W911KB-05-R-0012

PHASE-1
PROPOSAL DOCUMENTS

C-17 MAINTENANCE COMPLEX

ELMENDORF AFB, ALASKA

SOLICITATION, OFFER, AND AWARD
SUPPLIES OR SERVICES AND PRICE/COSTS
CONSTRUCTION SPECIFICATIONS/STATEMENT OF WORK
INSPECTION AND ACCEPTANCE
SPECIAL CONTRACT REQUIREMENTS
CONTRACT CLAUSES
LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS
INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS
EVALUATION FACTORS FOR AWARD

OCTOBER 2005

U.S. ARMY ENGINEER DISTRICT, ALASKA
CORPS OF ENGINEERS
P.O. BOX 6898
ELMENDORF AFB, ALASKA 99506-6898

INCREASE PROFIT VE SUBMIT VE CHANGES

SOLICITATION, OFFER, AND AWARD *(Construction, Alteration, or Repair)*	1. SOLICITATION NUMBER	2. TYPE OF SOLICITATION	3. DATE ISSUED	PAGE OF PAGES
	W911KB-05-R-0012	☐ SEALED BID *(IFB)* ☒ NEGOTIATED *(RFP)*	7 October 2005	

IMPORTANT - The "offer" section on the reverse must be fully completed by the offeror.

4. CONTRACT NUMBER	5. REQUISITION/PURCHASE REQUEST NUMBER	6. PROJECT NUMBER

7. ISSUED BY CODE W911KB
U.S. ARMY ENGINEER DISTRICT, ALASKA
CEPOA-CT-CM (W911KB)
PO BOX 6898
ELMENDORF AFB, AK 99506-0898

8. ADDRESS OFFER TO
U. S. ARMY ENGINEER DISTRICT, ALASKA
2204 3RD STREET (CEPOA-CT-CM)
ELMENDORF AFB, ALASKA 99506

MAILING: PO BOX 6898
ELMENDORF AFB, AK 99506-6898

9. FOR INFORMATION CALL ▶	A. NAME	B. TELEPHONE NUMBER *(Include area code) (NO COLLECT CALLS)*
	CRYSTAL LABRECQUE	(907) 753-5578

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying number, date):*

NAICS: 236220 Commercial and Institutional Building Construction SIZE STANDARD: $28,500,000
PROJECT TITLE AND LOCATION: C-17 Aircraft Maintenance Complex, Elmendorf AFB, Alaska (ELM242)
FULL AND OPEN COMPETITION
DESCRIPTION OF WORK: Provide a dual-bay hangar (one washing and general maintenance, the other for painting) capable of housing C-17, KC-10, and 767 aircraft, squadron operation and administration facility, inspection and maintenance shops, supervisory space, tool cribs, squadron training, reference, dispatch, and analysis areas. The aircraft maintenance complex shall be constructed as a complete and stand alone structure with its own mechanical, electrical, communications and fire suppression systems for the complex functions.

Responders are advised that the requirements may be delayed, cancelled or revised at any time during the solicitation, selection, evaluation, negotiations, and/or final award process based on decisions related to DOD changes and disposition of the Armed Forces.

THIS SOLICITATION WILL BE ISSUED USING ELECTRONIC BID SETS (EBS) PROVIDED ON OUR WEBSITE AT NO CHARGE: https://ebs.poa.usace.army.mil/Advertised Solicitations.asp

NOTE: CONTRACT AWARD IS SUBJECT TO CONGRESSIONAL APPROVAL AND AVAILABILITY OF FUNDS (SEE SECTION 00100)

11. The Contractor shall begin performance within 10 calendar days and complete it within 870 calendar days after receiving ☐ award, ☒ notice to proceed. This performance period is ☒ mandatory, ☐ negotiable. *(See* FAR 52.211-10 *.)*

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE PAYMENT BONDS? *(If "YES," indicate within how many calendar days after award in Item 12B.)*	12B. CALENDAR DAYS
☒ YES ☐ NO	10

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and *See Section 00100 copies to perform the work required are due at the place specified in Item 8 by 2:00 PM *(hour)* local time 7 November 2005 *(date).* If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee ☒ is, ☐ is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

OFFER *(Must be fully completed by offeror)*

14. NAME AND ADDRESS OF OFFEROR *(Include ZIP Code)*	15. TELEPHONE NUMBER *(Include area code)*
	16. REMITTANCE ADDRESS *(Include only if different than Item 14)*
CODE FACILITY CODE	

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. *(Insert any number equal or greater than the minimum requirement stated in 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)*

AMOUNTS ▶

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGEMENT OF AMENDMENTS
(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.										
DATE										

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER *(Type or print)*	20B. SIGNATURE	20C. OFFER DATE

AWARD *(To be completed by Government)*

21. ITEMS ACCEPTED

22. AMOUNT	23. ACCOUNTING AND APPROPRIATION DATA
24. SUBMIT INVOICES TO ADDRESS SHOWN IN ▶ *(4 copies unless otherwise specified)* ITEM	25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO ☐ 10 U.S.C. 2304(c) ( ) ☐ 41 U.S.C. 253(c) ( )
26. ADMINISTERED BY CODE	27. PAYMENT WILL BE MADE BY

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

☐ 28. NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return _____ copies to the issuing office.)* Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

☐ 29. AWARD. *(Contractor is not required to sign this document.)* Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN *(Type or print)*		31A. NAME OF CONTRACTING OFFICER *(Type or print)*	
30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA BY	31C. AWARD DATE

W911KB-05-R-0012

! ! ! C A U T I O N T O O F F E R O R S ! ! !

1. **BUSINESS HOURS:** For the Alaska District Corps of Engineers is from 7:30 A.M. to 4:00 P.M., Monday through Friday.

2. **SUBMIT PROPOSALS:** To deliver proposals to the US Army Corps of Engineers, 2204 Third St, Elmendorf AFB, Alaska, you will need to submit a request for a base pass 48 hours prior to proposal due date (See Section 00100 for additional instructions). Hand deliveries to the Alaska District, you will need call extension 753-5578 or 753-2545 in advance to arrange for pick-up. Be advised there is limited telephone service in the lobby. Please be sure to submit proposals by the time specified on Standard Form 1442, Block 13-A. Any bids received after the specified time will not be accepted.

3. **VISITORS TO ELMENDORF AFB: ***NOTE: BE ADVISED THAT DUE TO BASE SECURITY MEASURES, YOU WILL NEED EXTRA TIME TO PROCESS THROUGH BONIFACE GATE.** You are required to have the following to obtain a base pass: current Anchorage emissions control inspection certificate, driver's license, DOD ID card (if applicable), proof of insurance, Alaska vehicle registration and Contracting Division point of contact/telephone number.

4. **AMENDMENTS:** Have you acknowledge receipt of **ALL** amendments? If in doubt as to the number of amendments issued, please contact our office, (907)753-2545. SEE SECTION 00100 FOR ADDITIONAL INFORMATION REGARDING AMENDMENTS.

5. **AMENDED PROPOSAL PAGES:** If **any** of the amendments furnished amended proposal pages, **the amended pages must be used** in submitting your proposals.

6. **OFFER GUARANTEE:** Sufficient offer guarantee in proper form (SF 24) must be furnished **with your proposal**. (FOR JOBS EXCEEDING $25,000)

7. **MISTAKE IN PROPOSAL:** Have you reviewed your proposal price for possible errors in calculation or work left out?

