facilities and/or systems.

Technical Provisions
Section TP-TL-4
MAINTENANCE OF GRASSED AND
LANDSCAPED AREAS
Thurmond Project

TP-TL-4.0 Scope of Work: Mow, trim, till, weed, prune, mulch, herbicide, pesticide buildings and grassed and landscaped areas at the Project Managers Office, Powerplant and Dam, Savannah Bluff Lock and Dam, Water Quality Building in S. C., and project recreational areas as referenced below. Reseed bare areas and maintain and replace trees/shrubs, as necessary. Control undesirable weeds, road shoulder vegetative encroachments, insects and diseases. Active period of growth is generally from 1 March through October 15. Reference Appendices (A), (B), and (C).

TP-TL-4.1 Mowing: Turfed areas shall be mowed during active growing periods at frequencies necessary to maintain grass and seed head heights between 3 and 10 inches. Grass at the Project Manager's Office and the powerplant area shall be mowed weekly from 1 APR - 30 SEPT.

TP-TL-4.1.1 Road shoulders shall be mowed 5 feet back from the pavement edge.

TP-TL-4.2 Minor Mowing: The Pack In/Pack Out area at Bussey Point will be mowed twice yearly, usually around 1 July and 1 November. However, grass and weeds around directional and informational signs in these areas shall be controlled to prevent their height exceeding 24 inches. Drain fields in all recreation areas will be mowed during active periods of growth to prevent grass height exceeding 16 inches.

TP-TL-4.2.1 Areas adjacent to facilities, trees, lights, sidewalks and other items where powered grass mowers cannot access, shall be trimmed by hand or with weed eaters to present a neat appearance. Grass along sidewalks shall be edged when grass encroaches onto the walk by 2 inches. Care should be taken during trimming activities to prevent damage of shrubs, trees and other plants. The contractor will be responsible for replacement of trees and shrubs damaged through negligence IAW FAR. 52.237.0002, Protection of Government Buildings, Equipment and Vegetation.

TP-TL-4.3 Restoring Bare and Eroded Areas: Bare or eroded areas, where a satisfactory stand of grass does not exist, shall be prepared, seeded, fertilized and mulched as appropriate to establish appropriate ground covers.

TP-TL-4.4 Pruning Shrubs: All ornamental shrubs and trees, located around buildings, in public use areas, or in other landscaped areas, shall be pruned, as needed. Evergreen shrubs shall be pruned between 1 MAY and 1 JULY. Deciduous shrubs shall be pruned between 1 January and 15 March. Crepe Myrtle shall not be pruned except in locations immediately adjacent to project buildings.

TP-TL-4.5 Deweeding and Remulching Shrubs and Trees: Weeds and grass shall be removed from around all shrubs, trees, and ground covers, including the removal of all grass and weeds from planter boxes, slopes, and plant beds. Weeds and grass shall be removed from around individual trees and shrubs in a circle for a minimum distance of 2' radius from the base of the plants. Mulch shall be placed in all plant beds and around all individual trees and shrubs to a compacted depth of 1 to 2 inches.

TP-TL-4.6 Planter Boxes: Shrubs and trees in planter boxes located at most recreation gate houses, Project Office and other areas shall be pruned and maintained as required above.

TP-TL-4.6.1 Annual plants of various varieties and colors shall be mass planted at concrete and wooden planters located around the various recreational areas and Project Managers Office. Plant types may vary from site to site and season to season. The contractor shall make the selection as to variety independently or request guidance from the COR prior to planting.

TP-TL-4.7 Replacing Dead Trees: All planted trees of three inch diameter or less, in areas included within the scope of this contract which are either dead or in diseased condition, shall be replaced. Planting shall be IAW Appendix C. Replacement trees shall be the same size, quality and species as originally planted.

TP-TL-4.8 Shrubs: Dead or diseased shrubs shall be replaced. Replacement shrubs shall be the same species and size as removed.

TP-TL-4.9 Watering: Water shall be applied, as needed to maintain in a healthy condition, all newly seeded areas and plants planted or replaced under this contract.

TP-TL-4.10 Pesticides/Herbicides: The Contractor shall treat all beaches, playgrounds, campsites, project buildings and other areas and facilities as appropriate to control unwanted grass, insects, and weeds. Pesticides may be applied around all off-project directional signs in Pack In/Pack Out recreational areas to control unwanted weeds. Chemicals shall not be applied prior to the submission and approval of the pesticide application plan IAW TP-T-2.12.

TP-TL-4.11 Tree and Limb Cutting and Removal: Trees in public use and other project areas which are dead or diseased and live trees which need to be removed for thinning shall be felled and removed or cut into firewood lengths by the Contractor and left on site. Marked trees will be felled away from buildings, campsites, picnic sites, and other park structures. Limbs and felled trees shall be removed from paths, sites, and mowed areas.

TP-TL-4.11.1 All tree stumps in landscaped and turfed areas shall be removed following cutting. Stumps may be ground, removed or cut low enough to allow coverage with top soil, seeded and maintained as a grassed area.

TP-TL-4.11.2 Low hanging tree limbs and vines along paved road shoulders shall be cut back to at least 3 feet from the edge of paved roads. All cut limbs and timber shall be moved back from the grassed road shoulder and may be spread throughout the natural surroundings.

TP-TL-4.12 Continual Nutrient Maintenance Program: Once each year, the Contractor shall fertilize the main dam on the Georgia and South Carolina main dam downstream slope.

TP-TL-4.12.1 Planted trees less than four inches in diameter shall be annually fertilized and mulch covering replenished.

TP-TL-4.12.2 As determined through soil sample analysis, all turfed areas within the Powerplant area shall be fertilized annually. Application of fertilizer shall be completed during March or April.

TP-TL-4.13 Earthen Embankment: The dam slopes have an average slope of 1:2; however, near the top, the slope increases to 1:1. Grass height shall be maintained between a height of 8 to 12 inches or seed heads, 12-16 inches. Hand mowing and trimming will be necessary around piezometer risers, culverts, guardrails, and concrete surfaces. Any litter shall be removed prior to mowing.

TP-TL-4.14 Project Office and Powerplant: These areas have lawns of centipede and Zoisha grass. Centipede grass shall be maintained between 3-5 inches in finished height. Zoisha grass shall be maintained between 1.5 and 2.5 inches and cut only with reel type mowers. Trimmings, pruning, and clipping shall be more frequent so as to maintain a neat appearance at all times. The Contractor shall closely coordinate all landscape maintenance activities with the COR prior to implementation. Raking and/or bagging of all lawn and shrub clippings shall be accomplished during the shift in which cutting occurred.

TP-TL-4.14.1 Prior to the beginning of the grass growing season, all Zoisha grassed areas will first be dethatched and then the soil aerated. Aeration will be accomplished by using a plug type power aerator which provides for the removal of plugs to a depth of 4" to 6". Aeration and dethatching shall be performed during April.

TP-TL 4.15 Switchyard: All vegetation both living and dead within the power plant SwitchYard shall be removed on a quarterly basis. Vegetation should be removed to the degree possible by pulling up by the roots, the entire plant. Depressions and holes created in the aggregate materials as a result shall be leveled over.

Technical Provisions
Section TP-TL-5
MAINTENANCE AND REPAIR OF GOVERNMENT VEHICLES,
EQUIPMENT, BOATS, AND TRAILERS
Thurmond Project

TP-TL-5.0 Scope of Work: Furnish all labor, equipment, supplies, and materials required to wash, wax, service, and repair project vehicles, heavy and light equipment, attachments, boats, trailers, and mowers as listed in Appendix (K) and TP-T-1.8 GFE. All work will be accomplished by or under the supervision of qualified mechanics. All replacement items shall be of equal or better quality than those being replaced and shall be in accordance with manufacturer's recommendations.

TP-TL-5.1 Compliance Documents:

- a. DR 56-1-1 - "Motor Transportation - Administrative Vehicle Management (Military and Civil)"
- b. DA-PAM 738-750 - "The Army Maintenance Management System (TAMMS)"
- c. DA-PAM 750-35 - "Functional Users Guide for Motor Pool Operations"
- d. AR-190-51 - "Security of Army Property at Unity and Installation Level"

TP-TL-5.2 Preventive Maintenance: The contractor shall develop a preventive maintenance program to ensure regularly scheduled inspections and maintenance on project vehicles and equipment. Vehicle inspection and services will be performed every six thousand miles or every six months whichever comes first. Project boats and equipment such as bobcats, dozers, mowers, etc., shall be inspected and serviced after every 100 hours of operation. Adequate records shall be maintained to demonstrate implementation of their program and accomplishment of scheduled maintenance.

TP-TL-5.3 Routine Maintenance: Routine maintenance should include but not be limited to, tire rotation/replacement and mounting, brake repair, engine overhaul or repair, transmission and drive train work, hydraulic and electrical systems, repair/replacement of starters, batteries, belts, etc., and welding repairs. All repairs in excess of \$500.00 in parts and labor must be coordinated with the COR prior to initiating repairs. All repairs will be recorded on appropriate forms provided or approved by the COR.

TP-TL-5.4 Cleaning, Washing, and Waxing: All vehicles shall be cleaned and waxed if appropriate, on an as-needed basis. Vehicles and boats shall be cleaned with detergents or other cleaners to remove tar, mud or other contaminants and rinsed thoroughly. Hosing down the interior is not permitted. All glass surfaces shall be cleaned with a glass cleaner manufactured for this purpose. Floor mats shall be removed, washed, and dried before replacing. Remove all trash from interiors, cabs and truck beds and disposed of in trash receptacles.

TP-TL-5.5 Inventories: Adequate inventory of vehicle parts and lubricants will be maintained to effect expeditious repair of vehicles. The Contractor's Inventory Control/Property Management Plan will ensure the tracking of all parts. The Government will perform inspections of the Contractor's inventory system.

TP-TL-5.6 Safeguarding Government Property: The Contractor shall cooperate with Government personnel in safeguarding Government property. The Contractor shall be responsible for reporting all acts of vandalism, larceny, pilferage or other damage upon discovery to the COR and appropriate local law enforcement agencies. The Contractor shall provide a full description of the security procedures and safeguards that will be established to protect equipment, materials, tools, and other resources from loss or damage.

TP-TL-5.7 Disposal of Hazardous Material: The Contractor shall make every effort to purchase oil, lubricants, cleaning solvents, herbicides, and any other hazardous material in containers that are returnable. The Contractor shall dispose of all waste oil products and contaminated cleaning materials in accordance with TP-T-2.13.

TP-TL-5.7.1 Disposal records shall be maintained IAW TP-T-2.13.

Technical Provisions
Section TP-TL-6
MAINTENANCE OF COMMUNICATION
EQUIPMENT
Thurmond Project

TP-TL-6.0 Scope of Work: Furnish all labor, equipment and materials necessary to maintain and repair all project radios, Fax's, copiers, and to a limited degree phones. All maintenance will be performed in accordance with the original equipment manufacturers' specifications and procedure by competent service technicians, using equal or better quality parts than those being replaced. All improvements, upgrades, or configuration changes will be coordinated with the COR.

TP-TL-6.1 Radios: Periodically, radios shall be relocated from old to new vehicles or new radios shall be installed in new vehicles or buildings. All radios will be provided by the Government.

TP-TL-6.2 Routine Maintenance: Maintenance shall include but not be limited to, replacing defective parts in the project office base stations, batteries, antennas, repairing broken wires, modules and transistors, inserting new panel boards, etc.

TP-TL-6.2.1 Periodic inspection of and replacement of the towers radio components will be required. The steel tower is approximately 350 feet high.

TP-TL-6.3 Telephone Maintenance: Maintenance shall be limited to those maintenance or repair requirements that are not specifically covered under other IM administered contract. All maintenance needs will be coordinated with the IM prior to initiating maintenance. It is anticipated that the majority of maintenance and repair work will be performed by other contracts.

TP-TL-6.4 Copiers: Provide for the inspection and maintenance of office copy machines to include providing copy toner cartridges.

Technical Provisions
Section TP-TL-7
MAINTENANCE OF EARTHEN DAM, DIKES, RIP RAP, RAMPS,
BEACHES, BULKHEAD WALLS AND IMPACT SITES
Thurmond Project

TP-TL-7.0 Scope of Work: Inspect and provide all labor, management, equipment, supplies, materials, and vehicles needed to ensure that all boat ramps, berms, beaches, rip rap, bulkhead walls, impact sites and earthen dams are maintained in safe, attractive, and functional condition. Reference Appendices (A), and (E).

TP-TL-7.1 Earthen Dam: The Contractor will remove all shrubs and trees in excess of 24" high from the earthen embankment. All toe and other concrete ditches will be cleaned as necessary to remove unwanted vegetation and debris but not less than at least quarterly.

TP-TL-7.2 Riprap: All rip rapped areas at such locations as boat ramps, park shorelines, dikes, earthen dams, and the power plant tailrace shall be maintained free of all vegetation. This vegetation shall be cut to the height of the riprap or below. The Contractor shall not use herbicides unless approved by the COR. The Contractor shall also remove all litter, trash, garbage, animal carcasses and other debris from riprap areas. Debris, litter and other refuse resulting from this work shall be disposed of in an approved county landfill. During periods of low water, the Contractor shall pick up all scattered riprap along the shoreline adjacent to boat ramps and beaches and reposition or remove from the site.

TP-TL-7.3 Ramps: During periods of low water, or as directed by the COR, the Contractor shall remove all excess sand and gravel deposited on the ramp. Displaced surge stone along ramp edges shall be repositioned or replaced as appropriate.

TP-TL-7.4 Ramp Extensions: Launching ramps that have become unusable due to low water conditions shall be extended into the water adequately to ensure continued public use. The ramps shall be of the width of the existing ramp and shoulders filled with surge stone.

TP-TL-7.5 Beaches: During periods of low water, additional beach sand shall be placed as necessary to replenish sand lost because of fluctuating water levels and wave actions. All beaches shall be shaped, smoothed, and all vegetation removed prior to 1 APRIL to correct surface irregularities caused by sheet erosion, vehicles, and public use.

TP-TL-7.6 Bulkhead Walls: Occasional repairs will be necessary to bulkhead walls, generally consisting of replacing deteriorated 2x6 planking, posts or walers.

TP-TL-7.7 Surge Stone: Stone shall be placed along undermined bulk head wall foundations to control wave action erosion. Stone shall be placed against the existing wall and extended into the water at a 1 to 2 slope.

TP-TL-7.8 Impact Sites: All constructed picnic, and camping sites shall be maintained in a safe and usable condition. Impact Sites where wooden construction materials (cross ties) have decayed beyond the point of minor corrective maintenance, shall be completely replaced with 100% recycled landscape timbers as referenced in TP-TL-12.7. All total site replacements shall be brought to the attention of the COR in advance.

TP-TL-7.8.1 Construction shall be performed IAW Section TP-TL-12, Appendix (P) "Quality Standards" and Appendix (F).

Technical Provisions
Section TP-TL-8
MAINTENANCE OF SIGNS, BARRICADES,
GATES, WHEEL STOPS, POSTS AND FENCES
Thurmond Project

TP-TL-8.0 Scope of Work: Inspect and furnish all labor, equipment, materials, and supplies to maintain by repairing or replacing as applicable all signs, barricades, gates, bumpers, fences and posts. Reference Appendices (A) and (B).

TP-TL-8.1 Signs: The Contractor will maintain and/or replace damaged or defaced metal silk screened and/or die-cut lettered, traffic control, highway directional, project directional, informational, regulatory, and entrance signs as necessary. Stains and paints utilized will be as specified by the U.S. Army Corps of Engineers Sign Manual. All metal or High Density Overlay (HDO) signs will be procured from UNICOR, 320 First St., N.W., Washington, D.C., 20534.

TP-TL-8.1.1 The contractor will be requested to purchase and install various UNICOR signs of varying dimensions and design for installation. It is estimated that the average sign will cost approximately \$150.00.

TP-TL-8.2 Barricades: The Contractor will maintain all existing barricades on dead-end roads, closed roads and unauthorized access roads or sites across the project. Additional barricades will be erected upon request by the COR.