8. **OFFER ACCEPTANCE PERIOD:** The minimum OFFER acceptance period is specified in Block 13D of the Standard Form 1442, Solicitation, Offer and Award. Please ensure that you allow at least the stated number of calendar days for the Government to accept your proposal.

9. **WEB-SITE:** Project listings and planholder lists are available at https://ebs.poa.usace.army.mil/AdvertisedSolicitations.asp

C-17 MAINTENANCE COMPLEX
W911KB-05-R-0012
DESIGN-BUILD REQUEST FOR PROPOSAL

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PROPOSAL SCHEDULE

C-17 MAINTENANCE COMPLEX BASE ITEMS

Item No.	Description	Quantity	Unit	Amount
0001	Design/Construct C-17 Maintenance Complex, complete.	1	Lump Sum	$_____
0002	Painting Requirement			
0002AA*	Design/Install Paint Insert, complete.	1	Lump Sum	$_____
0002AB*	Design/Construct Paint Hangar, complete.	1	Lump Sum	$_____
			Total for Base Items	$_____

C-17 MAINTENANCE COMPLEX OPTIONAL ITEMS
In Order of Priority

Item No.	Description	Quantity	Unit	Amount
0003**	Design/Construct Wheel & Tire Shop, complete.	1	Lump Sum	$_____
0004***	Provide/Install Hangar Bay Floor Coating in HSC	1	Lump Sum	$_____
0005***	Provide/Install Hangar Bay Floor Coating in CCH	1	Lump Sum	$_____
0006***	Design/Construct Overhead Bridge Crane and Hoists, complete.	1	Lump Sum	$_____
0007***	Design/Construct Aircraft Tail Access Platform, complete.	1	Lump Sum	$_____
0008***	Provide/Install Masonry Wainscot	1	Lump Sum	$_____
			Total for Options 0003 - 0008	$_____
			Grand Total of Base and Options 0001 - 0008	$_____

*Either AA or AB will be awarded at time of award.
**To be awarded at Time of Award of Item 0001 & 0002 if funding is available.
***May be awarded up to 90 days after award of Item 0001.

CONTRACTOR PROPOSED BETTERMENTS - UTILIZE THE FORMAT BELOW

Item No.	Description	Quantity	Unit	Amount

PROPOSAL NO. W911KB-05-R-0012

If the offer is submitted by a corporation, partnership, Joint Venture or an LLC, the applicable form listed must be completed. In the alternative, other evidence must be submitted to substantiate the authority of the person signing the offer. If a corporation, the same officer shall not execute both the offer and the certificate.

LLC

I, _____(name), certify that I am the _____(title) of the LLC named as Offeror/Contractor herein; that _____(name) who signed this offer/contract on behalf of the Offeror/Contractor was then _____(title) of said LLC; that said offer/contract was duly signed for and on behalf of said LLC by authority of its governing body, and is within the scope of its corporate powers.

_____
(Signature)

CORPORATE CERTIFICATE

I, _____, certify that I am the _____ Secretary of the corporation named as Offeror/Contractor herein; that _____ who signed this offer/contract on behalf of the Offeror/Contractor was then _____of said corporation; that said offer/contract was duly signed for and on behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

_____(CORPORATE SEAL)
(Secretary)

AUTHORITY TO BIND PARTNERSHIP

This is to certify that the names and signatures of all partners are listed below and that the person signing the offer had authority to actually bind the partnership pursuant to its partnership agreement. Each of the partners individually has full authority to enter into and execute contractual instruments, on behalf of said partnership, with the United States of America, except as follows: (State "none" or describe limitations, if any.)

This authority shall remain in full force and effect until such time as the revocation of authority by any cause whatsoever has been furnished in writing to, and acknowledged by, the Contracting Officer.

_____
(Type or Print Name) (Signature)

PROPOSAL NO. W911KB-05-R-0012

JOINT VENTURE

I, _____ , certify that I am the Secretary of the Corporation named as Offeror/Contractor Herein, that who signed this offer/contract on behalf of the Offeror/Contractor was then _____ of said corporation by authority of its governing body and is within the scope of its corporate powers. IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said corporation this _____ day of

AFFIX CORPORATE SEAL

_____
(Secretary)

JOINT VENTURE

I, _____ , certify that I am the Secretary of the corporation names as Offeror/Contractor herein, that who signed this offer/contract on behalf of the Offeror/Contractor was then _____ of said corporation; that said offer/contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said corporation this _____ day of _____.

AFFIX CORPORATE SEAL

_____
(Secretary)

PROPOSAL NO. W911KB-05-R-0012

PRE-AWARD QUESTIONNAIRE

Following offer opening, the apparent low offeror will be contacted and requested to submit the data referenced below. This will expedite our pre-award process. Prior to awarding any contract, it is required for this office to have on record specific information concerning the apparent low, responsible, responsive offeror. Accordingly it is requested that you complete the following form and return to this office, ATTN: Contracting Division, CEPOA-CT-SP.

Name of Contractor _____ X Proper Block

Business Address _____ Corporation

City/State/Zip _____ Partnership

Telephone No. _____ Individual

Operating Office Address, (This Area): J/V

LLC

Name of Contractor

Business Address _____ inc. in State of:
City/State/Zip
Telephone No.

Year inc.

LIST OF CORPORATION OFFICERS/PARTNERS BY NAME AND TITLE

_____ Small Business

_____ Large Business

_____ Minority Business

YEARS EXPERIENCE in the field of proposed work (_____).
Also indicate similarity between work currently being produced and work required under subject invitation:

Financial Institution Ratings. Is your firm listed in:
a. Dun & Bradstreet: ____No ____Yes: If yes, what is the rating?
b. Thomas Register: ____No ____Yes: If yes, what is the rating?

CERTIFIED CURRENT BALANCE SHEET and latest PROFIT AND LOSS STATEMENT signed by an officer of the company. The name of your banking firm and telephone number and the name of the individual to contact for a line-of-credit reference. The last financial statements will be acceptable if they are less than 6 months old.

PROPOSAL NO. W911KB-05-R-0012

List all pending lawsuits or unsatisfied judgments against you; the nature of same and Court where filed or adjudicated. Lawsuits or judgments where full payment will be made, or are covered by your insurance are not to be included.

_____

_____

_____

List all your contract claims pending; state nature and amount of each claim and approximate date filed.

_____

_____

_____

Name(s) of Bonding Company(ies)_____

Business Address(es)_____

Your bonding capacity as established by your surety $_____

PLEASE ATTACH with Pre-Award Questionnaire a list of tools, equipment and facilities, with year, date and value which will be used for this project.

By my signature hereon, I certify that the offer price of $
on
subject project has been reviewed and is without error.

Signature_____

Title_____

Date_____

SECTION 00100

PROPOSAL SUBMISSION REQUIREMENTS

PART I GENERAL INFORMATION

1. REQUEST FOR PROPOSAL

The Request for Proposal (RFP) for this solicitation will be issued on CD-ROM or via other electronic means at no charge. Traditional paper copies will not be available. Prospective Offerors, subcontractors and plan rooms are required to self-register their firm or office on the Internet at: www.poa.usace.army.mil/contracting/default.asp. Telephonic, mailed, or faxed requests will not be accepted. Those registering are responsible for the information on the mailing list. Updated project listings and plan holders lists are available at the same website.