TP-TL-8.3 New Gates: The Contractor shall install new steel gates at locations as directed by the COR.

TP-TL-8.4 Repair Gates: The contractor shall maintain all project gates in safe and operable condition. Gates may require periodic adjustment to correct for sagging. Broken welds, hinges, and warning reflectors shall be replaced/repared, and gates will be repainted as necessary.

TP-TL-8.5 Bumpers: The Contractor will replace or reset as applicable, all existing deteriorated or dislodged railroad tie vehicle parking bumpers. Deteriorated ties shall be replaced with recycled plastic car stops. Repairs will consist of resetting sound and solid, but dislodged existing railroad ties.

TP-TL-8.6 New Bumpers: The Contractor shall install recycled plastic car stops at each designated parking space in newly constructed parking areas.

TP-TL-8.6.1 Railroad tie bumpers are installed end-to-end through out most recreation areas to control off road vehicle traffic. The contractor shall inspect and repair or replace all deteriorated or damaged ties as necessary.

TP-TL-8.7 Posts: The contractor shall repair, paint or replace as applicable, existing campground campsite marker posts located at each camp site. All replaced posts shall be installed IAW the Corp's Sign Manual.

TP-TL-8.8 Fences: Repair, replace or relocate as applicable damaged chain link fencing. Existing fencing is approximately 8' high with two to three strands of barbed wire.

Technical Provisions
Section TP-TL-9
MAINTENANCE AND REPAIR OF WALKWAYS,
ROADS AND PARKING AREAS
Thurmond Project

TP-TL-9.0 Scope of Work: Maintain all roads, parking areas, trails, walkways, and foot bridges. Reference Appendices (A) and (G).

TP-TL-9.1 Striping Paved Roads: Restripe faded centerlines, parking lanes and symbols. The pavement shall be cleaned of dirt and debris to the edge of the pavement, prior to painting. Lines shall be straight with defined edges and without over spray. New areas paved during this contract will also be required to be painted.

TP-TL-9.2 Asphalt Repair: Replace areas of deteriorating asphalt roads and resurface areas where asphalt has been removed for construction of facilities listed in other requirements of this contract.

TP-TL-9.2.1 Where asphalt is removed for replacement, sunken road areas, pot holes or root damaged asphalt shall be cut out, base material replaced if necessary, compacted, primed and patched with bituminous asphalt.

TP-TL-9.3 Roadway cleaning: Loose pine straw, leaves and other organics shall be removed from all Day Use and Campground paved roads during the period of 15 February through 30 March.

TP-TL-9.4 Unpaved Roads: Pull ditches as necessary and open culverts to correct or control drainage, erosion or road surface problems.

TP-TL-9.5 Stone Walkways: Replace all missing stone, (crusher run and/or screenings), resulting from sheet erosion or fluctuating water levels. Irregularities will be smoothed out to ensure safe visitor use. Grass, trees and weeds shall be removed from all stone walkways as required but not less than annually.

TP-TL-9.6 Wooden Walkways: Replace or repair as necessary all deteriorated or broken decking boards, beams, posts or attachments to maintain the walkways in a safe condition.

TP-TL-9.7 Asphalt and Concrete Walkways: Repairs include replacing sections that are severely cracked or damaged.

TP-TL-9.8 Asphalt Crack Sealing: Inspect, prioritize and seal cracks in existing asphalt roadways. Sealant shall be as specified by GA DOT Specifications for Roads.

Technical Provisions
Section TP-TL-10
MAINTENANCE OF WILDLIFE OPENINGS AND NESTING BOXES
Thurmond Project

TP-TL-10.0 Scope of Work: The Contractor shall provide all labor, equipment, materials and supplies for the planting of wildlife openings, bluebird, squirrel and duck nesting boxes, and beaver pond maintenance. Site locations and individual plot acreages will be provided by the COR.

TP-TL-10.1 Sub Soiling: Annually, or as directed by the COR, food plots shall be broken with a sub-soiler or other implement to a depth of 12" to 18" prior to spring planting. Plow spacing shall be on 2' centers for the length and width of the plot.

TP-TL-10.2 Plantings: The contractor shall plant wildlife openings for the Fall season from 1 SEPT. through 1 NOV. Spring planting shall be accomplished from 15 March through 30 April. The contractor shall evaluate soil moisture content and general soil conditions prior to planting. Appropriate schedule adjustments due to environmental conditions should be made to obtain adequate germination.

TP-TL-10.2.1 All areas shall be plowed and/or disked to a depth of not less than six inches until no more than approximately 30% of the soil surface is covered with organic materials, prior to seeding. Approximately 90% of the prepared soil surface shall have dirt clots less than three inches across.

TP-TL-10.2.2 The Contractor shall apply a premium grade proprietary brand fertilizer at rates necessary to achieve intended and optimum results. Plot soil samples should be taken to establish fertilizer composition in advance of each seasonal planting. Fertilizer shall be applied independently from the seed and by mechanical means capable of even distribution. Hand application will not be acceptable.

TP-TL-10.2.3 All seed shall be certified. Seed tags which give germination, percentages of inert ingredients, and weed seed content shall be subject to inspection by the COR. Seed shall be inoculated as required.

TP-TL-10.2.4 The contractor shall apply all seed at the variety and application rates as specified in Appendix H. Seed shall be broadcast independently from the fertilizer and by mechanical means capable of accurately distributing determined measures of seed over the seeded area. Hand distribution will not be acceptable. After seed application, a drag harrow or other implement manufactured for that purpose, shall be dragged over the food plot to ensure soil contact and correct seed planting depth.

TP-TL-10.3 Liming: Generally, agricultural lime will be required to be applied at a rate of 2500 pounds per acre. Soil samples of some food plots may indicate a necessary adjustment to that rate. Lime may be applied at the time of soil tilling or may be applied prior to the planting season without immediate tilling. The COR will identify annually the wildlife openings from which soil samples will be required and analyzed. Annual soil survey reports or specific crop type for individual plots may call for use of specialized fertilizer applications.

TP-TL-10.4 Mowing: Selected permanent food plots, pastures, or other permanent openings shall be mowed in late August as directed by the COR.

TP-TL-10.4.1 Roads leading to wildlife openings shall be mowed during the spring and fall planting seasons.

TP-TL-10.5 Herbicide Application: Specific food plots will be identified and required to be herbicided to control weeds and undesirable grasses. Application rates of herbicide shall be as recommended by the chemical manufacturer and as indicated in the contractors approved pesticide plan.

TP-TL-10.6 Beaver Pond Management: The Contractor shall drain up to three beaver ponds during July of each year. The ponds shall be planted by hand with Japanese millet and a three-log drain installed. Once the crop has

matured the three-log drain shall be removed to allow the beaver to repair the dam and flood the pond. Periodic inspection will be necessary in order to prevent flooding of the beaver pond area before the seed crop has matured.

TP-TL-10.7 Nesting Boxes: All bluebird, duck and squirrel nesting boxes shall be inspected and cleaned of old nesting materials between 1 DEC and 15 FEB. each year. Duck and squirrel nesting boxes shall be refilled with three inches of cedar shavings. Damaged boxes should be repaired or replaced as necessary. Lumber utilized for repairs or box replacement will be rough-cut cedar or cypress. The contractor will be provided with records as to locations of all boxes. Each year, some boxes may be relocated to a more suitable location during the winter season.

TP-TL-10.7.1 Not later than 31 March of each year, the contractor shall provide to the COR, wildlife nesting box data for all boxes to include, site location, species using the nests, damage and repairs made and total program cost to include labor and materials.

TP-TL-10.8 Records: Means shall be provided to accurately calculate and measure seed quantities as specified in Appendix (H) of the specifications to within one pound of accuracy. Application of both seed, fertilizer and lime shall be recorded on the form as provided in Appendix (H), and provided to the COR with daily QC reports within five days of planting. The report shall be completed at the plot site by the applicator upon completion of the individual food plot. A final report shall be provided to the COR within two weeks of completion of each seasonal planting, identifying quantities of seed applied by type, and quantity of fertilizer with costs for each.

Technical Provisions
Section TP-TL-11
BOUNDARY LINE MAINTENANCE
Thurmond Project

TP-TL-11.0 Scope of Work: The Contractor shall provide all labor, equipment, materials, and supplies needed to brush and repaint project boundary line. Some areas of Government boundary line will require coordination with private property owners for permission to access.

TP-TL-11.1 Brushing: A true line will be cleared of all vegetation to a width of not less than three feet, and a height of not less than six feet with the exception of marked line trees or vegetation on private property.

TP-TL-11.1.1 To the degree possible and practical, brush shall be cut with motorized brush trimmers using circular saw blades to eliminate or reduce impalement hazards at the ground level. All trees and bushes should be cut as low to the existing soil level as possible to eliminate tripping hazards.

TP-TL-11.1.2 Trees within the brushed area limits shall be prepared and painted with a band of paint as specified in Appendix (J).

TP-TL-11.2 Bare Areas: Where line of sight does not afford seeing a boundary line marking in either direction due to the absence of trees or existing man made markers, pressure treated ground contact 4x4 wood post will be installed and painted in undeveloped areas.

TP-TL-11.3 Carsonite Markers: In areas adjacent to developed property, brown carsonite markers with the appropriate decal shall be placed at intervals adequately to see markers in either direction of the line.

TP-TL-11.4 Witness Posts: The Contractor shall locate or report as applicable, missing corner pins, witness posts/trees and apparent encroachments. Witness Posts will be replaced only as directed by the COR.

TP-TL-11.4.1 Missing or disturbed corners will be reported to the COR. Metal detectors should be used in an effort to locate pins prior to notifying the COR.

TP-TL-11.4.2 The Contractor shall notify the COR when a facility or structure appears to be located on the public lands or where soil or vegetation has been removed or disturbed.

TP-TL-11.5 Records: The Contractor shall provide weekly field reports of all work accomplished. These reports shall include location, length of line brushed and painted, missing monuments, pins, posts and sketches of apparent encroachments.

Technical Provisions
Section TP-TL-12
MINOR CONSTRUCTION AND
SHORELINE STABILIZATION
Thrumond Project

TP-TL 12.0 Scope of Work: Furnish all labor, equipment, supplies, and materials except for equipment identified as Government Furnished Equipment in TP-T-1.8, to construct gate houses, shelters, impact sites, bulkhead and diversion walls, boat docks and other recreational facilities around J. Strom Thurmond Project. Construction of operational facilities will be accomplished according to plans, specifications and or directions as provided by the COR. Construction techniques, types of materials, fit, finish, and quality standards will be established through preparatory and initial inspections as referenced in TP-T-2.2, and Appendix (P) Quality Standards.

TP-TL-12.1 Compliance and Referenced Documents:

- a. AR 190-51, Security of Army Property at Unit and Installation Level.
- b. AR 735-5, Basic Policies and Procedures for Property Accounting.
- c. AR 735-11, Accounting for Lost, Damaged, or Destroyed Property.
- d. DA Pam 710-21, Using Unit Supply System Manual Procedures.
- e. ER 700-1-1, USACE Supply Policies and Procedures
- f. EP 7151-2, A Guide to Effective Contractor Quality Control.
- g. Georgia DOT Standard Specifications for Roads and Bridges.

TP-TL-12.2 Installation of Utilities: The Contractor shall coordinate the purchase and installation of primary water, electrical and telephone utility services for new or existing park facilities, buildings and campsites. The Contractor will be provided, on a case-by-case basis, written guidance or drawings from the COR indicating utility specifications for park construction. Installation of utilities shall be in strict accordance with local utility codes.

TP-TL-12.2.1 Electrical meter installation and monthly service costs will be provided for by the Government.

TP-TL-12.3. Site Hookups: Individual site electrical and water hookups will be installed at each newly constructed campsite and at other locations as directed by the COR. The contractor shall provide the necessary drawings and application to the appropriate County or State agency as applicable for approval.

TP-TL-12.3.1 Application will be made to the appropriate County for the construction of new septic systems at newly constructed comfort stations, gatehouses, and other facilities requiring such systems.

TP-TL-12.4. Gate Houses: The contractor shall construct Park gatehouses of approximately 325 SQFT. Construction will consist of clearing, footings, concrete floors, wood framing, masonry veneer, all utility systems, interior finishes (GWB), operational cabinets, sidewalks, curb and gutter, asphalt resurfacing and landscaping.

TP-TL-12.5 Shelters: The contractor shall install Government purchased shelter's which consist of open side post and beam type pavilions of approximately 900 SQFT.

TP-TL-12.5.1 Construction will include the placement and finishing of concrete slabs and installation of utilities identified in TP-TL-12.2 above.

TP-TL-12.5.2 An impact site shall be constructed around the shelter building with recycled plastic materials as specified in TP-TL-12.7.

TP-TL-12.6 Docks: The contractor shall construct and install courtesy docks as directed by the COR. Docks shall be constructed of a painted steel super structure with adequate flotation billets and Recycled plastic decking and bumpers. Docks will be approximately 8'x 80' with concrete support abutments. Specifications and details will be provided by the COR as applicable for each location.

TP-TL-12.7 Campground Impact Sites: Impact sites shall be constructed in accordance with site drawings and specifications provided by the COR and IAW Appendix (F). Each campsite shall receive a stand-up grill, fire ring, lantern holder, utility table, and portable picnic table. Impact sites shall be constructed of 100% recycled materials. Campsites typically require 40 ties per site.

TP-TL-12.8 Picnic Impact Sites: Impact sites shall be constructed of 100% recycled materials as referenced above. Picnic Sites typically require 16 Ties per site. Each picnic site will receive a table, grill, trash can and holder.

TP-TL-12.8.1 The contractor shall perform all site work in conjunction with construction activities referenced above.

TP-TL-12.8.2 Suitable and compactable backfill materials is available on the Project borrow area, established near Scott's Ferry boat ramp area.

TP-TL-12.8.3 All fill and backfill materials shall be placed IAW Appendix (P) Quality Standards

TP-TL-12.9 Site Approach Roads: The contractor shall clear, cut, fill, and final grade site roads and parking lots for each campsite, dump stations, and other facilities which will require an approach road. Crusher run stone will be applied and final grades established. All shoulders will be top soiled, fertilized, seeded, and mulched IAW TP-TL-4 and Appendix (P) Quality Standards.

TP-TL-12.10 Impact Site Walkways: Site walkways will typically be 5 ft. wide and constructed of concrete. All concrete walks will be a nominal 3-½ in. thick and built to match the existing contour of the surrounding soil surface. All concrete edges against forms will be edged with a ¼ in. radius edger and the concrete finished to remove all edger tool marks. Construction and expansion joints will be placed as indicated in Appendix (D), (Sidewalks) and Appendix (P), Quality Standards.

TP-TL-12.11 Playgrounds: Playground structures will be installed, which will consist of one to five play units. The play units will be readily available commercial wood/metal assemblies.

TP-TL-12.11.1 An impact site consisting of recycled plastic landscape timbers shall be constructed around each play unit. Site drawings will be provided for each unit at by the COR. Typical sites require 100, 8' ties.

TP-TL-12.12 Bulletin Boards: Bulletin boards will be constructed and installed IAW Appendix "I".

TP-TL-12.13 Water Diversion Structures: Beach erosion resulting from excessive water runoff will be controlled by the construction of diversion structures. The typical structure will be constructed IAW Appendix (E) "Diversion Wall".

TP-TL-12.14 Bulkhead Walls: Bulkhead walls will be constructed at locations determined by the COR to control shoreline erosion. Construction will be IAW Appendix (E) "Bulkhead Wall". Backfill shall be placed, and compacted IAW Appendix (P), Quality Standards, "Excavation and Backfill". Top soil shall be applied 4 in. deep, fertilized, limed, seeded, and mulched IAW TP-TL-4.

TP-TL-12.14.1 Surge stone shall be placed along water side of all new wall as indicated in Appendix E. Stone shall be placed to three feet high on the wall with an approximate 1 to 2 slope.

TP-TL-12.15 Rip Rap: Recreational areas experiencing shoreline erosion shall be protected by the placement of type (1) rip rap as directed by the COR.

TP-TL-12.16 Plant Materials: Plant and maintain new ground covers, trees, and shrubs in accordance with plans and/or field staking provided by the COR.

TP-TL-12.16.1 Seeding of all disturbed areas adjacent to campsites and picnic sites will be accomplished in accordance with Section 4, Maintenance of Grassed and Landscaped Areas.

TP-TL-12.17 Fencing: Chain link or other fencing as coordinated will be installed at locations for the protection of various Government facilities.

TP-TL-12.18 Asphalt Paving: Limited areas within the project recreational area limits will be periodically identified for paving. Campsite entrances, short gravel roads experiencing excessive erosion and areas needing resurfacing will be paved IAW the above referenced DOT specification. Road widths and radiuses will be individually laid out prior to placement.

Technical Provision
Section TP-TL-13
MAINTENANCE OF FISH HABITAT, AQUATIC PLANT CONTROL AND
BEST MANAGEMENT PRACTICES
Thurmond Project

TP-TL-13.0 **Scope of Work:** The contractor shall furnish all labor, equipment, materials and supplies for the maintenance of fish habitat, aquatic plant control and forestry best management practices as prescribed herein.

TP-TL-13.1 **Fish Attractor Maintenance:** During the month of November, the COR will identify (Deep Water), (Bank Fishing), and (Fishing Pier) areas where brush and trees will be moved to and submerged as fish attractors. All trees must be in place NLT the end of February. Trees and brush shall be adequately anchored to the lake bottom to prevent their shifting or floating to the surface. The contractor may either cut cedar trees from designated areas on project property, or utilize trees generated from the "Christmas Tree Program".

TP-TL-13.1.1 During the month of January, the contractor shall transport discarded Christmas trees from central drop points around the Project or in Augusta, Georgia, to public boat launching ramps around the Thurmond Project, as needed. The average travel distances, to the individual ramps is approximately 45 miles. Trees will be unloaded adjacent to the launching ramp, but out of the traffic lanes for public use as fish attractors.

TP-TL-13.1.2 During the month of March, all unused Christmas trees still at ramp areas shall be removed, disposed of and the parking lot and adjacent area cleaned of debris.

TP-TL-13.2 **Shoreline Fish Attractors:** Generally, between the months of December and February, the COR will identify a variety of standing trees adjacent to the lakes shoreline to be felled into the water for fish attractors. Each tree shall be securely anchored to prevent movement into the navigable waters.

TP-TL-13.3 **Aquatic Plant Management:** The COR will identify specific areas around the project to be treated to eliminate aquatic weeds, particularly Hydrilla. The contractor shall apply Komeen or other aquatic herbicides, adjuvants, and surfactants as specified by the COR. Generally, herbicides will be applied at the maximum label rates. The exact application rate will be coordinated with the contractor at the time of treatment.

TP-TL-13.3.1 Herbicide application shall be accomplished by the use of an acceptable system capable of injecting the chemical below the water surface directly into the plant bed. Prior to application, the contractor shall provide to the COR the proposed method of application for approval.

TP-TL-13.4 **Best Management Practices:** The contractor shall clean logging roads and loading decks of debris, scarify, fertilize and seed the affected area with bahai grass. Seed shall be applied at a rate of 30 Lbs/acre. Fertilizer, 10-10-10 shall be applied at a rate of 500 lbs/acre.

TP-TL-13.5 **Culverts and Water Bars:** The contractor shall place steel culverts and construct water bars in locations as directed by the COR to control erosion.

TP-TL-13.6 **Seedlings:** The contractor shall mass plant containerized, second generation improved loblolly pine or longleaf pine, in locations as directed by the COR. Areas will generally require planting by hand.

TP-TL-13.7 **Forestry Maintenance:** The contractor shall provide equipment and personnel in support of project forestry operations by providing a minimum of two personnel and fire plow support, during government initiated prescribed burns. Contractor shall plow firebreaks as directed by the COR prior to initiating prescribed burns.

TP-TL-13.8. Pre Commercial Thinning: The contractor shall remove naturally regenerated but undesirable hardwoods such as elm and sweet gum saplings up to 15 feet in height as well as smaller pines. Herbicides shall be applied as appropriate to areas as identified by the COR.

Technical Provisions
Section TP-TL-14
Navigational Buoy Maintenance
Encroachment and Refuse Removal
Thurmond Project

TP-TL-14.0 Scope Of Work: The contractor shall provide labor, materials, and equipment to perform regularly scheduled inspections of existing Channel, Danger, Shoal, Slow No Wake, Fish Attractor, Beach , Shoreline Restricted Area lines, and other navigational aids as necessary on Thurmond Lake, below Thurmond Dam and at New Savannah Bluff Lock and Dam.

TP-TL-14.1 Buoy Maintenance: All navigational aid buoys determined to be in need of repair during the above regular inspection shall be repaired as applicable, to maintain the system in a usable condition. Repair may constitute repainting of the entire buoy or portions thereof. It may also include the replacement of reflective tape, removal of bird droppings and/or replacement of the anchoring system.

TP-TL-14.1.2 Buoys displaced by drifting from high waves during windy conditions, or buoys broken loose from their anchoring system, shall be relocated as closely back to their originally placed positions as possible. Methods should be employed to ensure individual marker locations or coordinates are recorded for future positioning if necessary.

TP-TL-14.1.3 New Savannah Bluff Lock and Dam: Buoy lines are located above and below the Lock and Dam. Both lines consists of 36 in. diameter X 48 in. long buoys attached to a 5/8 in. steel cable. Each line extends across the entire river and is approximately 300 lf in length. Maintenance shall consist of as a minimum, removal of lodged debris, reconnection of the line, replacement of defective buoys, and regular lubrication of the bearing through installed grease fittings.

TP-TL-14.2 Buoy Replacement: Buoys which are damaged beyond repair or are missing, shall be replaced with buoys of like size and color with appropriate markings, and placed as detailed above.

TP-TL-14.3 Swim Beach Lines: Swim beach buoys lines and their depth gauge posts, shall be repaired or replaced as necessary with like materials.

TP-TL-14.3.1 A complete inspection of all designated swim beaches shall be performed and appropriate repairs made prior to April 1, of each year.

TP-TL-14.4 Encroachment and Refuse Removal: Periodically, property encroachment or public refuse will require dismantling and/or removal from government property. Removal of abandoned or impounded property will be coordinated with the COR and appropriate Ranger personnel for disposition. A Corps employee will be on site during removal activities to coordinate with public personnel if necessary. Items to be removed may include abandoned boat docks, walkways, poles, lines, boats, and other items.

Technical Provisions
Section TP-TL-15
EMERGENCY SPILL RESPONSE SUPPORT

TP-TL-15.0 Scope of Work: The contractor shall provide basic and full level emergency spill response for spills of any substance(s) spilled at locations (1) upstream within the project boundaries or (2) downstream of the project when caused by a Corps of Engineers facility or activity.

TP-TL-15.1 Applicable Documents:

1. J. Strom Thurmond Project Spill Prevention and Response Plan, including Appendix L(References), July 1996
2. Corps of Engineers Safety Manual, EM 385-1-1
3. All State and Federal Regulations

TP-TL-15.2 Contractor Spill Response Services: The contractor shall provide Basic Level Emergency Spill Response immediately and Full Scale Emergency Spill Response within Three(3) hours of the Corps' request for response.

TP-TL-15.2.1 The Corps will maintain a spill response coordinator as the Government's On Scene Incident commander (OSIC); the Corps OSIC has the option of delegating that role to the contractor at their discretion. The Contractor shall retain full authority over contractor personnel and will direct all contractor employee actions without Government interference regardless, of who the OSIC is.

TP-TL-15.2.2 Immediate Spill Response, will be in a defensive fashion, functioning to contain the release from a safe distance, keep it from spreading and prevent exposures. (First Response Operations Level)

TP-TL-15.2.3 Full Scale Response, (within 3 hours) will include more aggressive responses including approaching and then plugging, patching, or otherwise stopping a release. The contractor shall provide sufficient materials and personnel to begin immediate control, containment and cleanup of any spilled substance or contamination.

TP-TL-15.2.4 The Corps will provide all known information regarding the spill or potential spill to facilitate contractor providing an appropriate response. The contractor shall assess project's worst case scenario spills and develop a plan that will address the required response/cleanup effort. The contractor's plan shall:

1. Complement project's Spill Prevention and Response Plan
2. Take into consideration environmental and weather factors so that, under the worst conditions, the response provided by the contractor will be adequate
3. Estimate the maximum number of contractor man-hours needed to address the project's worst case scenario
4. Define what response equipment and materials(including quantities) will be required to respond to the project's worst case scenario spill and how it will be contained in an emergency
5. Define what level of spill response to which on site and supplemental contractor personnel must be trained
6. Identify how the contractor will obtain appropriate trained personnel and provide proof of training
7. Address all required Site Safety and Health Plan requirements

TP-TL-15.2.5 After the emergency response is complete and the spill is contained and/or under control, the contractor shall provide personnel and equipment, for prompt clean-up of the spilled substance. The contractor will maximize the speed of containment and cleanup actions so as to enable the project return to normal functions as soon as possible.

TP-TL-15.2.6 Within 24 hours of the Corps' request for response, the contractor shall be on spill site with sufficient materials, equipment, and qualified personnel to begin immediate "Limited Scale Rapid Response Support" to the problem. The corps' request will occur when there is a need for a rapid but non-emergency response where technical expertise and/or protective equipment are needed. Response may be to a spill or potential spill of or exposure to a hazardous substance, or to an unknown substance with the potential to be hazardous.

TP-TL-15.2.7 Rapid Response Support may include all or part of the following;

1. Isolation of the substance and/or it's container
2. Sampling of the substance
3. Proper containerization of the substance and/or its container
4. Relocation of the substance or its container to a more appropriate storage location (pending disposal)
5. Proper disposal of the substance as defined by representative of US Army Corps of Engineers

TP-TL-15.2.8 The contractor shall select the most practical and environmentally appropriate method for waste disposal. The recycling and/or reuse of waste, is the preferred method of disposal. The contractor shall provide Corps of Engineers with written proof that selected disposal facility and transporter possess all required permits to handle/transport the specific waste to be handled. Unless waste are directly transported to the disposal facility the same day, the contractor shall provide emergency phone number services for manifest/DOT requirements. No transportation shall occur from a destination disposal facility until the wastes are rendered non-regulated and non-hazardous. The contractor will assure certificates of disposal are provided to the Corps for project records. No actual treatment, transportation, or disposal work will proceed until the contractor has received approval to proceed from the project Environmental Compliance Coordinator.

TP-TL-15.3 Annual Spill Response Exercise: These exercises will be conducted in coordination with project spill response coordinator. The contractor will focus exercise on a potential spill event that could potentially occur on project facilities or lands. Exercises may range from mock paper exercise with minimum manpower required of the contractor to a full scale exercise involving a significant amount of equipment, manpower, and materials.

TP-TL-15.3.1 A Site Safety and Health Plan (SSHP) is required to execute Emergency Response and/or Rapid Response. The SSHP will be part of the contractor's required plan and will address the hazards and safety of the contractor and/or his employees in undertaking spill response work in accordance with applicable Corps of Engineers, Federal, and State Standards and requirements.

Section E - Inspection and Acceptance

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

CLIN	INSPECT AT	INSPECT BY	ACCEPT AT	ACCEPT BY
0001	N/A	N/A	N/A	N/A
0001AA	N/A	N/A	N/A	Government
0001AB	N/A	N/A	N/A	Government
0002	N/A	N/A	N/A	Government
0002AA	N/A	N/A	N/A	Government
0002AB	N/A	N/A	N/A	Government
0003	N/A	N/A	N/A	Government
0003AA	N/A	N/A	N/A	Government
0003AB	N/A	N/A	N/A	Government
0004	N/A	N/A	N/A	Government
0004AA	N/A	N/A	N/A	Government
0004AB	N/A	N/A	N/A	Government
0005	N/A	N/A	N/A	Government
0005AA	N/A	N/A	N/A	Government
0005AB	N/A	N/A	N/A	Government

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52.246-5 INSPECTION OF SERVICES--COST-REIMBURSEMENT (APR 1984)

(a) Definition. "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the 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 services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the

contract for default.

(End of clause)

Section F - Deliveries or Performance

DELIVERY INFORMATION

CLIN	DELIVERY DATE	QUANTITY	SHIP TO ADDRESS	UIC
0001	02-MAY-2002	1	N/A FOB: Destination	
0001AA	N/A	N/A	N/A	N/A
0001AB	N/A	N/A	N/A	N/A
0002	N/A	N/A	N/A	N/A
0002AA	N/A	N/A	N/A	N/A
0002AB	N/A	N/A	N/A	N/A
0003	N/A	N/A	N/A	N/A
0003AA	N/A	N/A	N/A	N/A
0003AB	N/A	N/A	N/A	N/A
0004	N/A	N/A	N/A	N/A
0004AA	N/A	N/A	N/A	N/A
0004AB	N/A	N/A	N/A	N/A
0005	N/A	N/A	N/A	N/A
0005AA	N/A	N/A	N/A	N/A
0005AB	N/A	N/A	N/A	N/A

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52.011-4002 CONTRACT PERIOD

The contract period shall begin upon the date of contract award and shall continue for a period of (1) year from that date. The Government reserves the right to extend this contract for four (4) additional one year option periods.

52.242-15 STOP-WORK ORDER (AUG 1989) - ALTERNATE I (APR 1984)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of clause)

Section G - Contract Administration Data

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52.232-4011 METHOD OF PAYMENT

(a) The Contractor shall submit to the Contracting Officer's Representative, in such form and reasonable detail as the COR may require, four copies of his invoice for pay period supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost, in accordance with Section I, Contract Clauses.

(b) The Contractor shall submit payrolls in support of invoices.

(c) Promptly after receipt of each invoice or voucher and statement of the cost, the Government shall, except as otherwise provided in this contract, and subject to the provisions of (d) below, pay to the Contractor the cost of such services as determined by the Contracting Officer to be allowable in accordance with Part 31, subsection 31.2 of the Federal Acquisition Regulation (FAR) as in effect on the date of this contract, subject to such further definition and limitations as may be included in this contract, and a pro rata share of the base fee.

(d) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices and statements of cost audited. Each payment made shall be subject to reduction for amount included in the related invoice or voucher which is found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for over-payment, or increased for under-payment, on preceding invoices or vouchers.

(End of clause)

52.232-4012 PAYMENT ADDRESS

(a) Submit invoices to the following address:

USACE, J. Strom Thurmond Project
Attn: OP-T/Ed Bouse
Route 1, Box 12
Clarks Hill, SC 29821

(b) Payment will be made by:

U.S. Army Corps of Engineers Finance Center
Mail Stop 322
7800 Third Avenue
Millington, TN 38054-8001

(End of clause)

52.232-5002 CONTINUING CONTRACTS (ALTERNATE) (MAR 1995)--EFARS

(a) Funds are not available at the inception of this contract to cover the entire contract price. The sum of \$1000.00 has been reserved for this contract and is available for payment to the contractor during the current fiscal year. It is

expected that Congress will make appropriations for future fiscal years from which additional funds, together with funds provided by one or more non-federal project sponsors will be reserved for this contract. The liability of the United States for payments beyond the funds reserved for this contract is contingent on the reservation of additional funds.

(b) Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not be considered a breach of this contract, and shall not entitle the contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs (e) and (h) below.

(c) The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The contracting officer will promptly notify the contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.

(d) If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the contractor shall give written notice to the contracting officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under this contract during that fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.

(e) No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. If and when sufficient additional funds are reserved, the contractor shall be entitled to simple interest on any payment that the contracting officer determines was actually earned under the terms of this contract and would have been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97, as in effect on the first day of the delay in such payment.

(f) Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the contractor to any price adjustment under a "Suspension of Work" or similar clause or in any other manner under this contract.

(g) An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

(h) If, upon the expiration of sixty (60) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the contractor, by written notice delivered to the contracting officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. Such a termination shall be at no cost to the Government, except that, to the extent that additional funds to make payment therefore are allocated to this contract, it may be treated as a termination for the convenience of the Government.