2. LIMITATION

Price Limitation: The target price (not including options) for contract award for design and construction of the C-17 Maintenance Complex is approximately **$74,000,000.** The Offeror is encouraged to not exceed this amount for the base item, as the Government may not obtain additional funds. It is unlikely additional funds will be made available for award should the target price amount be exceeded. Proposal/s exceeding the target price may be rejected.

Offerors are also advised that a contract resulting from this solicitation is contingent upon congressional approval. Should congress not appropriate the funds, the solicitation will be canceled. If the solicitation is canceled, all proposal preparation costs will be borne by the Offeror. The Government will not reimburse Offerors for their costs associated in preparing their proposals.

If awarded this contract will be incrementally funded over two years (Fiscal Year 2006 - $47,000,000 and Fiscal Year 2007 - $27,000,000) in accordance with DFARS Clause 252.232-7007.

Area Limitation: Total proposed building areas exceeding 10% of the authorized 17,352 square meters may not be approved for award. The Offeror may not deviate from the minimum requirements, site concept design, spatial relationship plans, and the room criteria sheets for the shops or NDI without Government approval. The Offeror may propose changes to the design via Contractor-Proposed Betterments to improve constructability, functionality, and value to the Government.

3. BOND AMOUNT REQUIRED

Proposal Bond: Submit proposal bond in accordance with Federal Acquisition Regulation (FAR) 52.228-0001 Bid Guarantee (Sep 1996) with Phase Two, Volume 2, Pricing.

4. SURETY REQUIREMENTS

Corporate Sureties - Corporate sureties for bid, performance, and payment bonds must appear on the list contained in the Department of the Treasury Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies". Other requirements for corporate sureties are contained in FAR 28.202-1.

Individual Sureties - If individual sureties are used for bond obligations, they must meet the requirements under FAR 28.203.

5. INQUIRIES

Prospective Offerors may submit inquiries concerning administrative and technical matters in writing to Ms. Crystal D. Labrecque, Contract Specialist, 907/753-5578, Fax 907/753-2544. All written inquiries should be addressed to U.S. Army Engineer District, Alaska, ATTN: Crystal D Labrecque, CEPOA-CT-CM, P.O. Box 6898, Elmendorf AFB, AK 99506-6898 or e-mailed to: Crystal.D.Labrecque@poa02.usace.army.mil).

Collect calls will not be accepted.

6. VISITORS TO AIR FORCE BASES

All vehicle operators are required to wear seatbelts. Violators will lose their base driving privileges for 10 days on their first offense, 30 days on the second offense, and 6 months or longer on the third offense.

If a firm does not have a current pass to obtain entry to Elmendorf AFB, the firm may request a Day Pass using the following procedures:
Forty-eight (48) hours prior to your meeting or delivery of proposal, the firm must contact Ms. Crystal D Labrecque at the above e-mail and request a Day Pass. The firm must provide:

a. The solicitation number
b. The names of all person(s) in the vehicle
c. The name of their employer(s)

On the day of entry the driver must go to the Visitor's Center located at the Boniface Gate and state that they have a Day Pass and must provide the security personnel the following:

a. Valid driver's license
b. Proof of current insurance
c. Proof of current IM certification
d. Current vehicle registration.
e. Please inform the security police that you are on the list for a Day Pass.

Please allow enough time to access the base in case of possible changes in base or building access requirements for security reasons.

7. FACSIMILE PROPOSALS

Facsimile proposals or modifications will not be accepted.

8. PICK-UP SERVICE FOR TELEGRAPHIC AMENDMENTS

The US Army Engineer District, Alaska, does not provide pick-up service for telegraphic amendments.

9. PRE-PROPOSAL CONFERENCE / SITE VISIT

A pre-proposal conference and site visit will be conducted for Phase Two of this solicitation on **DATE TO BE DETERMINED (TBD)**. Location will be Elmendorf Education Center, Elmendorf Air Force Base, Alaska. Following notification, Offerors wishing to attend will be required to provide their full name, company name, and telephone number to Ms. Crystal D Labrecque, Contract Specialist**,** at the U.S. Army Engineer District, Alaska, at FAX 907/753-2544 or email: Crystal.D.Labrecque@poa02.usace.army.mil by close of business of TBD**.** Follow procedure in paragraph 6 - Visitors to Air Force Bases for a Day Pass.

Questions submitted at least two days prior to the proposal conference/site visit will be answered at the conference when feasible. Submit questions to Crystal D. Labrecque, via e-mail or FAX 907/753-2544. Minutes of the conference will be recorded and distributed to all Offerors as an amendment to this RFP regardless of whether or not they attend the pre-proposal conference.

Offerors are encouraged to attend the pre-proposal conference and familiarize themselves with site parameters and constraints.

Prospective Offerors are advised to visit the work site to ascertain the degree of difficulty expected in avoiding existing features, and other factors affecting the work. Any difficulties arising during performance of work that would have been evident at such a prior inspection will not be considered to be a result of differing site conditions.

10. PRE-AWARD SURVEYS

The Government reserves the right to conduct a pre-award 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.

PART II WHO MAY SUBMIT

1. TYPES OF FIRMS

Firms formally organized as design-build entities, design firms and construction contractors that have associated specifically for this project, or any other joint venture or sub-contractor may submit. For the purposes of this solicitation, no distinction is made between formally organized design-build entities and project-specific design-build associations. Both are referred to as the design-build Offeror (or simply "Offeror") or the design-build contractor (or simply "contractor") after award of a contract.

2. JOINT VENTURES

Joint ventures are encouraged to apply; however they must complete the following:

a. Obtain a Tax Identification Number (TIN) as a joint venture.
b. Prepare the Reps/Certs as a joint venture (For example, provide the TIN of the joint venture and do not use a TIN from one of the parties of the joint venture.)
c. All parties to the joint venture must sign the proposal.

All Offerors are advised that if they are the successful Offeror they must be registered in the Central Contracting Registration (CCR) database prior to award in accordance with FAR Clause 252.204-7004, Required Central Contractor Registration (NOV 2001). "Lack of registration in the CCR database will make an Offeror ineligible for award". We advise Offerors begin this process when they prepare their proposal in order to ensure this registration is in place should they be selected for the award. All Offerors must also have completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website in accordance with FAR Clause 52.204-8. Joint ventures must be registered in both CCR and ORCA as a Joint venture.

Corporate certificate: Ensure that both firms complete the joint-venture portion.

In the case of a joint venture, the following is required: A contract with joint ventures may involve any combination of individuals, partnerships, or corporations. The contract shall be signed by each participant in the joint venture in the manner prescribed below for each type of participant. When a corporation is participating, the Contracting Officer shall verify that the corporation is authorized to participate in the joint venture.

Individuals. A contract with an individual shall be signed by that individual. A contract with an individual doing business as a firm shall be signed by that individual, and the signatures shall be followed by the individual's typed, stamped, or printed name and the words "an individual doing business as (insert name of firm).
Partnerships. A contract with a partnership shall be signed in the partnership name. Before signing for the Government, the Contracting Officer shall obtain a list of all partners and ensure that the individual(s) signing for the partnership have authority to bind the partnership.
Corporations. A contract with a corporation shall be signed in the corporate name, followed by the work "by: and the signature and title of the person authorized to sign. The Contracting Officer shall ensure that the person signing for the corporation has authority to bind the corporation.