(i) If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the contractor because of work performed and to be performed under this contract during the fiscal year, the Government reserves the right, after notice to the contractor, to reduce said reservation by the amount of such excess.

(j) The term "Reservation" means monies that have been set aside and made available for payments under this contract.

(End of clause)

252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting

officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

Section H - Special Contract Requirements

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52.0200-4115 WAGE RATES (CESAS-CT FEB 95) |

U.S. Department of Labor Wage Decision Nos. 1994-2135, Rev. No.19 dated 05/28/2002, 1994-2479, Rev. No. 20 dated 06/05/2002, 2002-0221, Rev. No. 2 dated 08/13/2002, GA020060 dated 03/01/2002, SC020010 dated 03/01/2002, GA020002 dated 03/01/2002, and SC020001 dated 03/01/2002 shall be applicable to any contract resulting from this solicitation. These rates and benefits are the minimums to be paid employees hereunder.

52.200-4501 EQUIPMENT AND OPERATING PERSONNEL

The Contractor, in entering into the contract, shall have available during the contract period, the necessary equipment and qualified personnel to perform the services provided for in these specifications. If, in the opinion of the Contracting Officer or his authorized representative, any item of equipment or any of the personnel is considered unfit or unqualified for the performance of the services herein specified, the contractor shall, within three (3) calendar days after receipt of written notification of such deficiency, replace the unsatisfactory equipment or personnel by equipment or personnel to the satisfaction of the Contracting Officer or his authorized representative.

52.216-4005 CONTRACT FEE

The amount of the base fee shall not exceed three percent (3%) of the estimated cost.

- (a) Fee may be earned by the contractor on the basis of its performance during the period of performance utilizing a scale of converted weighted points from zero to one-hundred into percentages of available award fee.
- (b) Performance Monitors will monitor, evaluate and assess contractor performance and submit a monthly report to the AFEB. Within seven calendar days after the end of each month or evaluation period, the Contractor may submit an evaluation of his performance for consideration by the AFEB.
- (c) Performance Evaluation Cycle. The AFEB will meet after the end of each evaluation period and consider all performance information it has obtained. The AFEB will summarize its findings and make a recommendation to the AFDO.
- (d) Award Structure. The Contractor's performance will be evaluated for the periods previously referenced. The performance evaluation criteria will be as stated in the Award Fee Plan.
- (e) Special Factors. The Contractor shall submit invoices for the award fee to which he is entitled immediately upon written notification by the Contracting Officer.
- (f) Payment of any Award Fee to the Contractor hereunder, as determined by the Fee Determining Official, shall not be subject to the clause of the contract entitled "Allowable Cost and Payment" and "Termination".

52.216-4006 PERFORMANCE AWARD FEE EVALUATION PLAN

General: An award Fee Evaluation Plan is hereby established for determination of performance award fee payable under this contract. The payment of any award is contingent upon compliance with contractual requirements and performance at a numerical rating above 70 points. It is the Government's desire that the Contractor perform contract services in such a manner as to warrant the highest rating and award fee. Award fee determination will be made every three months to cover performance during the preceding three month period.

(B) Procedures:

(1) Award Fee Determination Board: An Award Fee Evaluation Board (AFEB) composed of selected technical and administrative personnel of Savannah District, Corps of Engineers, will evaluate the Contractor's performance as related to the criteria listed herein. Once each three months, the AFEB will submit a formal evaluation report to the AFDO. The AFEB report will include a recommendation as to the numerical grade and adjective rating to be assigned which shall be a measure of the Contractor's performance for the three month period.

(2) Award Fee Determination Official: An Award Fee Determination Official (AFDO) will be appointed by the Contracting Activity. The AFDO will review the AFEB's report and take such other action and consider such other fact pertinent to the Contractor's performance as is required to determine the numerical grade, the adjective rating, and the amount of the performance award fee for the evaluation period under consideration. The Contracting Officer will notify the contractor, in writing, of the AFDO's decision. The Contractor will signify acceptance by submitting an invoice in accordance with the Contracting Officer's instructions.

(C) Evaluation Criteria, Grades and Definitions: The Contractors performance will be graded using the definitions and criteria presented below. A rating will be assigned for each major evaluation criterion for each evaluation period. The performance criteria and weightings will be applied to arrive at a weighted score. The Government may alter the evaluation plan unilaterally when considered necessary. The Contractor will be furnished revised evaluation criteria at least 30 days in advance of the evaluation period covered by such plan.

Symbolic (or Adjectival)		Range of Performance
<u>Grade</u>	<u>Description</u>	<u>Points</u>
Below Average	Performance is unacceptable or barely meets the minimum requirements and is generally unsatisfactory.	0 – 70
Average	Contractor has met contract requirements in a satisfactory manner. Performance is better than the minimum requirements. Areas of deficiency are offset by areas of good performance.	71 – 85
Above Average	Performance is above average in most respects and approaches the best that could be performed. Greatly exceeds an average level of performance. Areas of deficiency are very few and	86 - 100

relatively unimportant.

(D) Performance Criteria

Area No. 1 – Management

- (a) Staffing and Personnel Training: Contractor's personnel levels are adequate but not excessive to ensure work schedule completions. Training and applicable employee certifications are provided or obtained to ensure quality performance.
- (b) Efficiency: Management's ability to ensure completion of contract requirements and work assignments as established in work plans and approved schedules, through adequate task supervision and control of non-productive time.
- (c) Problem Resolution and Communication: Ability of the contractor to determine necessary work requirements for the maintenance of all project facilities without Government direction or request. Thoroughness with which the contractor communicates determined maintenance needs and corrective actions to Government personnel, through work schedules, conferences and documentation. Willingness of management to initiate corrective actions based on CQC recommendations. Cooperation of the contractor to address contractual matters through designated chain's of command.
- (d) Budget Programming and Cost Control: The contractors efforts and ability to project and control costs of scheduled work. Thoroughness with which the contractor is able to identify cost overrun and underrun.
- (e) Program Implementation: Effectiveness with which the contractor stresses, implements and enforces their security, purchasing, pesticide, accident prevention, and other approved plans.
- (f) Property Control: The contractor's effectiveness in implementing a property accountability system to ensure security, authorized usage and accountability for government furnished and contractor owned equipment and material inventories.

Area No. 2 - Contractor Quality Control

- (a) Three Phase Inspection System: Thoroughness with which the CQC organization implements the three phase inspection system. Effectiveness of CQC testing to ensure compliance with established task performance standards and requirements.
- (b) Quality Control/Management Communication: Thoroughness with which the CQC organization advises management of inspections performed resulting in positive performance, as well as systemic problems.
- (c) Reporting And Documentation: Thoroughness with which the CQC staff documents various inspections, tests and evaluations performed. Willingness to document deficient as well as acceptable performance with recommended corrective action. Thoroughness and promptness with which management's directed corrective action is documented.
- (d) Inspections: Thoroughness and adequacy of inspections to ensure compliance with approved plans, work schedules and quality standards. Overall effectiveness of CQC plan.

Area No. 3 – Performance of Work

- (a) Quality: Compliance with contract specifications, quality standards, applicable codes, work procedures and safety requirements as established at Preparatory and Initial Inspections. Analysis of employee proficiency through their selection and use of materials, tools and equipment to effect efficient and timely quality task performance.
- (b) Protection of Government Property: Work crews demonstration of care to avoid damaging existing facilities, vegetation and equipment.
- (c) Consideration to Public: Work crews courteous response to the public, other Government contractor's and Government personnel during performance of their duties.

End of Section

52.228-4002 REQUIRED INSURANCE (FEB 1987 SAS) (Ref. FAR 28.307)

(a) The Contractor shall procure and maintain during the entire period of his performance under this contract the following minimum insurance:

Comprehensive and Employer's Liability Insurance in the amount required by the State law in which the work is to be performed under this contract.

Comprehensive General Liability Insurance in an amount not less than \$500,000 per accident.

Automobile Liability Insurance: \$200,000 per person and \$500,000 per accident for bodily injury liability and \$20,000 property damage liability.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of the above-required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation, or any material change in the policies adversely affecting the interests of the Government in such insurance, shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than 30 days after written notice thereof to the Contracting Officer.

(c) The Contractor agrees to insert the substance of this clause, including this subparagraph (c), in all subcontracts hereunder.

(End of clause)

52.231-4001 CONTRACTOR FURNISHED EQUIPMENT AND VEHICLES

(a) Except as specified at Section C, the Government does not intend to purchase, furnish nor own equipment and vehicles during the performance of this contract. These items will be contractor furnished and contractor owned and the Government will reimburse the Contractor for all reasonable ownership and operating costs.

(b) Ownership costs shall include allowances for depreciation (straight line), and may include cost of facilities capital as determined by the provisions of FAR. The Government will only allow reimbursement for depreciation based on equipment life expectancy as determined by the equipment manufacturer or other source acceptable to the Contracting Officer. The depreciation allowance for fully depreciated equipment and vehicles shall not exceed 50% of the normal depreciation allowance.

(c) License, fuel permits, taxes, storage, and insurance costs are considered indirect costs and shall be reimbursed

as such.

(d) If the Contractor leases equipment and vehicles, the government will pay all reasonable lease costs as determined by the Contracting Officer. A copy of the lease shall be furnished to the Contracting Officer's Representative within five (5) working days after the lease is consummated.

(e) Excessive stand-by costs, as determined by the Contracting Officer, will not be allowed. Stand-by time (and the costs thereof) are defined as those periods during which equipment is kept on project in an idle capacity in readiness for performance of tasks.

(f) The Government reserves the right to approve all equipment and vehicles prior to their use on the work site. All such equipment and vehicles shall be in good working order, be mechanically/electrically sound, and owned or controlled by the contractor or his subcontractor.

(g) A vehicle log shall be maintained for each piece of equipment and each vehicle that uses either gasoline, diesel fuel, batteries, and/or tires. This log shall, as a minimum, show the date, mileage/hours, fuel quantity, batteries, and tires that were added.

52.231-4002 JOB ORDER ACCOUNTING SYSTEM

The contractor shall establish a cost scheduling and accounting system for the projection of annual and monthly costs, by Technical Provision, for the contract. The following shall be provided to the COR:

Annually:

a. Spreadsheet formatted annual budget with projected monthly costs by TP, including TP-T-1 and 2, for the respective contract year. Budgeted costs should reflect all anticipated costs for the performance of maintenance and minor construction as specified and required by the contract. Budgeted monthly costs should be in consonance with work activities outlined and planned in the Annual Work Plan, reference TP-T-2.6.1.

Monthly:

a. A budgeted projection of costs by Technical Provision, for the upcoming month. Must be provided on the 1st day of each month. Projection shall be shown to Level II of the Work Breakdown Structure.

b. An actual cost breakdown by Technical Provision, for costs incurred during the preceding month. Must be provided with the monthly invoice. Cost breakdown shall be shown to Level II of the Work Breakdown Structure.

c. A written narrative, outlining by Technical Provision, the causes for variances of 10% or greater, between budgeted and actual costs for the month. The narrative shall fully address all contributing factors for cost overruns and underruns.

52.232-4014 BILLING CERTIFICATION

The Contractor shall certify overhead billings each time an estimate is submitted for payment.

(End of clause)

52.236-4018 PERMITS AND RESPONSIBILITIES

With the exception of sanitary and waterline permits, the Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. As applicable, licenses and permits will be in the name of the U.S. Army Corps of Engineers, J. Strom Thurmond Lake. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of clause)

52.242-4001 RECORDS CHECK

The contractor will be required to perform records check with local law enforcement agencies on all contractor and subcontractor personnel who are to be employed on the job site. Records check must be conducted in the area(s) in which the prospective employee resided/worked during the last 3 years. This records check will be satisfactorily completed prior to employee starting work. The results of these background checks will be furnished to the Contracting Officer. Personnel who are found to be security risks will be denied access to the job site.

52.242-4002 IDENTIFICATION OF WORKERS

The names, social security numbers, and title/position in organization of all workers will be furnished to the Contracting Officer or his authorized representative. Any change in personnel in the Contractor's workforce will be reported immediately to the above individual. The prime contractor will also be responsible for furnishing the names, social security numbers, and title/position in organization of personnel working for all subcontractors.

252.242-7000 POSTAWARD CONFERENCE (DEC 1991)

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation subpart 42.5.

(End of clause)

Section I - Contract Clauses

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52.202-1 DEFINITIONS (DEC 2001)

(a) Agency head or head of the agency means the Secretary (Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, unless otherwise indicated, including any deputy or assistant chief official of the executive agency.

(b) Commercial component means any component that is a commercial item.

(c) Commercial item means--

(1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and that--

(i) Has been sold, leased, or licensed to the general public; or

(ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in paragraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in paragraphs (c)(1) or (c)(2) of this clause, but for--

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. "Minor" modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of items meeting the requirements of paragraphs (c)(1), (2), (3), or (5) of this clause that are of a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if--

(i) Such services are procured for support of an item referred to in paragraph (c)(1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed. For purposes of these services--

(i) Catalog price means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) Market prices means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

(7) Any item, combination of items, or service referred to in subparagraphs (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(d) Component means any item supplied to the Government as part of an end item or of another component, except that for use in 52.225-9, and 52.225-11 see the definitions in 52.225-9(a) and 52.225-11(a).

(e) Contracting Officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(f) Nondevelopmental item means--

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (f)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (f)(1) or (f)(2) solely because the item is not yet in use.

(g) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(h) Except as otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

(End of clause)

52.203-3 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed \$100,000.

52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible

violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold, from sums owed a subcontractor under the prime contract, the amount of any kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

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

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal action," as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.
- (3) A special Government employee, as defined in section 202, Title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibitions.

(1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action--

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(c) Disclosure.

(1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes--

(i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(d) Agreement. The Contractor agrees not to make any payment prohibited by this clause.

(e) Penalties.

(1) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(End of clause)

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

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

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of

the broader category of “recovered material.” For paper and paper products, postconsumer material means “postconsumer fiber” defined by the U.S. Environmental Protection Agency (EPA) as--

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or
- (2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not
- (3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

“Printed or copied double-sided” means printing or reproducing a document so that information is on both sides of a sheet of paper.

“Recovered material,” for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as “recovered fiber” and means the following materials:

- (1) Postconsumer fiber; and
- (2) Manufacturing wastes such as--
 - (i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - (ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.
- (b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.
- (c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of clause)

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)

- (a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of the \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

52.215-2 AUDIT AND RECORDS--NEGOTIATION (JUN 1999)

(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) Cost or pricing data. If the Contractor has been required to submit 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.

(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 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.

(End of clause)

52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997)

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

(a) The Schedule (excluding the specifications).

(b) Representations and other instructions.

(c) Contract clauses.

(d) Other documents, exhibits, and attachments.

(e) The specifications.

(End of clause)

52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

52.215-13 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (DEC 1998)

- (a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.
- (b) For segment closings, pension plan terminations, or curtailment of benefits, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12) for contracts and subcontracts that are subject to Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99). For contracts and subcontracts that are not subject to CAS, the adjustment amount shall be the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS-covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.
- (c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.
- (d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

(End of clause)

52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997)

The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate or reduce a PRB plan. If PRB fund assets revert, or inure, to the Contractor or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by FAR 31.205-6(o)(6). The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirements of FAR 15.408(j).

(End of clause)

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

- (a) The Contractor shall make the following notifications in writing:
- (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.
 - (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.
- (b) The Contractor shall--
- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
 - (2) Provide the ACO or designated representative ready access to the records upon request;

(3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

(4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

(End of clause)

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) Exceptions from cost or pricing data. (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable--

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items. (A) If--

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include--

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) Requirements for cost or pricing data. If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of clause)

52.216-7 ALLOWABLE COST AND PAYMENT (FEB 2002)

(a) Invoicing. The Government shall make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(b) Reimbursing costs. (1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of this section, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only--

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for--

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments will be made--

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily prior to the submission of the Contractor's next payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless--

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) Small business concerns. A small business concern may receive more frequent payments than every 2 weeks.