The bid bond form, block "principal" requires that the name and title of the person authorized to sign for the joint venture be included.

After award the performance and payment bonds, and the insurance certificate(s) provided shall be in the name of the joint venture.

3. PARTICIPATION OF COMMERCIAL FIRM

The following firms may provide administrative support during the source selection process. These firms will be authorized access to only those portions of the proposal data and discussions that are necessary to enable them to perform their respective duties. The firms listed below shall be expressly prohibited from competing on the subject acquisition and from proposal scoring, or ranking:

FIRMS: Koonce Pfeffer Bettis, Incorporated; R & M Consultants, RBA Engineers, Incorporated; Sierra Consults, Incorporated; HMS, Incorporated.

Pursuant to Federal Acquisition Regulation (FAR) 9.505-4, individuals involved in this acquisition whose duties expose them to proprietary information generated in an Offeror's proposal will be required to sign a nondisclosure agreement. This agreement states that, while performing their duties related to the source selection process, they will: (1) protect the Offeror's information from unauthorized use or disclosure for as long as it remains proprietary and, (2) refrain from using the information for any purpose other than that for which it was furnished.

PART III TWO PHASE REQUEST FOR PROPOSAL PROCESS

The U.S. Army Engineer District, Alaska, intends to solicit this requirement using source selection procedures in accordance with the provisions set forth in this RFP. The process used for this solicitation will be a Two Phase RFP wherein Offerors will be evaluated and selected utilizing the following criteria:

Phase One:
Experience
Past Performance (to include prime contractor/design team and key subcontractors)
Organization and Management (to include key personnel, and key subcontractors)
Design Approach

Phase Two:
Design Solution
Proposed Schedule
Proposed Equipment and Materials
Contractor's Proposed Betterments
Commissioning to Integrate Building Systems
Subcontracting Plan
Price

Each criterion, with the exception of Price, will be evaluated as a discrete factor. The final determination as to the overall value of any proposal will reflect the combined effect of having considered all criteria as a whole relative to price. A firm fixed price construction contract will be awarded to the Offeror who submits a proposal determined to be the best value to the Government, with price and other factors considered.

Only those Offerors that are considered to be most highly qualified within Phase One will be asked to submit Phase Two proposals. **No more than four (4) Offerors will be selected to submit proposals for Phase Two.**

The Government intends to award without discussions.

Limited exchanges with Offerors may be conducted for clarifications. A competitive range will be established for conducting discussions if discussions are deemed necessary.

PART IV GENERAL PROPOSAL REQUIREMENTS

1. REQUEST FOR PROPOSAL REQUIREMENTS

The intent of this RFP is to solicit proposals for the design and construction requirements needed for a C-17 MAINTENANCE COMPLEX as outlined in this RFP. Offerors shall perform sufficient design work prior to submitting proposals in order to verify quantities and costs. See section 00800 for additional information on Special Contract Requirements. The solicitation criterion relies upon Air Force standards, as much as possible, to allow the Offeror a degree of innovation and design flexibility while meeting certain specific project requirements.

The RFP drawings illustrate a spatial and functional arrangement that is acceptable to the user and incorporates many of the users desired site design features. The Offeror may propose changes to the design via Contractor-Proposed Betterments to improve constructability, functionality, and value to the Government. Reference FAR Clause 52.215-1 (Alt II).

2. GENERAL SUBMISSION REQUIREMENTS

Submit your proposal packages to the U.S. Army Engineer District, Alaska at the address shown in Block 8 of Standard Form 1442.

The Government must receive your proposal no later than the time and date specified in Block 13 of Standard Form 1442.

A cover letter must be provided as the first page of each proposal for each phase and should include:

a. Solicitation number.
b. Name, address, e-mail, telephone and facsimile numbers of the firm signing the SF 1442.
c. Names, titles, e-mails, telephone and facsimile numbers of persons authorized to negotiate on the firm's behalf with the Government in regards to this solicitation.
d. Name, title and signature of the person authorized to sign the proposal.

Submit your proposal in distinct volumes as follows:

<u>Phase One:</u>
Volume 1 - contains your organization's experience, past performance, organization and management, and design approach.

All Offerors will receive written notice if they were or were not selected to compete in Phase Two.

Phase Two:
Volume 1 - contains your technical solution as follows: design solution/design drawings (drawings submitted as part of your proposal may be incorporated into this Volume or enclosed as a separate bound set with your proposal.); proposed schedule; proposed equipment and materials; commissioning for entire building; contractor's proposed betterments; and subcontracting plan.

Volume 2 - contains the required pricing and proforma requirements.

Those selected for Phase Two shall have approximately seventy-five days after receipt of the final RFP for submittal of Phase Two proposal requirements.

Proposal clarity, organization and cross-referencing are mandatory. The Offerors shall sufficiently detail and clearly define all items addressed in this Section (00100) Proposal Submission Requirements.

Written portions shall be typewritten using not more than 6 vertical lines per inch in 8-1/2" x 11" format with three holes punched, in three ring binders. Schedules may be presented on 11" x 17" sheets folded to 8-1/2" x 11". The Offeror shall label and tab their proposal consistent with the solicitation format index below. The proposal shall have a table of contents for the proposal criterion as established in this Section (00100). Each page of the proposal shall have the page number on the bottom of the page starting with the first page to the last.

Provide **original** and **Three** (3) copies of VOLUME 1 for each Part, and original and **one** (1) copy of Volume 2, Part 2 (price). Provide **one** (1) copy of all CADD files using AutoCAD 2000 or later version on a Compact Disk.

Page limitations:

Phase One, Volume 1 is not expected to exceed 35 (thirty-five) single-sided pages. Personnel resumes and performance evaluations located in Volume 1 are not considered part of the 35 (thirty-five) single sided pages.
Phase Two, Volume 1 may be as many pages as required. Use of original product information or high quality laser copied images is encouraged for clarity.
Phase Two, Volume 2 may be as many pages as required.

3. TECHNICAL PROPOSAL GENERAL REQUIREMENTS

Technical data consisting of drawings, outline specifications, and supporting data (product literature, catalog cuts, etc.) shall be furnished as part of the formal proposal and shall meet all requirements of the RFP, design standards, technical specifications, and referenced regulations. Data shall be specific and complete, and demonstrate thorough understanding of the requirements. Data shall include, where applicable, complete explanations of procedures the firm proposes to follow. Additionally, data shall demonstrate the merit of the technical approach offered and shall be an orderly, specific, and complete document in every detail.

Data submitted must reflect the designer's interpretation of criteria provided in the RFP. Drawings/sketches, required to clarify the Offeror's proposal, should present basic concepts, arrangements, and layouts. Arrangements, layout plans, and notes may be combined together on single sheets in order to simplify presentation so long as clarity is maintained. Firms are encouraged to provide INFORMATIVE DRAWING NOTES to convey important features of their design. Drawings are not intended to be construction detail plans.

Unnecessarily elaborate or voluminous brochures or other presentation beyond those sufficient to present a complete and effective response are not desired and may be construed as a indication of the firm's lack of cost-consciousness. Elaborate artwork, expensive paper and bindings, and expensive/extensive visual and other presentation aids are unnecessary.

Technical proposals will be evaluated for conformance with the basic RFP design criteria, and for the extent to which they exceed those criteria. While the intent is to keep the pre-award design effort to a minimum, proposals must provide adequate detail for evaluators to determine how the proposals meet or exceed the basic RFP design criteria. Reiteration of the RFP is not desired.