(d) Final indirect cost rates. (1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. (ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(5) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates--

- (1) Shall be the anticipated final rates; and
- (2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.
- (f) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.
- (g) Audit. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be (1) reduced by amounts found by the Contracting Officer not to constitute allowable costs or (2) adjusted for prior overpayments or underpayments.
- (h) Final payment. (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
- (2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver--
- (i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and
- (ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except--
- (A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;
- (B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and
- (C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

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 30 calendar days provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 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 5 years.

(End of clause)

52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUL 1996)

(a) Definition.

"Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(b) General. (1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

(c) Agreement. A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a small business concern may furnish the product of any domestic firm. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

Definitions. As used in this contract--

HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

Small disadvantaged business concern means a small business concern that represents, as part of its offer that--

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

Veteran-owned small business concern means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern--

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(End of clause)

52.219-14 LIMITATIONS ON SUBCONTRACTING (DEC 1996)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract in the case of a contract for--

(1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a nonmanufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of clause)

52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990)

(a) The use of overtime is authorized under this contract if the overtime premium cost does not exceed ____ or the overtime premium is paid for work --

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.

(End of clause)

52.222-3 CONVICT LABOR (AUG 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(a)(1) The worker is paid or is in an approved work training program on a voluntary basis;

(2) Representatives of local union central bodies or similar labor union organizations have been consulted;

(3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION. (SEP 2000)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.

(d) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) Subcontracts. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding \$100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

52.222-6 DAVIS-BACON ACT (FEB 1995)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage

determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (b)(2) and (b)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

52 If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working

on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify--

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of clause)

52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(a) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable

wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(End of clause)

52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(End of clause)

52.222-11 SUBCONTRACTS (LABOR STANDARDS (FEB 1988)

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination-Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(End of clause)

52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

(End of clause)

52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(End of clause)

52.222-16 APPROVAL OF WAGE RATES (FEB 1988)

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this contract must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the contract. Any amount paid by the Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Contractor and shall not be reimbursed by the Government. If the Government refuses to authorize the use of the overtime, the Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

(End of clause)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) Segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national

origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

(End of clause)

52.222-26 EQUAL OPPORTUNITY (APR 2002)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with paragraphs (b)(1) through (b)(11) of this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard

Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

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

All employment openings includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

Appropriate office of the State employment service system means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

Positions that will be filled from within the Contractor's organization means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the individual because the individual is a disabled veteran or a veteran of the Vietnam era. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans' status in all employment practices such as--

(i) Employment;

(ii) Upgrading;

(iii) Demotion or transfer;

(iv) Recruitment;

(v) Advertising;

(vi) Layoff or termination;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing openings. (1) The Contractor agrees to list all employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their employment openings with the appropriate office of the State employment service.

(3) The listing of employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(e) Postings. (1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans and veterans of the Vietnam Era.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous

written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

(End of clause)

52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.).

"Contractor," as used in this clause or in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee," as used in this clause, means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, Code of Federal Regulations, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) Applicability. This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards

Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) Adjustment of Compensation. If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to Furnish Fringe Benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum Wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether

the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) Successor Contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to Employees. The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and Sanitary Working Conditions. The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act--

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

- (D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.
- (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.
- (iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.
- (2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.
- (3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.
- (4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (j) Pay Periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (k) Withholding of Payments and Termination of Contract. The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.
- (l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts subject to the Act.
- (m) Collective Bargaining Agreements Applicable to Service Employees. If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.
- (n) Seniority List. Not less than 10 days prior to completion of any contract being performed at a Federal facility

where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) Rulings and Interpretations. Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) Contractor's Certification. (1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) Variations, Tolerances, and Exemptions Involving Employment. Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) Tips. An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision--

- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
- (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
- (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and
- (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

Disputes Concerning Labor Standards. The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION

Employee Class Monetary Wage-Fringe Benefits

WG-08 Boat Operator	\$ 12.97
GS-07 Supply Technician	\$ 14.66
GS-03 Accounting Clerk II	\$ 9.42
GS-07 Gate Attendent	\$ 14.66
GS-04 General Clerk IV	\$ 10.58
WG-10 Motor Vehicle Mechanic	\$ 16.45
WG-07 Tractor Operator, Site Preparation	\$ 12.17
WG-05 Tree Planter	\$ 10.48
WG-02 Gardner	\$ 9.11
WG-02 Janitor	\$ 9.11
WG-03 Laborer.Ground Maintenace	\$ 10.02
WG-07 Pest Controler	\$ 13.73
WG-02 Refuse Collector	\$ 9.11
WG-09 Capenter Maintenance	\$ 15.55
WG-06 General Maintenance Worker	\$ 12.79
WG-10 Heavy Equipment Operator	\$ 16.45

WG-05 Truckdriver Light Truck	\$ 11.82
WG-07 Truckdriver Medium Truck	\$ 13.73
WG-07 Truckdriver Heavy Truck	\$ 13.73
WG-10 Electrician, Maintenance	\$ 16.45
WG-09 Plumber Maintenance	\$ 15.55
WG-05 Tractor Operator	\$ 11.82
GS-09 Quality Assurance Inspector	\$ 17.93
WG-05 Deckhand	\$ 10.48
WG-02 Cleaner, Vehicles	\$ 9.11
WG-09 Painter, Maintenance	\$ 15.55

(End of clause)

52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997)

(a) "Hazardous material", as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert "None")	Identification No.
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(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)(42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

(End of clause)

52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall-- within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of clause)

52.223-10 WASTE REDUCTION PROGRAM (AUG 2000)

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

Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.

Waste prevention means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.

Waste reduction means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

(b) Consistent with the requirements of Section 701 of Executive Order 13101, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor's programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR part 247).

(End of clause)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor owned or operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

(5) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt--

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items, as defined in FAR Part 2, the Contractor shall--

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of clause)

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUL 2000)

(a) The Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States under regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries are Cuba, Iran, Iraq, Libya, North Korea, Sudan, the territory of Afghanistan controlled by the Taliban, and Serbia (excluding the territory of Kosovo).

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the government of Iraq.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed the simplified acquisition threshold (however, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.)

(End of clause)

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

53 The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at (FAR) 2.101 to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

(End of clause)

52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that

the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of clause)

52.228-7 INSURANCE--LIABILITY TO THIRD PERSONS (MAR 1996)

(a)(1) Except as provided in subparagraph (a)(2) of this clause, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.

(c) The Contractor shall be reimbursed—

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract, and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise without regard to and as an exception to the limitation of cost or the limitation of funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for--

(i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or

(ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is subject to the availability of appropriated funds at the time a contingency occurs. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)--

- (1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;
- (2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or
- (3) That result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--
 - (i) All or substantially all of the Contractor's business;
 - (ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or
 - (iii) A separate and complete major industrial operation in connection with the performance of this contract.
- (f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; provided, that such cost is allowable under the Allowable Cost and Payment clause of this contract.
- (g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall--

- (1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;
- (2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and
- (3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

(End of clause)

52.232-17 INTEREST (JUNE 1996)

- (a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid. reproduce, prepare derivative works, distribute copies to the public, and (b) Amounts shall be due at the earliest of the following dates:
 - (1) The date fixed under this contract.
 - (2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

52.232-22 LIMITATION OF FUNDS (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to this contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the

Termination clause of this contract) or otherwise incur costs in excess of (i) the amount then allotted to the contract by the Government or, (ii) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Government or, (2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of (1) the amount previously allotted by the Government or, (2) if this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equalling the percentage of completion of the work contemplated by this contract.

(End of clause)

52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

52.232-25 Alt I Prompt Payment (Feb 2002)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments* --

(1) *Due date.*

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed.

For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice; provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Certain food products and other payments.*

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are --

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (*e.g.*, periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing

office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

- (i) Name and address of the Contractor.
 - (ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)
 - (iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).
 - (iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.
 - (v) Shipping and payment terms (*e.g.*, shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.
 - (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).
 - (vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.
 - (viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
 - (ix) Electronic funds transfer (EFT) banking information.
 - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
 - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232-33, Payment by Electronic funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.
 - (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
 - (x) Any other information or documentation required by the contract (*e.g.*, evidence of shipment.)
- (4) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.
- (i) The designated billing office received a proper invoice.
 - (ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.
 - (iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.
- (5) *Computing penalty amount.* The Government will compute the interest penalty in accordance with Office of Management and Budget prompt payment regulations at 5 CFR part 1315.
- (i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government

officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) *Additional interest penalty.*

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)

(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall --

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) *Overpayments.* If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(e) *Invoices for interim payments.* For interim payments under this cost-reimbursement contract for services--

(1) Paragraphs (a)(2), (a)(3), (a)(4)(ii), (a)(4)(iii), and (a)(5)(i) do not apply;

(2) For purposes of computing late payment interest penalties that may apply, the due date for payment is the 30th day after the designated billing office receives a proper invoice; and

(3) The Contractor shall submit invoices for interim payments in accordance with paragraph (a) of FAR 52.216-7, Allowable Cost and Payment. If the invoice does not comply with contract requirements, it will be returned within 7 days after the date the designated billing office received the invoice.

(End of Clause)

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR
REGISTRATION (MAY 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

52.233-1 DISPUTES. (DEC 1998)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and

certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim -

(A) Exceeding \$100,000; or

(B) Regardless of the amount claimed, when using -

(1) Arbitration conducted pursuant to 5 U.S.C. 575-580; or

(2) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) 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.

(End of clause)

52.233-3 PROTEST AFTER AWARD. (AUG 1996) -- ALTERNATE I (JUN 1985)

(a) Upon receipt of a notice of protest (as defined in 33.101 of the FAR) the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Termination clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other terms of the contract that may be affected and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The

Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

52.236-13 ACCIDENT PREVENTION (NOV 1991) – ALTERNATE I (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will

(1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) avoid interruptions of Government operations and delays in project completion dates; and

(3) control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall-

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

54 If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to

promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(f) Before commencing the work, the Contractor shall-

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

(End of clause)

52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of clause)

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 onsite 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.

(End of clause)

52.239-4001 Year 2000 Compliance

The contractor shall ensure products provided under this contract, to include hardware, software, firmware, and middleware, whether acting alone or combined as a system, are Year 2000 compliant as defined as follows: Year 2000 compliant means with respect to information technology, that the information technology accurately processes date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information, used in combination with the information technology being acquired, properly exchanges date/time data with it.

52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)

(a) Notwithstanding any other clause of this contract--

(1) The Contracting Officer may at any time issue to the Contractor a written notice of intent to disallow specified costs incurred or planned for incurrence under this contract that have been determined not to be allowable under the contract terms; and

(2) The Contractor may, after receiving a notice under subparagraph (1) above, submit a written response to the Contracting Officer, with justification for allowance of the costs. If the Contractor does respond within 60 days, the Contracting Officer shall, within 60 days of receiving the response, either make a written withdrawal of the notice or issue a written decision.

(b) Failure to issue a notice under this Notice of Intent to Disallow Costs clause shall not affect the Government's rights to take exception to incurred costs.

(End of clause)

52.242-13 BANKRUPTCY (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.

(End of clause)

52.243-2 CHANGES--COST-REIMBURSEMENT (AUG 1987) - ALTERNATE II (APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

(2) Time of performance (i.e., hours of the day, days of the week, etc.).

(3) Place of performance of the services.

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(5) Method of shipment or packing of supplies.

(6) Place of delivery.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the contract accordingly.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until this modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

(End of clause)

52.244-2 SUBCONTRACTS (AUG 1998) - ALTERNATE I (AUG 1998)

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

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

(f)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f)(1)(i) through (f)(1)(iv) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(End of clause)

52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protege Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its proteges.

(End of clause)

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (MAY 2002)

(a) Definitions. As used this clause--

"Commercial item", has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract", includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (OCT 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a)).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (JUN 2000) (46 U.S.C. Appx 1241) (flowdown not required for subcontracts awarded beginning May 1, 1996).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

52.245-5 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (JAN 1986)

(a) Government-furnished property.

(1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operation at any one plant, or separate location at which the contract is being performed; or

(iii) A separate and complete major industrial operation connected with performing this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(3) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(4) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(5) If Government-furnished property is not delivered to the Contractor by the required time or times, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) Changes in Government-furnished property. (1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract or (ii) substitute other Government-furnished property for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make such property available for performing this contract and there is any--

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use property, if provided under any other contract or lease.

(c) Title. (1) The Government shall retain title to all Government-furnished property.

(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(3) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

(4) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) Use of Government property. The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) Property administration. (1) The Contractor shall be responsible and accountable for all Government property provided under the contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(f) Access. The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) Limited risk of loss. (1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)--

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3)(i) If the Contractor fails to act as provided by subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to

willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage--

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(5) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of--

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

(9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

(h) Equitable adjustment. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) Final accounting and disposition of Government property. Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by this contract or paid to the Government as directed by the Contracting Officer. The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the Contractor's established accounting procedures.

(j) Abandonment and restoration of Contractor premises. Unless otherwise provided herein, the Government--

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications. All communications under this clause shall be in writing.

(l) Overseas contracts. If this contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of clause)

52.246-25 LIMITATION OF LIABILITY--SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract, and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's 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 operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(End of clause)

52.248-1 VALUE ENGINEERING (FEB 2000) - ALTERNATE III (APR 1984)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) Definitions. "Acquisition savings," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include--

(1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;

(2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and

(3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units scheduled for delivery during the sharing period. If this contract is a multiyear contract, future contract savings include savings on quantities funded after VECP acceptance.

"Collateral costs," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contracting office" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Future unit cost reduction," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either (1) throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated or (2) to the calculation of a lump-sum payment, which cannot later be revised.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"Instant contract," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

"Instant unit cost reduction" means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

"Negative instant contract savings" means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

"Net acquisition savings" means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

"Sharing base," as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

"Sharing period," as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at the later of (1) 3 years after the first unit affected by the VECP is accepted or (2) the last scheduled delivery date of an item affected by the VECP under this contract's delivery schedule in effect at the time the VECP is accepted.

"Unit," as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

"Value engineering change proposal (VECP)" means a proposal that--

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only;

(ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or

(iii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) Identification of the unit to which the VECP applies.

(4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.

(5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(6) A prediction of any effects the proposed change would have on collateral costs to the agency.

(7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

(e) Government action. (1) The Contracting Officer shall notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer shall notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing rates. If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon (1) this contract's type (fixed-price, incentive, or cost-reimbursement), (2) the sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule), and (3) the source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS
(Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	(1) 50	(1) 50	(1) 25	25
Incentive (fixed-price or cost) (other than award fee)	(2)	(1) 50	(1) 50	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts)	(3) 25	(3)	15	15

(1) The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.

(2) Same sharing arrangement as the contract's profit or fee adjustment formula.

(3) The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below). Net acquisition savings are first realized, and

the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) Contract adjustment. The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall--

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts--add to contract price.

(ii) Cost-reimbursement contracts--add to contract fee.

(i) Concurrent and future contract savings.

(1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by (i) subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset and (ii) multiplying the result by the Contractor's sharing rate.

(3) The Contracting Officer shall calculate the Contractor's share of future contract savings by (i) multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period, (ii) subtracting any Government costs or negative instant contract savings not yet offset, and (iii) multiplying the result by the Contractor's sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.

(5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-3 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(k) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(l) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering clause of contract , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

52.249-6 TERMINATION (COST-REIMBURSEMENT) (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if--

- (1) The Contracting Officer determines that a termination is in the Government's interest; or
 - (2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.
- (b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.
- (c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
- (1) Stop work as specified in the notice.
 - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.
 - (3) Terminate all subcontracts to the extent they relate to the work terminated.
 - (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
 - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.
 - (6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government, and (iii) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.
 - (7) Complete performance of the work not terminated.
 - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.
 - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (c)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(e) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount of costs and/or fee to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor, and shall pay that amount, which shall include the following:

(1) All costs reimbursable under this contract, not previously paid, for the performance of this contract before the effective date of the termination, and those costs that may continue for a reasonable time with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue those costs as rapidly as practicable.

(2) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (h)(1) of this clause.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory. If the termination is for default, no amounts for the preparation of the Contractor's termination settlement proposal may be included.