PART V SPECIFIC PROPOSAL REQUIREMENTS

Do not deviate from the RFP requirements in your proposal.

PHASE ONE REQUIREMENTS

1. PHASE ONE, VOLUME 1 ORGANIZATIONAL CHARACTERISTICS

Volume 1 is an opportunity for you to provide information on your team's experience, past performance, proposed organization and management and design approach. Present the material sequentially under the following Tabs, A thru D, to facilitate evaluation.

TAB A: **EXPERIENCE**

Utilize the format specified in Part VI, Items 1, 2 and 3 as a coversheet (1 for each project submitted by the Construction Firm, Design Firm and the Team) and Item 4 as a Project Experience Form and/or Format for each project submitted under this tab. Include the completed attached matrices for the example projects submitted.

Experience Matrix Featured Project	**Prime/AE/Team**	**Customer**	**Loc.**	**Cost**	**Size**	**Date Comp.**
Project A						
Project B						
Project C						

Experience Matrix Featured Project	Design/Build	Cold Weather Extreme Conditions	Large Span Structural Steel Design/Construction	Concrete Aircraft Paving Design/Construction	Shops for repairing aircraft	Administrative Areas	Corrosion Control Hangars	Permitting & Environmental Compliance
Project A								
Project B								
Project C								

Construction Firm(s): Provide up to three (3) examples of projects, demonstrating relevant design/build experience that are similar in scope to this project. Provide an explanation of how these projects are similar in scope and magnitude to the work required in this RFP. Explain your experience with environmental compliance and permitting procedures with government agencies.

Design Firm(s): Provide up to three (3) examples of projects, demonstrating relevant design/build experience, that are similar in scope to this project. Examples provided should include the primary A/E and may also include principal subcontractors. Provide an explanation of how these projects are similar in scope to the work required in this RFP.

Team Experience: Provide up to three (3) examples of projects with recent and relevant experience in which the contractor and design firm have worked together. Identify any projects that are similar to this project. Provide an explanation of how these projects are similar in scope to the work required in this RFP. Also, identify any design-build experience by providing a matrix that shows team firms and relevant projects. If three (3) examples of projects for the team are not available they may be substituted one for one with other examples of teaming.

Joint Venture: Provide up to three (3) examples of projects for each company proposing as a joint venture relating to its role for this project. In each project example indicate the general scope and the firm's role in the project.

Relevant experience includes but is not limited to: experience with aircraft painting facilities, aircraft repair shop layout, large office areas, airfield industrial support facilities, major new hangar construction.

The first 3 examples as stated above in sequential order will be considered. Examples submitted in excess of the requested amount will not be considered.

TAB B: PAST PERFORMANCE

Construction Firm(s) and Design Firm(s): Provide information for each project listed under Tab A to indicate past performance.

Past Performance Evaluation Questionnaire/Form: The Offeror may use the Past Performance Evaluation Questionnaire/Form included as Part VII as a means to supplement the Past Performance requirement. This is especially useful if one or both parties has limited experience with government projects or wishes to highlight specific civilian projects. The Offeror may furnish copies of past performance evaluations received from its customers. The government will review all available recent and relevant past performance data in its possession. The Offeror will be responsible for submitting the Past Performance Evaluation Questionnaire/Form to its customers in a timely manner. The Government may also contact sources outside those listed in the proposal.

TAB C: ORGANIZATION AND MANAGEMENT

Provide a narrative addressing each of the following items along with an overall organization chart that graphically depicts the key positions in your design-build team and their interrelationships.

Design Firm(s): Describe the organization, responsibilities and lines of authority established to complete the design. Describe your current resources available to support and accomplish this design concurrently with other projected or ongoing work. Describe the responsibility of the designers during the construction phase. Provide a discussion on why your design firm(s) is especially qualified to undertake this project.

Construction Firm(s): Describe the organization, responsibilities and lines of authority established to complete the design and construction of this project. Describe your resources available to support this project concurrently with other projected or ongoing work. State why your firm is especially qualified to undertake this project. Provide your Key Sub-contractors their responsibilities and lines of authority.

On-site Design/Build Management: Describe how the onsite Design/Build management team organization will interact during construction.

Key Team Members: Utilize the format specified in Part VIII, Items 1 and 2 to state the qualifications for each person/s in the key position identified in a and b below and depicted on your organization chart. Lines may be added to the attached resume forms as required. See SCR-40 Key Personnel for information on substitution of key personnel after award.

a. Design Team: Include at a minimum the Design Project Manager, Architect, Civil Engineer, Geotechnical Engineer, Structural Engineer, Mechanical Engineer, Electrical Engineer, Fire Protection Engineer, and Corrosion Control Hangar designer. State which individuals will be the registered designers of record and provide their respective registration numbers.

b. Construction Team: Include at a minimum the Construction Project Manager, Construction Site Superintendent, Contractor Quality Control Manager (per UFGS 01451), Site Safety and Health Officer (per UFGS 01525), Fire Protection Installer, Corrosion Control Hangar Installer, and Key Sub-contractors if any.

Joint Venture: Identify the individual firms, describe the nature of the association, and clearly identify contractual responsibilities of each firm.

TAB D: DESIGN APPROACH

Describe your general approach to design and construction of this project, to include Government Options. Identify opportunities, challenges, and/or constraints, and emphasize your innovative and well-conceived approach to meeting the criteria stated in the Statement of Work.

END OF PHASE ONE REQUIREMENTS

PHASE TWO REQUIREMENTS

2. PHASE TWO, VOLUME 1 – TECHNICAL SOLUTION

Volume 1 is an opportunity for you to provide your team's solution for design and construction needed to accomplish the requirements. Present the material sequentially under the following Tabs, A through F, to facilitate evaluation.

TAB A: DESIGN SOLUTION

Narrative: Present a narrative of your design approach and your technical design solutions for all items on the proposal schedule to include Government Options. The Offeror shall certify that his design complies with the most recent regulations, standards and codes. The narrative shall include but not necessarily be limited to the following:

Civil. Include the rationale for the major features of the design. Outline the proposed site demolition, layout, grading, storm drainage, and approach apron design. Clearly delineate the elements of construction. Explain the inter-relationship of the building and utilities, vehicular traffic, and other features, such as entrance design, hangar approach apron design, drainage layer beneath airfield pavement, fire access, site landscape design, and drainage plan, etc. Emphasize the arctic engineering principles and the special features incorporated in the design, including the drainage layer. Describe Force Protection measures incorporated.

Architectural. Describe the overall design concept/approach and the inter-relationships of the facility to the site. Describe all interior and exterior envelope building systems. Describe energy saving devices and long-term low-maintenance features. Describe Force Protection measures incorporated in the proposal. Describe exterior and interior finishes and cross-reference the representative color board(s) for interior finishes. Provide building code summary. Describe response to noise from flight line activity. Describe the proposed configuration of the Corrosion Control Hangar paint bay including specific design features of this discipline. Discuss interrelationship with plenum door and hangar doors.

Structural. Describe the structural scope. Describe the structural framing systems and materials; lateral load resisting systems and how lateral loads will be transmitted to the foundation. Provide a description of the roof and floor systems. Provide a list of design criteria, design loads and assumptions, and computer software used for analysis. Describe Force Protection measures incorporated. Discuss elements of the hangar door design and the qualifications of the proposed supplier. Describe the proposed configuration of the Corrosion Control Hangar paint bay including specific design features of this discipline.