(4) A portion of the fee payable under the contract, determined as follows:

(i) If the contract is terminated for the convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors' termination proposals, less previous payments for fee.

(ii) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Government is to the total number of articles (or amount of services) of a like kind required by the contract.

(5) If the settlement includes only fee, it will be determined under subparagraph (h)(4) of this clause.

(i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f) or (h) above or paragraph (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(l) The Contractor and Contracting Officer must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Contracting Officer shall amend the contract to reflect the agreement.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

(End of clause)

52.249-14 EXCUSABLE DELAYS (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to

perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(End of clause)

52.252-4 ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

DFARS Clause 252-247.7024, Notification of Transportation of Supplies by Sea, is applicable to this contract if the contractor submitted a negative response to DFARS Provision No. 252.247-7022. Representation of Extent of Transportation of Sea, located in Section K of the solicitation. If the contractor submitted an affirmative response to the provision, the clause is automatically deleted.

(End of clause)

52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

55 If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-
CONTRACT-RELATED FELONIES (MAR 1999)

(a) Definitions. As used in this clause—

(1) “Arising out of a contract with the DoD” means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) “Conviction of fraud or any other felony” means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

(3) “Date of conviction” means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly—

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

- (1) The person involved;
- (2) The nature of the conviction and resultant sentence or punishment imposed;
- (3) The reasons for the requested waiver; and
- (4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of clause)

252.203-7002 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline Posters prepared by the DoD Office of the Inspector General.

(b) DoD Hotline Posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

56 The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(End of clause)

252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)

(a) Definitions.

As used in this clause--

(1) Central Contractor Registration (CCR) database means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, 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 confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

(End of clause)

252.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)

(a) Definition.

"Cooperative agreement holder" means a State or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450 (c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(End of clause)

252.209-7000 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ONSITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor subject to on-site inspection under the INF Treaty, or a similar treaty, solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility, unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items.

(End of clause)

252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$25,000 with a firm, or subsidiary of a firm, that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(End of clause)

252.215-7000 PRICING ADJUSTMENTS (DEC 1991)

The term "pricing adjustment," as used in paragraph (a) of the clauses entitled "Price Reduction for Defective Cost or Pricing Data - Modifications," "Subcontractor Cost or Pricing Data," and "Subcontractor Cost or Pricing Data - Modifications," means the aggregate increases and/or decreases in cost plus applicable profits.

(End of clause)

252.223-7001 HAZARD WARNING LABELS (DEC 1991)

(a) "Hazardous material," as used in this clause, is defined in the Hazardous Material Identification and Material Safety Data clause of this contract.

(b) The Contractor shall label the item package (unit container) of any hazardous material to be delivered under this contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq). The Standard requires that the hazard warning label conform to the requirements of the standard unless the material is otherwise subject to the labeling requirements of one of the following statutes:

- (1) Federal Insecticide, Fungicide and Rodenticide Act;
- (2) Federal Food, Drug and Cosmetics Act;
- (3) Consumer Product Safety Act;
- (4) Federal Hazardous Substances Act; or
- (5) Federal Alcohol Administration Act.

(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labeled in accordance with one of the Acts in paragraphs (b)(1) through (5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

MATERIAL (If None, Insert "None.")

ACT

(d) The apparently successful Offeror agrees to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of this clause. The Offeror shall submit the label with the Material Safety Data Sheet being furnished under the Hazardous Material Identification and Material Safety Data clause of this contract.

(e) The Contractor shall also comply with MIL-STD-129, Marking for Shipment and Storage (including revisions adopted during the term of this contract).

(End of clause)

252.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) "Definitions".

As used in this clause --

(1) "Storage" means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) "Toxic or hazardous materials" means:

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR part 302);

- (ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or
- (iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

(End of clause)

252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (APR 2002)

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

(1) Component means any item supplied to the Government as part of an end product or of another component.

(2) End product means supplies delivered under a line item of this contract.

(b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been grown, reprocessed, reused, or produced in the United States, its possessions, or Puerto Rico:

(1) Food.

(2) Clothing.

(3) Tents, tarpaulins, or covers.

(4) Cotton and other natural fiber products.

(5) Woven silk or woven silk blends.

(6) Spun silk yarn for cartridge cloth.

(7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.

(8) Canvas products.

(9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

(10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing fibers, yarns, fabrics, or materials listed in this paragraph (b).

(c) This clause does not apply--

(1) To items listed in section 25.104(a) of the Federal Acquisition Regulation (FAR), or other items for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;

(2) To end products incidentally incorporating cotton, other natural fibers, or wool, for which the estimated value of the cotton, other natural fibers, or wool--

(i) Is not more than 10 percent of the total price of the end product; and (ii) Does not exceed the simplified acquisition threshold in FAR part 2;

(3) To foods that have been manufactured or processed in the United States, its possessions, or Puerto Rico, regardless of where the foods (and any component if applicable) were grown or produced;

(4) To chemical warfare protective clothing produced in the countries listed in subsection 225.872-1 of the Defense FAR Supplement; or

(5) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if--

(i) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include--

(A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(C) Upholstered seats (whether for household, office, or other use); and

(D) Parachutes (Federal Supply Class 1670); or

(ii) The fibers and yarns are para-aramid fibers and yarns manufactured in the Netherlands.

(End of clause)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

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

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concerns, as determined under regulations of the President.

(b) Certification. By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(End of clause)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with part 231 of the Defense FAR Supplement, in effect on the date of this contract.

(End of clause)

252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including--

(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to----

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustment under an incentive provision of the contract.

252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD) (MAR 2000)

In addition to the clauses listed in paragraph (c) of the Subcontracts for Commercial Items and Commercial Components clause of this contract (Federal Acquisition Regulation 52.244-6), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014 Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

252.247-7023 Transportation of Supplies by Sea (10 U.S.C. 2631).

252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

(End of clause)

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (MAY 2002)

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

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if--

(i) This contract is a construction contract; or

(ii) The supplies being transported are--

(A) Noncommercial items; or

(B) Commercial items that--

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it contracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL	_____	_____

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

- (1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.
- (2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause; including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

Section J - List of Documents, Exhibits and Other Attachments

SECTION J**SECTION J
LIST OF ATTACHMENTS**

1. Past Performance Questionnaire
2. Compliance Summary Checklist
3. Wage Determination Nos.1994-2135 Revision No. 19, dated 05/28/2002, 10 pages
1994-2479 Revision No. 20, dated 06/05/2002, 9 pages
2002-0221 Revision no9. 2, dated 08/13/2002, 2 pages
4. General Decision No. GA020060, 4 pages
SC020010, 3 pages
5. General Decision No. GA020002, 3 pages
SC020001, 2 pages
6. Appendix (A) Facility Listing (2 Pages)
7. Appendix (B) Drawings (33 Pages)
8. Appendix (C) Typical Planting Plan (3 Pages)
9. Appendix (D) Concrete Construction Joints (1 Page)
10. Appendix (E) Bulk Head and Diversion Wall (2 Pages)
11. Appendix (F) Impact Site Construction (2 Pages)
12. Appendix (G) Pavement Repair (1 Page)
13. Appendix (H) Seed Application Records (2 Pages)
14. Appendix (I) Bulletin Boards (1 Page)
15. Appendix (J) Boundary line (2 Pages)
16. Appendix (K) Equipment List (1 Page)
17. Appendix (N) Maintenance Area (2 Pages)
18. Appendix (O) Work Breakdown Structure to Level 3 (Sample) (1 Page)
19. Appendix (P) Quality Standards (5 Pages)
20. Appendix (Q) Annual Pest Control Plan (1 Page)

End of Section J

Section K - Representations, Certifications and Other Statements of Offerors

CLAUSES INCORPORATED BY FULL TEXT

52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this Certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989,--

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

57 Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

“Common parent,” as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

“Taxpayer Identification Number (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the

offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

TIN: _____

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other _____

(f) Common parent.

Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

(End of provision)

52.204-4002 CORPORATE CERTIFICATE (MAR 1994 CESAS-CT) (Ref. FAR 4.102(c))

The offeror shall execute and affix seal on attached Corporate Certificate if the company is incorporated. Company name on the seal should always be the same as company name on Page A-1 of the solicitation. If a proposal is signed by an officer of the company, the certificate shall be certified by another officer of the company. If the proposal is signed by someone other than an officer of the company, the proposal must be accompanied by: (1) a Corporate Resolution that individual signing the contract has authority to bind the company; or (2) a Corporate Resolution stating that an officer of the company may appoint individuals to sign proposals and bind the company.

NOTE: Contractor, if a corporation, should cause the following certificate to be executed under its corporate seal, provided that the same officer shall not execute both the contract and the certificate.

CERTIFICATE

I, _____, certify that I am
 _____ of the corporation named Contractor herein, that
 _____ signed this contract on behalf of the Contractor, was
 then _____ of said corporation; that said contract was duly signed for and in of said corporation by
 authority of its governing body, and is within the scope of its corporate powers.

 (Signature) (CORPORATE SEAL)

(End of provision)

52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are () are not () presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have () have not (), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are () are not () presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has () has not (), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (APR 2002) - ALTERNATE I (APR 2002)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 561210.

(2) The small business size standard is \$23.0 million.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations. (1) The offeror represents as part of its offer that it () is, () is not a small business concern.

(2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it () is, () is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it () is, () is not a women-owned small business concern.

(4) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it () is, () is not a veteran-owned small business concern.

(5) (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.) The offeror represents as part of its offer that it () is, () is not a service-disabled veteran-owned small business concern.

(6) [Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It () is, () is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It () is, () is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. (The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.) Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) (Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.) The offeror shall check the category in which its ownership falls:

___ Black American.

___ Hispanic American.

___ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

___ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

___ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

___ Individual/concern, other than one of the preceding.

(c) Definitions. As used in this provision--

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern," means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

Veteran-owned small business concern means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern," means a small business concern --

(1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; or

(2) Whose management and daily business operations are controlled by one or more women.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall--

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) It has, has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

52.222-25 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that

(a) it has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or

(b) has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(End of provision)

52.222-38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2001)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

(End of provision)

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (OCT 2000)

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons:
(Check each block that is applicable.)

() (i) The facility does not manufacture, process or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

() (ii) The facility does not have 10 or more full-time employees as specified in section 313.(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

() (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

() (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or

() (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(End of clause)

252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary,

the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

(End of provision)

252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

___ (1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

___ (2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

Section L - Instructions, Conditions and Notices to Bidders

SECTION L

L.1 PROPOSAL EXPENSES AND PRECONTRACT COSTS

This request for proposal does not commit the Government to pay for costs incurred in the preparation and publication of a proposal or for any other costs incurred prior to execution of a formal contract.

L.2 PREAWARD SURVEY

The Government reserves the right to conduct a preaward survey, of any firm under consideration, to confirm any part of the information furnished by the offeror; or to require other evidence of managerial, financial, technical, and other capabilities, the positive establishment of which, is determined by the Government to be necessary for the successful performance of the contract.

L.3 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be conducted at J. Strom Thurmond Project on November 19, 2002. All interested offerors are urged to attend. The conference will begin at 9:00 a.m., local time, in the Project Managers' Office at Thurmond Lake, Clarks Hill, SC 29821. During this conference, the requirements set forth in the RFP will be discussed and reviewed with part of the conference period dedicated to question and answers. In order to expedite the discussion and make the pre-proposal conference as productive as possible, prospective offerors are requested to submit written questions to reach the Contracting Officer, at the address shown in Block 7 of the SF33, not later than five (5) calendar days prior to the conference date. Inquiries should specify the section and paragraph of the RFP for which clarification is desired. If sufficient time is not available for written inquiries to reach the Contracting Officer by the above date, inquiries may be e-mailed to Sharon.H.Godbee@sas02.usace.army.mil. **ALL QUESTIONS MUST BE SUBMITTED IN WRITING.** The remarks, explanations and answers provided by the Government representative before, during, or after the pre-proposal conference, whether oral or written, shall not change or qualify any of the terms or conditions of the solicitation. The solicitation can only be changed by formal written amendment issued by the Contracting Officer. The duration of the conference will be one (1) day only. Access to all areas listed in Appendix (A) of the solicitation will be made available upon request, subsequent to the conference date. The maximum number of attendees from each prospective offeror is limited to three (3). The names of individuals, from each offeror that will attend the conference, should be forwarded to the following address: USACE, Attn: Ed Bouse, Route 1, Box 12, Clarks Hill, SC 29821. For additional pre-proposal conference information, Mr. Bouse may be contacted at (864) 333-1104.

L.4 HAND-CARRIED OR MAILED PROPOSALS

All proposals must be clearly identified with the contractor's name and address. In the lower left corner of the outermost wrapper offerors shall indicate the Request for Proposal No., Date of Proposal Closing, Time of Closing, and Proposals For (title of Project). Proposals not properly identified on the outermost wrapper may not be accepted if received later than the time set for receipt of proposals, as there may be no way to determine the exact time of receipt.

The Government will not be responsible for proposals delivered to any location or to anyone other than those designated to receive proposals on its behalf as indicated below.

Proposals delivered by commercial carrier and those sent by U.S. Mail, including U.S. Express Mail, must be addressed as indicated below. Proposals shall not be addressed to any specific person.

U.S. Army Engineer District, Savannah
ATTN: CESAS-CT-P
100 West Oglethorpe Avenue

Savannah, Georgia 31401-3640

Proposals sent by U.S. Mail or delivered by commercial carrier must be received by mailroom personnel on the first floor of 100 West Oglethorpe Avenue in sufficient time to be delivered to the designated location for receipt of proposals prior to the time set for receipt of proposals.

Offerors are hereby placed on notice that use of United States Postal Service Express Mail may result in delivery to the Savannah District Post Office Box instead of 100 West Oglethorpe Avenue, which may delay receipt of proposals, regardless of appropriate addressing by the offeror. The Government will not accept responsibility for proposals that are late as a result of this.

Hand-carried proposals delivered more than a half-hour before the time specified for receipt of proposals must also be delivered to mailroom personnel on the first floor.

Hand-carried proposals delivered within a half-hour of the time specified for receipt of proposals must be delivered to CT-P on the second floor. Offerors are responsible for allowing sufficient time to pass through security on the first floor and to be escorted to the second floor.

L.5 PROPOSAL FORMAT AND CONTENT

L.5.1 Proposal Format:

a. Proposals shall be submitted in four separate volumes, in loose-leaf binders, as outlined in paragraph c. below. All information pertaining to cost, technical, etc. will be confined to the appropriate part. However, offerors must ensure that the same data related to proposed manpower be reflected both in the cost proposal and, without cost information, in the technical proposal. To reduce the size of proposals, offerors will confine their submissions to essential matters sufficient to define their offer and to provide an adequate basis for evaluation.

b. To aid in evaluation, proposals shall be clearly and concisely written as well as being neat, indexed (cross-indexed, as appropriate) and logically assembled. All pages of each proposal shall be appropriately numbered and identified with the solicitation number. Cost information shall be included in the cost proposal only. Offerors must also submit cost proposals (appropriately marked) **with "costs" deleted** so that the information in the cost proposal can be compared with technical information (e.g. resources, etc.). Offerors must ensure that the same data related to proposed manpower, equipment, etc. be reflected both in the cost proposal and, without cost information, in the technical proposal.

c. Each part of the proposal shall be organized and provided as follows:

Volume	# of Hard Copies Required	Instructions	Total Maximum Allowed Pages
Volume I – Technical	5 Copies	Subsection 1: Soundness of Approach Subsection 2: Management	175 pages total
Volume II – Past Performance	5 Copies	Subsection 1: Relevant Experience Subsection 2: Past Performance Record	20 pages 20 pages
Volume III – Cost	3 Copies	In accordance with paragraph L.5.1.b and L.5.2.3	150 pages
Cost (Costs Deleted)	3 Copies		150 pages
Volume IV – Representations	1 Original	Representations, Certifications, and Executed Contract Documents	SF 33, Section B, and Section K

d. Offerors shall attach a binder cover sheet to the outer cover of each volume, which clearly identifies each volume by name and copy number (i.e. Volume I – Technical, Copy 2 of 5), Request for Proposal (RFP) number, date of submission, and offeror’s name. This information shall also be placed on the edge of the binder where it can be seen when placed in a vertical position in a storage cabinet. Use tab indexing to identify all sections within a particular proposal volume. Do not include writing on the tab index page other than that required to identify the particular section.

e. With the exception of spreadsheets for the cost volume, copies of the proposal shall be prepared on standard 8-1/2” x 11” white paper in portrait orientation. Spreadsheets shall be no larger than 8-1/2” x 14” in a landscape orientation. The proposal pages shall be numbered, printed on two sides, and punched with a 3-hole punch along the left margin. Each page must have a one-inch margin at the top, the bottom, and on each side. Page numbers, notations of proprietary information, and any other identifying information printed on each page are excluded from the margin requirement. Print must be spaced at 6 lines per inch. Text font must be no smaller than 11 point but text included on figures and/or matrices may be reduced to 8 point. Offerors may use proportional fonts provided the proposal meets the Government’s readability requirement and smaller type is not used to circumvent the proposal page limitations. Should the offeror require foldout pages, one foldout page shall not exceed 11” x 17” and shall count as two (2) pages.

f. Volume IV – Representations shall contain the signed original of all documents requiring signature of the offeror. Volume IV shall include the original executed SF33, pricing schedule – Section B, and all certifications required by the solicitation.

g. The following requirements apply to Volumes I through III:

(1) The proposal in its entirety should be specific, detailed, and complete in order to demonstrate that the offeror has a thorough understanding of the solicitation requirements. Statements such as “the offeror understands, can, or will comply with the Performance Work Statement,” statements that paraphrase the Performance Work Statement or ambiguous phrases such as “standard procedures will be employed” or “well known techniques will be used” will be considered unacceptable.