Mechanical. Describe the design approach and the basis of design (summer/winter, indoor/outdoor design conditions for critical and non-critical systems). Provide a narrative description of each system; plumbing, HVAC and tie-ins including manufacturer's names and type/model of proposed equipment to be used and how the systems will be incorporated into the facility as part of the over all design. Describe force protection measures incorporated into the mechanical design. Describe the proposed systems and operations of the Corrosion Control Hangar paint bay including specific design features of this discipline.

Electrical and Telecommunication Systems. Provide a descriptive narrative of the communication and electrical systems required for this project. Your description shall include basis of design and construction materials. Also include the salient features of proposed equipment and materials to be used. Describe the internal, external, and electronic systems required for this project. The description should discuss all aspects of each system including proposed brand name and model. Describe force protection measures incorporated. Describe the proposed systems and operations of the Corrosion Control Hangar paint bay including specific design features of this discipline.

Demolition. Describe elements to be demolished, sequence of work, safety methods, and disposal methods.

Hazmat Abatement/Demolition. Describe the means and methods to be used to remove and dispose of the hazardous materials identified in the project. Describe how the work areas will be controlled to prevent exposure of abatement workers and other personnel to hazardous materials.

Fire Protection and Detection. Describe fire protection and detection with associated site and equipment needs. Include manufacturers' names and type/model of proposed equipment. Describe the fire protection systems for the hangars, office areas, and maintenance shops and specifically for the aircraft corrosion control hangars and general maintenance areas. Describe the proposed systems and operations of the Corrosion Control Hangar paint bay including specific design features of this discipline.

Design Drawings: Include only those drawings/sketches required to show the requested information. Drawings shall adhere to the most current version of the CADD/GIS Technology Center A/E/C CADD Standard ERDC/ITL TR-01-6 published by the U.S. Army Engineer Research and Development Center, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199. This publication is also available at http://tsc.wes.army.mil. Drawings and perspective shall be archived on CD-ROM in an AutoCAD 2004 .dwg format; and electronic drawings with cross references shall have the cross references bounded to the drawing; one AutoCAD drawing file per drawing sheet. Prints of drawings/sketches to scale shall be 11" x 17" size bound separately or incorporated into the tabbed binder for ease of review and handling. Provide an index sheet. Provide four sets of full size floor plan drawings.

Demolition. The plan shall show all demolition.

Civil. Civil Site/Grading Plan (Scale 1:400) - Locate all proposed improvements including: building footprint, typical pavement structural sections, site amenities or improvements, parking, AC paving, walks, concrete slabs, misc. details, access roadways, approach aprons, and parking lots. Provide Site Utility Plan annotating required utilities serving the Complex.

Landscaping. Landscape Site Plans (if not included in Civil Site Plan) – Scale 1:400.

Architectural. Cover sheet with title, drawing index, and other pertinent information. Provide comparative code analysis of IBC 2000 and NFPA 101, requirements. Provide a floor plan without the Wheel and Tire Option.

Building Plan(s) (1:100 minimum scale) with sufficient detail to determine scope, function, and conformance to minimum or maximum areas required. Plans will show: walls, doors, windows, circulation, fixtures, casework & attached components, basic dimensions, room names and square feet size, horizontal profile and clearances for all plane types to be served, limits of bridge crane operations, and furniture/equipment layout plans. Roof Plan shall show roof configuration, locations of different kinds of roofs, direction of slopes to drain, overall dimension of roofs in plan, and roof access.

Exterior Elevations (1:100 minimum scale) shall show floor elevations, finishes and textures, windows, entrances, roof forms.

Building Section (1:100 minimum scale) shall show major structural elements, walls, floors, prices, floor to price distance(s), vertical profile and clearances for all plane types to be served, floor to floor distance(s), limits of crane and hook operation (active and resting), grade to roof peak, adjacent grade, and site element relationships.

Typical Exterior Wall Section(s) (1:10 minimum scale) shall show structural elements, exterior finishes, architectural framing elements, floor/wall assembly call-outs, vertical dimensions, insulation locations and vapor retarder locations.

Exterior Perspective(s) shall show the building entrance, architectural features, walkways, and finish materials. Provide a minimum of one perspective from the road and one from the taxiway. Both shall be in color.

Conceptual Plan and Section (enlarged) of Corrosion Control Hangar paint bay annotated with primary components and processes. Provide a conceptual floor plan and sections for options 2, 3a, and 3b.

Structural. Structural drawings sufficient to show hanger clearances for all aircraft types served and all required equipment, including hangar doors.

Mechanical. Combined Plumbing/Heating/Ventilation Plans: (1:200 minimum scale). Plan shall show 1-line routing of plumbing pipe, heating pipe, and ventilation ductwork. This is to demonstrate that consideration has been given to how the utilities are to be routed within the facility including, but not limited to, pipe chases and interferences. Sizing is not needed except for rough sizing of main ducts runs.

Mechanical room (1:20 minimum scale). Plans will show a block layout of all major equipment to demonstrate that all equipment has been accounted for and will fit within the space(s) available. Locations and space allowances shall include maintenance and circulation areas.

Fan Room Plan and Section (1:20 minimum scale). Plans will show a block layout of all major equipment to demonstrate that all equipment has been accounted for and will fit within the spaces(s) available. Locations and space allowances shall include maintenance and circulations areas.

Conceptual Plan (enlarged) of Corrosion Control Hangar paint bay annotated with primary components and processes. Provide a conceptual floor plan for options 3a and 3b.

Electrical. One line riser diagrams for power, telecommunications (copper and fiber), Closed Circuit Television (CCTV), and PA system for interior of the building. Provide electrical and communication site plans.

Fire Protection. Provide fire alarm matrix. Provide floor plans showing the following: locations of fire protection (wet and dry systems and high expansion system) and detection systems, citation of codes/standards that govern.

Color Board: Coordinated interior and exterior color schemes. Provide a color board with samples of primary interior and exterior finish materials. The purpose of the color board is to convey the level of quality proposed for this project. Color board shall reference colors/patterns to finishes. Submit format in accordance with Section 01012, Design After Award.

Government Options: Government Options are defined as additions to the base line scope of work in which the Government has the unilateral right for a specified time to purchase the option/s. The time period for the award of the options in this RFP is time of award of Item 1 and 2a or 2b for optional item 3 and up to 90 days after award of Item 1 and 2a or 2b for Items 4-8.

TAB B: PROPOSED SCHEDULE

Capability: Provide a narrative, describing your scheduling capability and planning organization. Address how you maintain, update and use your schedule. Identify the software you intend to use. The software must support the Corps of Engineers Data Exchange format in accordance with Section 01320.

Schedule: Submit a proposed schedule for design and construction. This schedule shall clearly show how it compares to the number of days and constraints stated in Section 700 (52.211-10) and the sequence of design - construction stated in Special Contract Requirement (SCR) 43. Notice to proceed (NTP) date **TO BE DETERMINED.** The Offeror shall acknowledge that he understands that the total contract duration proposed in this schedule shall become contractually binding should that Offeror receive the award. In addition, the proposed schedule shall be used as the basis for development of the initial Network Analysis System as defined by Section 01320. Schedules or diagrams may be provided separately in a size that is easily read, but shall be bound and clearly labeled. The schedules shall be task oriented, indicating the number of calendar days, after notice to proceed, by which milestones are to be achieved. The schedule shall be presented graphically using a critical path method. Give special attention to the following features:

Show the design phase, including events associated with coordinating the design submittals, Government review and conferences, and the proper handling of the review comments. Show Options and Contractor Proposed Betterments included in proposal, design and construction. Show design and construction phasing if applicable.