(2) For volumes I and III, the proposal shall be organized to separately address each functional area listed in the Performance Work Statement. Each functional area shall be taken to the appropriate level of the Work Breakdown Structure (WBS) as shown in the sample WBS provided at Appendix O and in accordance with paragraph L.5.2. To facilitate the Government’s evaluation of proposals, all necessary information in the form of narrative or graphic display shall be displayed by functional area. Offerors may augment their presentation with information displayed in other combinations or formats to assist evaluators in understanding the offeror’s overall approach, provided that all submitted information does not exceed submission requirements in paragraph L.5.1.c.

(3) Where the Performance Work Statement requires submission of plans or procedures, to the extent possible, these plans should be submitted as part of the proposal. Information that cannot be specifically identified at the time of submission shall be annotated: “To be provided subsequent to contract award.” Such plans or procedures shall be placed in the volume of the proposal to which they apply. At a minimum, a plan or procedure summary or overview and intended table of contents outline should be considered.

(4) The offeror shall complete and submit with each volume the Compliance Summary Checklist provided as Attachment 2 to this solicitation. The Compliance Summary Checklist is divided into sections that correspond to relative proposal sections. Offerors should complete the appropriate sections of the Compliance Summary Checklist and include the completed document in the applicable proposal volume. As an example, the first two sections of the Compliance Summary Checklist relate to Management and Soundness of Approach – these are the two subsections of the Technical Volume. These completed sections of the Compliance Summary Checklist should be included with the offerors Technical Volume. The Compliance Summary Checklist contains a list of requirements from the specifications and/or this section. Each line on the Compliance Summary Checklist has cross-reference information showing the exact paragraph or sub-paragraph applicable to the line item. The offeror must complete column 2 (proposal reference location) with paragraph, page number etc., and column 3 (compliant) for all items listed.

h. In addition to the above hard copy, one (1) electronic copy of Volume III – Cost shall be submitted on either a separate Double Sided, High-Density (DSHD) 3.5-inch floppy diskette (formatted at 1.44MB), or a Windows 2000 compatible Compact Disc. All diskettes shall be readable on a Dell PC compatible system running Windows 2000 Professional. Text portions of this volume, as submitted on disk, shall be prepared in Microsoft Word, version 2000 or compatible version, in portrait orientation. Spreadsheets shall be prepared in Microsoft Excel, version 2000 or compatible version. Spreadsheets should be no larger than 8-1/2" x 14". All diskettes shall be clearly labeled, and each label shall state the offeror's name, solicitation number, date of submission, and the volume name and number that is contained on the diskette. If more than one diskette is required, the diskettes shall be labeled as Disk "x" of "y" (e.g. Disk 1 of 2). Files submitted on diskette shall be named representatively of their contents and shall be easily identifiable as to their contents.

i. Proposal revisions shall be submitted as page replacements with revised text readily identifiable. Revised pages shall be submitted on colored paper with revisions identified with a bar to the right of the changed verbiage. Revised pages shall be numbered, dated, and submitted in the number of copies noted in paragraph L.5.1.c above. The diskette copy shall be numbered and dated with revised text readily identifiable.

L.5.2 PROPOSAL CONTENT

L.5.2.1 Volume I – Technical

The technical proposal shall be submitted in the Work Breakdown Structure (WBS) format for each functional area (TP and TP-TL) in the Performance Work Statement. An example of this WBS is located at Appendix O. Proposals shall address each level in a practical, straightforward, specific, concise, and complete manner. Management and Soundness of Approach are the two sub-sections of this volume. Management corresponds to TP-T-1 thru TP-T-2 of the Performance Work Statement. Soundness of Approach corresponds to TP-TL-1 thru TP-TL-15 of the Performance Work Statement.

L.5.2.1.1 The Management portion of the Technical proposal shall clearly show:

- a. Budgeting and contract cost control methods and practices. The proposal should indicate the method by which cost overruns and additional work requirements will be determined and documented.
- b. An organizational chart that shows company management and CQC structure and the correspondence to individual responsibilities.
- c. Qualification statements for all management and CQC positions. Statements should indicate knowledge, skills, and abilities required to hold positions rather than personnel histories and resumes.
- d. Approach to continuing maintenance services without interruption during periods of contractor equipment breakdowns.
- e. Mobilization and start up. The proposal should indicate the degree and timeliness of beginning O&M services following contract award.

L.5.2.1.2 The Soundness of Approach portion of the Technical proposal shall clearly show:

- a. Approach to maximizing labor efficiency. The offeror should show methods, techniques, and approaches to obtaining proficiency and efficiency in the performance of all contract requirements to Level 2 of the WBS.
- b. Man-hours in each category of work. The proposal should indicate man-hours necessary to accomplish all contract requirements to Level 3 of the WBS.

c. Material and equipment summary. The proposal should indicate the proposed quantity of material, specialized equipment and special tools to accomplish all contract requirements to Level 3 of the WBS.

d. Degree of subcontracted work. The proposal should indicate the anticipated subcontractor performance of the contract requirements to Level 2 of the WBS.

e. Supervisor to worker ratio to Level 2 of the WBS.

f. Soundness of CQC approach. The proposal should indicate the methodology by which the CQC mission is fulfilled. The approach should emphasize prevention as opposed to reaction.

L.5.2.2 Volume II – Past Performance

The Government may use past performance information obtained from other than the sources identified by the offeror. Information obtained may be used for the responsibility determination as well as the best value decision. The Past Performance volume is comprised of two sub-sections; relevant experience and past performance record.

L.5.2.2.1 Relevant Experience

a. Offerors must provide a list of the last 3 relevant contracts (e.g. similar in size, scope, and complexity of the work required in the RFP) and applicable subcontracts completed during the past three (3) years. In addition, offerors must list all contracts and subcontracts currently in progress. Contracts listed may include those entered into with the Federal Government, agencies of state and local governments and commercial customers. Offerors that are newly formed entities without prior contracts should list contracts and subcontracts, as required above, for all key personnel. The following information should be provided for each of the above contracts and subcontracts:

- Name of contracting activity
- Contract number
- Contract type
- Total contract value
- Description of service
- Period of performance
- Name and number of Contracting Officer
- Name and number of Program Manager
- Name and number of Administrative Contracting Officer
- List of major subcontractors

b. Offerors may provide information on problems encountered on the contracts and subcontracts identified above and the corrective actions taken to resolve those problems. Offerors should not provide general information on their performance on the identified contracts. General performance information should be provided by the offeror's references via the Past Performance Questionnaire located at Attachment 1. Offerors should note that the Past Performance Questionnaire is a tool the Government intends to use in the gathering and validation of general performance information.

c. Offerors shall provide information on contracts that provide the best evidence of experience in the performance of functions in the Performance Work Statement. The balance of the narrative shall be organized so that presentation of Relevant Experience and Past Performance Record is included.

L.5.2.2.2 Past Performance Record:

a. Quality of Product/Service: Describe conformance to contract requirements, specifications, contract clauses pertaining to technical requirements, and standards of good workmanship.

b. **Schedule/Timeliness of Performance:** Indicate timeliness of actions taken for completion of contracts, task order, milestones, delivery schedules and administrative requirements.

c. **Cost Control:** Demonstrate your effectiveness in forecasting, managing, and controlling contract cost. Include examples of where these cost controls were implemented.

d. **Business Relations:** Demonstrate the timeliness, completeness, and quality of problem identification, corrective action plans, and proposal submittals. Include a historical narrative of reasonable and cooperative behavior. Indicate your success in discharging responsibility for integration and coordination needed to execute the contract. Consider responsiveness to contract requirements, professional correspondence and administration, prompt notification of problems and flexibility, cooperativeness, and proactive contractor recommended solutions. Describe how timeliness of subcontract awards and management of subcontracts was achieved.

e. **Customer Satisfaction:** Describe the degree of customer satisfaction obtained, to include customer satisfaction surveys. Proposal will be evaluated for the degree of customer satisfaction among offeror's customers.

f. **Management of Key Personnel:** Demonstrate past performance in selecting, retaining, supporting, and replacing (when necessary) key personnel.

L.5.2.3 Volume III – Cost

a. **Narrative & Spreadsheets:** The offeror's cost proposal shall provide a complete and auditable description of costs for the performance of all work and shall also address the offeror's accounting and estimating systems. Identify whether accounting and estimating systems have been reviewed and approved by DCAA. Provide audit report number, status of system and date of issuance. If accounting and estimating systems have not been reviewed, offeror's shall provide a description of the systems. Identify any deviation from the standard estimating system for this proposal. The narrative used to support cost spreadsheets must be practicable, straightforward, concise and complete. Cost spreadsheets must be prepared in Microsoft Excel format, version 2000 or compatible version. Size of spreadsheet should be no larger than 8-1/2" x 14".

b. **Related Information & Cost Summary:** The cost proposal shall include in detail all information related to the estimated cost for each CLIN of this solicitation and shall include a summary of costs. The cost figures included must indicate maximum estimated Government obligations for the base year and all option years. Figures shall include total reimbursable costs, base fee and maximum proposed award fee. Each proposed subcontractor's cost data shall also be presented unless exempt by Federal Acquisition Regulation. The total of all overtime costs shall be entered in Section I, FAR clause 52.222-2, entitled Payment for Overtime Premiums and included as part of the cost proposal.

c. **Financial Information:** The latest available complete financial statements for the most recent fiscal year and a detailed statement of any financial aid (e.g. bank loans, other liabilities, SBA assistance, etc.) now in existence shall be included as part of the Cost Proposal. A cutoff date for cost or pricing data used in developing the cost proposal shall be indicated as part of the proposal. Significant changes in cost or pricing data, occurring after submission of the proposal and prior to negotiations, shall be furnished as soon as available in order to be included in the evaluation process.

d. **Format:** The cost proposal will be reviewed for completeness, reasonableness, and realism to assess the offeror's understanding of the work and ability to perform the contract. The cost proposal shall be structured to correspond to the functional areas (TP and TP-TL) of the Performance Work Statement and the levels of the Work Breakdown Structure (WBS). The proposal shall show the relationship of the estimated work for each year (including option years) to the proposed estimated cost to perform the work. This data shall be prepared for each functional area (TP and TP-TL) of the Performance Work Statement down to Level 3 of the WBS. The offeror shall demonstrate how all costs will be accumulated and reported monthly to the Government in consonance with the WBS. Offeror's total estimated cost shall be summarized in Section B of the RFP. Offerors are required to

propose their General and Administrative Cost (G&A) as a percentage of the estimated direct labor or direct cost of the contract.

e. Estimated Quantities: The offeror is to use the following Government provided figures, which are for estimating purposes only:

<u>ITEM</u>	<u>UNIT</u>	<u>EXISTING PROJECT QUANTITY</u>	<u>ANNUAL WORK QUANTITY</u>	<u>TECHNICAL PROVISION</u>
SECTION TP-TL-1				
Bulk Trash Removal	EA	18	600	TP-TL-1.2
Cleaning Services	Parks	38	38	TP-TL-1.3
Dam Scuppers	EA	40	400	TP-TL-1.4
Pack In/Pack Out	EA	1	2	TP-TL-1.5
Bridge Crossings	EA	20	10	TP-TL-1.6
Dead End Roads	Ton	5	5	TP-TL-1.7
Project Manager's Office	EA	1	1	TP-TL-1.8
Power Plant and Dam	EA	1	1	TP-TL-1.9
Turbin Pits	EA	7	50	TP-TL-1.10
Gutters	EA	4	10	TP-TL-1.11
Sumps	EA	3	6	TP-TL-1.11
Abutment Piers and Gates	EA	23	4	TP-TL-1.12
SECTION TP-TL-2				
Park Attendant Services	EA	6	6	TP-TL-2.2
Bonding	EA	6	6	TP-TL-2.4
Fee Collections	EA	15	15	TP-TL-2.5
SECTION TP-TL-3				
Buildings				
Project Managers Office	EA	1	1	TP-TL-3.1
Power Plant	EA	1	1	TP-TL-3.1
Gate Houses	EA	13	13	TP-TL-3.1
Comfort stations	EA	43	43	TP-TL-3.1
Replace Roofs	EA	55	15	TP-TL-3.1
Painting	SQFT	Unlimited	10,000	TP-TL-3.1
Structures				
Shelters	EA	20	20	TP-TL-3.2
Play Grounds	EA	21	10	TP-TL-3.2
Fishing Piers	EA	5	5	TP-TL-3.2
Floating Docks	EA	12	8	TP-TL-3.2
Dump Stations	EA	14	5	TP-TL-3.2
Electrical Systems	EA	50	20	TP-TL-3.4
Plumbing Systems	EA	50	30	TP-TL-3.5
Water Systems	EA	25	10	TP-TL-3.6
Sewage Systems	EA	35	10	TP-TL-3.7
Well Water Samples	EA	10	40	TP-TL-3.8
Lake water Samples	EA	25	25	TP-TL-3.9
Sump Waste Water Samples	EA	4	4	TP-TL-3.10
HVAC Systems	EA	30	10	TP-TL-3.11
Elevators	EA	2	2	TP-TL-3.12
SECTION TP-TL-4				
Mowing	ACRES	300	300	TP-TL-4.1
Minor Mowing	ACRES	10	10	TP-TL-4.2
Restore Bare and Eroded Areas	ACRES	5	5	TP-TL-4.3

Prune Shrubs	EA	Unlimited	200	TP-TL-4.4
Remulch Trees	EA	Unlimited	500	TP-TL-4.5
Planter Boxes	EA	25	25	TP-TL-4.6
Replace Dead Trees	EA	Unlimited	75	TP-TL-4.7
Replace Dead Shrubs	EA	Unlimited	200	TP-TL-4.8
Watering	Trees	300	300	TP-TL-4.9
Pesticide/Herbicide	Areas	Unlimited		TP-TL-4.10
Tree Removal	EA	400	400	TP-TL-4.11
Nutrient Maint. Program (Fertilizer)	Ton	Unlimited	2	TP-TL-4.12
Earthen Embankment	Acres	35	35	TP-TL-4.13
Power Plant	Acres	5	5	TP-TL-4.14
Switch Yard	EA	1	1	TP-TL-4.15

SECTION TP-TL-5***Preventive Maintenance***

Bob Cat	EA	1	1	TP-TL-5.2
Grader	EA	1	1	TP-TL-5.2
Loader	EA	1	1	TP-TL-5.2
Fork Lift	EA	1	1	TP-TL-5.2
Fire Plow	EA	1	1	TP-TL-5.2
D-6 Cat	EA	1	1	TP-TL-5.2
Hydroseeder	EA	1	1	TP-TL-5.2
Ditch Witch Trencher	EA	1	1	TP-TL-5.2