Show the construction phase for each major feature of construction. The schedule shall indicate the Offeror's understanding of the relationship between design after award and building construction within the project schedule. Shows a single design - construction critical path. All design schedules shall adhere to the timeframes given below.

Show O&M manual submission and required operator training.

Show the requirement identified in section section 01451.

Show commissioning of the project. Identify any proposed phased turnovers. Show turnover inspections.

Show as-built submissions.

Constraints: Offeror must demonstrate the capability and flexibility to plan and schedule the complete project to meet the proposed contract completion date. Clearly identify any constraints on the schedules presented (e.g., labor or material availability, weather, interfaces with base utilities, etc.) and indicate the anticipated critical path on the schedule.

Timeframes: The time durations for the following start to finish activities shall be included in the schedule for the project design as provided below:

Review of Fire Protection Design – 60 days for each review

65% Design Review period	30 days
Review Conference - 65% Design	2days
95% Design Review period	30 days
Review conference – 95% Design	2days
100% Backcheck review	14 days

Work Plan: Show work plan submittal(s) Alaska Department of Environmental Conservation (ADEC), Environmental Protection Agency (EPA) submittals and associated review periods.

All work activities shall be scheduled and submitted to the Administrative Contracting Officer (ACO) for approval.

TAB C: PROPOSED EQUIPMENT AND MATERIALS

Furnish manufacturers' catalog data (no more than 100 pages) on major pieces of equipment, fixtures, and architectural elements to indicate type of materials, equipment, size or capacities, manufacturer, and model number to be used in this project. At a minimum **ensure catalog data is submitted for all Contractor Furnished Contractor Installed (CFCI) equipment listed in Section 01011 - Part 5 Equipment Catalog Cuts.** Originals of manufacturer's catalog should be submitted where photocopies may not be legible. Information presented in this Tab will be one means of establishing the level of quality to be expected by the government.

TAB D: CONTRACTOR'S PROPOSED BETTERMENTS

"Betterments" are defined as any component or system identified by the contractor, which exceed the minimum requirements stated in the RFP (See SCR-42). Consider the target price for the project in determining Contractor's Proposed Betterments.
"Contractor's Proposed Betterments" are the Offeror's opportunity for design and construction creativity, which exceeds the minimum requirements stated in the RFP. "Contractor's Proposed Betterments" are defined as feature/s, component/s, or system/s, proposed by the contractor, which exceed the minimum requirements stated in the RFP. The Offeror shall provide supporting narrative to show how the Government will benefit from each contractor proposed betterment. Pricing of contractor proposed betterments will be provided in Phase Two, Tab C, Volume 2. Do not provide pricing in this section.

Table 1

	CONTRACTOR PROPOSED	

	BETTERMENTS	
#	Description	Affect on project i.e. Better Value, Better Function

TAB E: COMMISSIONING TO INTEGRATE BUILDING SYSTEMS

The design-build contractor must manage and implement an effective commissioning, testing, training and turnover program. The warranty support plan may often include reviews and corrections due to design errors or omissions or construction deficiencies caught after occupancy by the owner. Describe how the Offeror plans implementation including how the Corps and the owner/user of the building will be involved.

TAB F: SUBCONTRACTING PLAN

Large business must prepare a small business utilization plan IAW the Federal Acquisition Regulation (FAR) 52.219-9, Alt II and Defense Federal Acquisition Regulation (DFAR) 252.219. Subcontracting plan may be submitted up to 48 hours after the proposal due date and time.

Proposals shall address the anticipated utilization of small businesses. List each group and goals for each Small Business, Small Disadvantaged Business, Women-Owned Small Business, Service Disabled Veteran-Owned Small Business, and HUBZone Small Business.

Submit your plan in the ATTACHED FORMAT provided in Section 00100 entitled “SUBCONTRACTING PLAN”. The format outlines the areas that are to be evaluated.

Subcontracting Plan Evaluation Guide is also provided.

3. VOLUME 2 –PRICING & PROFORMA INFORMATION

Organize the material sequentially under the following Tabs.

TAB A: REPRESENTATIONS AND CERTIFICATIONS

Provide requirements of 00600 of this Request for Proposal to include registration in the CCR database and ORCA as stated in Part II, Para 2.

TAB B: PRE-AWARD SURVEY BANK REFERENCE Submit the Pre-Award Questionnaire form along with a letter from your financial institution confirming your firm’s business and financial reputation, integrity, and ability to execute this contract. This letter must include information regarding any outstanding loans, past performance on loan payments, and general account information (for example, XYZ Corporation routinely maintains a checking balance in the six figures.).

TAB C: PRICE INFORMATION

The price information supporting the Technical Proposal shall be in the form of the proposal schedule contained in the front of this solicitation. Provide a price schedule of contractor proposed betterments as listed in Tab C, Phase Two, Volume 1. The initial review of the Price Proposal will result in a determination

as to reasonableness and affordability compared to the independent government estimate. Include the SF1442 and completed Proposal Schedule. Include bid bond in this tab.

TAB D: JOINT VENTURES (JVs) or LIMITED LIABILITY COMPANIES (LLCs)

JVs must provide a copy of their Joint Venture Agreement. LLCs must provide a copy of their Articles of Organization. JVs and LLCs must provide evidence that the person(s) signing the offer has the authority to bind the organization.

TAB E: POINT OF CONTACT

Provide primary and secondary points of contact for the construction contractor and/or design firm should any questions arise from review of this offer. Information shall include: name, title; address, phone, fax number and e-mail address.

TAB F: HUBZONE PREFERENCE

All HUBZone firms submitting as prime contractor will be provided a price evaluation in accordance with the FAR clause, 52.219-4 noted in Section 00700. Please indicate here if your firm is a HUBZONE.

TAB G: SIGNATURE SPECIMEN

Provide a signature specimen for all personnel that will be empowered to bind the firm on all contractual matters relating to this solicitation and subsequent contract.

TAB H: STIPEND

Provide a statement indicating if the Offeror chooses to accept or decline a stipend should they fulfill the requirements of Section 00120, Part VII. Distribution of Stipends and not receive the contract award.

END OF PHASE TWO REQUIREMENTS

PART VI. FORM/FORMAT REQUIREMENTS FOR PHASE ONE, VOLUME 1 TAB A EXPERIENCE

COVERSHEETS FOR PROJECT EXPERIENCE FORMS

1. CONSTRUCTION PRIME CONTRACTOR EXPERIENCE. Use separate sheets for each project and attach a Project Experience Form/Format.

A. Firm's Name:

B. Name of Project:

C. Location of Project:

D. Owner with Point of Contact and telephone number:

E. General Scope of Construction Project:

F. Role (Prime, joint Venture, or Subcontractor, etc.) and Work Company Self Performed:

G. Construction Cost:

H. Extent and Type of Work Subcontracted:

I. Dates Construction Began/Completed:

J. Were You Terminated or Assessed Liquidated Damages? (If either is "Yes," attach explanation)

Performance Evaluations (These will be attached by the Government when provided by past customers.)