SECTION TP-TL-6

Radios (Base)	EA	2	2	TP-TL-6.1
Radios (Mobile)	EA	40	20	TP-TL-6.1
Radios (Portable)	EA	35	20	TP-TL-6.1
Telephones	EA	35	5	TP-TL-6.3
Copiers	EA	3	2	TP-TL-6.4

SECTION TP-TL-7

Earthen Dam	EA	2	2	TP-TL-7.1
Rip Rap	Areas	30	30	TP-TL-7.2
Ramps	EA	40	40	TP-TL-7.3
Ramp Extensions	EA	40	6	TP-TL-7.4
Beaches	EA	38	38	TP-TL-7.5
Bulk Head Walls	LF	20,000	100	TP-TL-7.6
Surge Stone	Ton	Unlimited	1000	TP-TL-7.7
Impact Sites	EA	900	85	TP-TL-7.8

SECTION TP-TL-8

Signs	EA/New	N/A	300	TP-TL-8.1
Barricades	EA	200	75	TP-TL-8.2
Gates (New)	EA	N/A	6	TP-TL-8.3
Gates (Repair)	EA	100	15	TP-TL-8.4
Bumpers (Replace)	EA	Unlimited	150	TP-TL-8.5
Bumpers (New)	EA	150	150	TP-TL-8.6
Posts	EA	900	100	TP-TL-8.7
Fences	LF	300	300	TP-TL-8.8

SECTION TP-TL-9

Stripe Paved Roads	LF	20,000	20,000	TP-TL-9.1
Asphalt Repair	SQ YD	Unlimited	4500	TP-TL-9.2
Road Way Cleaning	Mile	15	15	TP-TL-9.3
Unpaved Roads	Miles	3	3	TP-TL-9.4
Stone Walkways	LF	Unlimited	2,500	TP-TL-9.5
Wooden Walkways	LF	3,000	1,500	TP-TL-9.6

Concrete Walk Ways	LF	2,000	100	TP-TL-9.7
Asphalt Crack Sealing	LF	Unlimited	10,000	TP-TL-9.8
<u>SECTION TP-TL-10</u>				
Sub-Soiling	Acres	100	50	TP-TL-10.1
Planting (Spring)	Acres	110	110	TP-TL-10.2
Planting (Fall)	Acres	110	110	TP-TL-10.2
Liming	Ton	Unlimited	10	TP-TL-10.3
Mowing	Acres	110	30	TP-TL-10.4
Herbicide Application	Acres	110	25	TP-TL-10.5
Beaver Ponds	EA	10	5	TP-TL-10.6
Nesting Boxes (Blue Bird)	EA	200	200	TP-TL-10.7
Nesting Boxes (Duck)	EA	75	75	TP-TL-10.7
Nesting Boxes (Squirrel)	EA	30	30	TP-TL-10.7
<u>SECTION TP-TL-11</u>				
Brushing	Miles	1200	100	TP-TL-11.1
Bare Areas (Posts)	EA	N/A	100	TP-TL-11.2
Carsonite Markers	EA	N/A	300	TP-TL-11.3
Witness Posts	EA	N/A	25	TP-TL-11.4
<u>SECTION TP-TL-12</u>				

Utility Installation

Water	LF	Unlimited	4,000	TP-TL-12.2
Electrical	LF	Unlimited	8,000	TP-TL-12.2
Site Hookups	EA	700	100	TP-TL-12.3
Gate Houses	EA	Unlimited	1	TP-TL-12.4
Shelters	EA	Unlimited	1	TP-TL-12.5
Docks	EA	Unlimited	2	TP-TL-12.6
Camping Impact Sites	EA	Unlimited	100	TP-TL-12.7
Picnic Impact Sites	EA	Unlimited	10	TP-TL-12.8
Site Approach Roads	LF	Unlimited	1,500	TP-TL-12.9
Site Walkways	LF	Unlimited	500	TP-TL-12.10
Playgrounds	EA	Unlimited	3	TP-TL-12.11
Bulletin Boards	EA	Unlimited	3	TP-TL-12.12
Water Diversion Structures	LF	Unlimited	1,200	TP-TL-12.13
Bulk Head Wall	LF	Unlimited	800	TP-TL-13.14
Rip Rap	Ton	Unlimited	1,500	TP-TL-12.15

Plant Materials

Shrubs	EA	Unlimited	150	TP-TL-12.16
Trees	EA	Unlimited	75	TP-TL-12.16
Fencing	LF	Unlimited	1,500	TP-TL-12.17
Asphalt Paving	SQYD	Unlimited	2,500	TP-TL-12.18

SECTION TP-TL-13

Fish Attractor Maint

Deep Water	EA	20	5	TP-TL-13.1
Bank Fishing	EA	30	15	TP-TL-13.1
Fishing Pier	EA	5	5	TP-TL-13.1
Shoreline Attractors	EA	Unlimited	150	TP-TL-13.2
Aquatic Plant Management	Acres	Unlimited	75	TP-TL-13.3
BMP	Acres	Unlimited	50	TP-TL-13.4
Culverts and Water Bars	EA	Unlimited	15	TP-TL-14.5
Seedlings	EA	Unlimited	3,000	TP-TL-13.6

Forestry Management	MnHr	Unlimited	250	TP-TL-13.7
Precommercial Thinning	Acres	Unlimited	250	TP-TL-13.8
<u>SECTION TP-TL-14</u>				
Bouy Maintenance	EA	500	300	TP-TL-14.1
Bouy Replacement	EA	N/A	55	TP-TL-14.2
Swim Beach Lines	EA	30	5	TP-TL-14.3
Refuse Removal	Ton	Unlimited	5	TP-TL-14.4
<u>SECTION TP-TL-15</u>				
Spill Response	EA	1	1	TP-TL-15.2
Spill Response Exercise	EA	1	1	TP-TL-15.3

L.6 52.204-6 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 99)

(a) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address exactly as stated in the offer.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror, if located within the United States, should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information:

- (1) Company name.
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

(c) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

(End of provision)

L.7 52.215-1 Alt I INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (MAY 2001) – ALTERNATE I

(a) Definitions. As used in this provision--

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

In writing, writing, or written” means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time”, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals. (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, or revisions of proposals. (i) Offerors are responsible for submitting proposals, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award. (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(End of Provision)

(a) Facilities capital cost of money will be an allowable cost under the contemplated contract, if the criteria for allowability in subparagraph [31.205-10\(a\)\(2\)](#) of the Federal Acquisition Regulation are met. One of the allowability criteria requires the prospective contractor to propose facilities capital cost of money in its offer.

(b) If the prospective Contractor does not propose this cost, the resulting contract will include the clause Waiver of Facilities Capital Cost of Money.

(End of Provision)

L.9 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Cost-Plus-Award-Fee (CPAF) contract resulting from this solicitation.

(End of Provision)

L.10 52.222-24 -- Preaward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

(End of Provision)

L.11 52.233-2 SERVICE OF PROTEST (AUG 1996)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

Department of the Army
Savannah District, Corps of Engineers
Attn: CT-P
100 W. Oglethorpe Avenue
Savannah, GA 31401-3640

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

(End of Provision)

L.12 252.204-7001 COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (AUG 1999)

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code entered must be for that name and address. Enter "CAGE" before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will--

(1) Ask the Contractor to complete section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

- (2) Complete section A and forward the form to DLIS; and
- (3) Notify the Contractor of its assigned CAGE code.
- (c) Do not delay submission of the offer pending receipt of a CAGE code.

(End of Provision)

L.13 252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION.(NOV 2001)

(a) Definitions.

As used in this clause--

- (1) Central Contractor Registration (CCR) database means the primary DoD repository for contractor information required for the conduct of business with DoD.
- (2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.
- (3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.
- (4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.
- (b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.
- (2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.
- (3) Lack of registration in the CCR database will make an offeror ineligible for award.
- (4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, 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 confirm on an annual basis that its information in the CCR database is accurate and complete.
- (d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

(End of Provision)

L.14 252.209-7001 -- Disclosure of Ownership or Control by the Government of a Terrorist Country (Mar 1998)

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

(1) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C.App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) *Prohibition on award.* In accordance with 10 U.S.C.2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) *Disclosure.* If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

(End of Provision)

Section M - Evaluation Factors for Award

SECTION MSECTION M
EVALUATION FACTORS FOR AWARD

M.1 52.217-5 EVALUATION OF OPTIONS (JUL 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

M.2 EVALUATION APPROACH

a. The Government will evaluate each proposal under informal source selection procedures strictly in accordance with proposal content and will not assume that performance will include areas not specified in the offeror's proposal.

(1) All proposals received will be subjected to an initial screening by the Contracting Officer to determine whether proposals are complete in accordance with Section L of the solicitation, and whether they warrant further consideration. Proposals that fail this initial screening process shall be rejected and offerors will be notified they are no longer eligible for further consideration.

(2) All proposals having passed the initial screening will be subject to evaluation by a team of Government personnel utilizing informal source selection procedures. In order for the Government to determine the quality of the offeror's proposal as it relates to the factors contained herein, the team will evaluate:

(i) Understanding of Problems and Requirements: The extent to which the proposal demonstrates a clear understanding of all technical features involved in solving the problems and meeting the requirements. The extent to which uncertainties are identified and resolutions proposed.

(ii) Feasibility of Approach: The extent to which the proposal is workable and the end results achievable. The extent to which successful performance is contingent upon proven devices and techniques, which do not require excessive development. The extent to which the offeror is expected to be able to successfully complete the proposed tasks and technical requirements within the required schedule. The proposal will be evaluated to determine whether the offeror's methods and approach in meeting the requirements in a timely manner provide the Government with a high level of confidence of successful completion.

(iii) Completeness: The extent to which the technical requirements have been considered, defined, and satisfied rating each proposal strictly in accordance with its written content. Evaluators will not assume that the offeror's performance will include areas of effort not specified in its proposal.

b. Offerors are reminded that unsupported promises to comply with contractual requirements will not be sufficient. Proposals must not merely parrot back the contractual requirements, but rather provide substantive, understandable and realistic evidence to support promised performance. Any inconsistency whether real or apparent, between promised performance and price should be explained. Unexplained inconsistencies resulting from the offeror's lack of understanding of the nature and scope of work required may be grounds for rejection of the proposal.

c. The Government will assess the relative risks associated with each offeror and each proposal as an inherent part of the best value decision process. Evaluators will determine the degree of risk associated with each

competing offeror based on the potential of each offeror's proposed approach to cause disruption of schedule, increase in cost, or degradation of performance. The evaluator's assessment of proposal and performance risk will be integrated into the ratings for Technical and Past Performance, as applicable, from the factors shown in Paragraph M.4.

(1) Proposal Risk: The technical and/or cost risk associated with an offeror's proposed approach in meeting the Government's requirements. Proposal risk summarizes the risk derived from the technical evaluation. It is an overall assessment driven by each of the subfactors within the Technical factor and is assessed by the proposal evaluators and integrated into the rating of each specific evaluation factor under the Technical and Cost factors.

(2) Performance Risk: Performance risk is associated with an offeror's likelihood of success in performing the solicitation's requirements as indicated by the offeror's record of past performance. Performance risk is assessed by the evaluation team from past performance information furnished by the offeror as well as similar information that may be independently collected by the Government.

d. The Government reserves the right to make award without discussions, based solely upon initial offers and without the opportunity for revised proposals. Accordingly, each initial offer should contain the offeror's best terms from a technical and price/cost standpoint. If, however, revised proposals are requested, they will be evaluated against the same criteria as the initial proposals.

e. Discussions or negotiations: Although the Government has reserved the right to award without discussions, discussions may be conducted with those offerors determined to be within the competitive range in accordance with FAR 15.306. If discussions are determined necessary, a request for "Final Proposal Revision (FPR)" will be made of all offerors in the competitive range. Final proposal revisions will be evaluated against the same criteria as were the initial proposals.

f. In making this award, each offeror will be evaluated on their performance under existing and prior contracts over a specified period. This past performance information will assist the Government in determining the appropriate level of performance risk to assign each evaluated proposal.

g. On the rare occasion that the offeror's organization has virtually no past performance history on related contracts, the offeror's lack of past performance will be treated as an unknown performance risk and given a neutral/unknown risk rating. A neutral/unknown risk rating is considered neither favorable nor unfavorable in terms of an overall Past Performance rating.

h. Offerors are hereby put on notice that pursuant to FAR 15.306(c)(2), the Government reserves the right to limit the competitive range for purposes of efficiency, to the greatest number that will permit an efficient competition among the most highly rated proposals. A "highly rated proposal" is defined as one that provides a technical proposal with no deficiencies and a minimum number of overall weaknesses, with no significant weaknesses identified; excellent past performance; and costs that are reasonable and reflect a balanced and realistic cost approach that is neither too high or too low for the services to be performed.

i. The Government's primary objective in selecting an awardee is to make a "Best Value" determination by employing a subjective assessment of each offer that seeks to balance all of the stated evaluation factors against the offeror's proposed integration of those factors in its proposal. Thus, in making the overall "Best Value" decision, the Government will consider the value of each proposal in terms of the Technical and Past Performance offered for the estimated cost.

j. The offeror's attention is invited to Section L for detailed instructions on documentation to be submitted with their proposal addressing each of the criteria necessary to be eligible for a full evaluation. Evaluation will be based on the factors and subfactors as shown in paragraph M.4, together with related risk assessment, as earlier described.

M.3 SPECIAL EVALUATION CONSIDERATIONS

a. Past Performance: Evaluation of the Past Performance factor will be based upon information received from past performance records furnished by each offeror, information received from past performance surveys, other customers known to the Government, consumer protection organizations, and others who may have useful and relevant information. For the purposes of this evaluation, relevant past performance is determined by identification of relevant experience and the subsequent evaluation of the past performance record for the identified relevant experience. Offerors with no relevant experience, or relevant experience for which no past performance record exists, will be given a neutral/unknown risk rating.

b. Cost: The Government will evaluate an offeror's cost proposal on the basis of total evaluated dollar amount. The total evaluated dollar amount will be the sum total of the evaluated costs for the contract line items in the base and option years. The Government will evaluate cost realism of each proposal. The realism of the offeror's proposed costs in relation to offeror's specific technical approach will be evaluated by determining what the Government thinks the offeror's approach will most probably cost the Government when the work performed under the contract is completed. To the degree that the Government's most probable cost estimate exceeds the offeror's proposed cost, the cost will be adjusted upward for evaluation purposes only. The Government will evaluate the degree to which the offeror's proposed base fee (which may be zero) reflects the offeror's own willingness for assumption of risk, and the degree to which the offeror's proposed award fee provides an adequate incentive for excellent performance. Offerors shall include a proposed fee structure that covers the base and option years of this contractual effort. The proposed fee structure shall be limited to the Defense Federal Acquisition Regulation Supplement (DFARS) restrictions located at DFARS 216.405-2(c)(2)(B).

M.4 BASIS FOR AWARD

a. Any award to be made will be based on the best overall (i.e. best value) proposal that is determined to be the most beneficial to the Government with appropriate consideration given to the three (3) evaluation factors: Technical, Past Performance, and Cost. Technical is more important than Past Performance. The Technical factor is comprised of two (2) sub-factors: Soundness of Approach and Management. Soundness of Approach is more important than Management. Technical and Past Performance, when combined, are significantly more important than Cost.

b. The Government reserves the right to award to other than the lowest estimated cost and/or evaluated cost, or the offeror with the highest rated Technical and Past Performance proposal. No proposal will be accepted that does not address the total amount of work specified in the solicitation. To be considered for an award, a proposal shall conform to all terms and conditions contained in the solicitation. Proposals, which are unrealistic in terms of resources or approach or unrealistic in cost, will be deemed reflective of an inherent lack of technical competence, and indicative of a failure to comprehend the complexity and risks of the overall contractual requirement. Pursuant to FAR 16.301-3, no award will be made to an offeror that does not have an adequate cost accounting system for determining costs applicable to the contract.