2. PRIME DESIGN FIRM EXPERIENCE . Use separate sheets for each project and attach a Project Experience Form/Format.

A. Firm's Name:

B. Name of Project:

C. Location of Project:

D. Owner with Point of Contact and telephone number:

E. General Scope of Construction Project:

F. Summary of Role in Design of this Project:

G. Estimated Construction Cost:

H. Dates Construction Ended:

I. Were you Terminated?

Performance Evaluations (These will be attached by the Government when provided by past customers)

3. DESIGN / BUILD TEAM'S EXPERIENCE. Use separate sheets for each project and attach a Project Experience Form.

A. Name of Project:

B. Location of Project:

C. Owner with Point of Contact and telephone number:

D. General Scope of Construction Project:

E. Construction Cost:

F. Project Team members: Identify key designers and disciplines and construction team members and positions. Refer to Qualifications provided under Part V, Items 4 and 5.

G. Dates Construction Began / Completed:

H. Extent and Type of Work Subcontracted:

I. Were You Terminated or Assessed Liquidated Damages? (If either is "Yes," attach explanation)

Performance Evaluations (These will be attached by the Government when provided by past customers)

4. PROJECT EXPERIENCE FORM/FORMAT

SOLICITATION NO. W911KB-05-R-0012
C-17 MAINTENANCE COMPLEX, ELMENDORF, AFB
PROJECT EXPERIENCE FORM

Provide a completed form for each project for which experience is being claimed.

Name of Offeror_____
_____

Work performed by Offeror [ ]and [ ] or by key subcontractor _____ and [ ] or [ ] design firm _____ (enter firm name and check "and" or "or" as applicable)

Was the project design-build?_____

Name of Project:_____
_____

Location of Project:_____
_____

Was Project a firm fixed price contract (Y/N)?_____If No, what type was it_____

Brief Description of Project

_____
_____
_____
_____
_____
_____

Contract Amount at Award: _____Final Contract Amount or Estimated Cost at Completion: _____ Amount added by Modification: _____

Explanation of any Cost Growth
_____
_____
_____

Multiple Interim Schedule Milestones (to include scheduled start date):
_____
_____
_____

Original Contract Completion Date: _____Final Contract Completion Date: _____

Actual Completion Date: _____Time added by Modification: _____

Explanation of any Late Finish:
_____
_____
_____
_____

Was the project terminated early or were cure/show cause letters received? ___Yes___No

Explain early termination (default/convenience) or cure/show cause letters_____
_____
_____
_____

Safety record: ____Accidents, _____Incidents, ____Violations

List and explain any customer concerns or dissatisfaction. Explain how you responded.
_____
_____

What were the following small business percent goals in the original contract?

SB:_____ SDB:_____ WOSB:_____ SDVOSB:_____ HUBZone SB:_____ HBCU/MI:_____

What was the actual percent achieved at contract completion?

SB:_____ SDB:_____ WOSB:_____ SDVOSB:_____ HUBZone SB:_____ HBCU/MI:_____

Extent and Types of Work Subcontracted.
_____
_____

Was the project owner an agency of the federal government?_____Yes_____No

Name, address, FAX and telephone number of the owner:
_____

Name and telephone number of a representative of your firm who is knowledgeable of this project and can readily be contacted:
_____
_____

Name, address, FAX and telephone number of a representative of the owner who is knowledgeable of this project and can be readily contacted:
_____
_____

Name, address, FAX and telephone number of the Contracting Officer if project was for federal government:
_____
_____

PART VII. OWNER/CLIENT PAST PERFORMANCE EVALUATION QUESTIONAIRE/FORM

SOLICITATION NO. W911KB-05-R-0012
C-17 MAINTENANCE COMPLEX, ELMENDORF AFB

The U.S. Army Corps of Engineer, Alaska District is conducting a past performance survey for an upcoming award. Please take the time to answer the Past Performance Interview Questions below. If you have any questions, please do not hesitate to contact this office. This Document will become Source Selection Sensitive Information IAW FAR 3.104

Name of Respondent: _____

A. **GENERAL INFORMATION**: Please correct any information below known to be inaccurate:

Contractor's Name: _____
Address: _____ Telephone Number: _____
Point of Contact: _____
Project Title or Brief Description of Work: _____
Contract Number Provided by Offeror: _____
Dollar Amount: _____
Contract Period or Dates of Performance Provided by Offeror: _____

Note: If information is incorrect, please provide correct number. Also, if Offeror holds or has held other relevant contracts with your agency/organization in the last 3 years, please complete separate evaluation forms for those contracts as well.

Contractor Performed as the ? **Prime** Contractor ? **Sub**-Contractor.

B. **RESPONDENT INFORMATION:**

Name of Respondent: _____

Title: _____

Address: _____

_____

Telephone Number: _____

Fax Number: _____

Email Address: _____

C. **PERFORMANCE INFORMATION**: Choose the number on the scale of 1 to 6 that most accurately describes the contractor's performance or situation. ***PLEASE PROVIDE A NARRATIVE EXPLANATION FOR ANY RATINGS OF 1 OR 2***.

1	2	3	4	5	6
Unsatisfactory	**Marginal**	**None**	**Satisfactory**	**Very Good**	**Exceptional**
Performance did not meet most contractual requirements. There were serious problems and the contractor's corrective actions were ineffective.	Performance did not meet some contractual requirements. There were problems, some of a serious nature, for which corrective action was only marginally effective.	No record of past performance or the record is inconclusive	Performance met contract requirements. There were some minor problems and corrective actions taken by the contractor were satisfactory.	Performance met all contract requirements and exceeded some to the customer's benefit. There were a few minor problems, which the contractor resolved in a timely, effective manner.	Performance met all contract requirements and exceeded many to the customer's benefit. Problems, if any, were negligible and were resolved in a timely, highly effective manner

	The Contractor:							
1.	Provided experienced managers and supervisors with the technical and administrative abilities needed to meet contract requirements.	1	2	3	4	5	6	N/A
2.	Demonstrated ability to hire, maintain, and replace, if necessary, qualified personnel during the contract period.	1	2	3	4	5	6	N/A
3.	Delegated authority to project managers and supervisors	1	2	3	4	5	6	N/A
4.	Home office participated in solving significant local problems.	1	2	3	4	5	6	N/A
5.	Followed approved quality control plan.	1	2	3	4	5	6	N/A
6.	Provided effective quality control and/or inspection procedures to meet contract requirements.	1	2	3	4	5	6	N/A
7.	Corrected deficiencies in timely manner and pursuant to their quality control procedures.	1	2	3	4	5	6	N/A
8.	Provided timely resolution of contract discrepancies	1	2	3	4	5	6	N/A
9.	Identified risks/problems as they occurred.	1	2	3	4	5	6	N/A
10.	Suggested alternative approaches to problems.	1	2	3	4	5	6	N/A
11.	Displayed initiative to solve problems.	1	2	3	4	5	6	N/A
12.	Developed realistic progress schedules.	1	2	3	4	5	6	N/A
13.	Met established project schedules.	1	2	3	4	5	6	N/A
14.	Provided timely resolution of warranty defects.	1	2	3	4	5	6	N/A
15.	Was responsive to contract changes.	1	2	3	4	5	6	N/A
16.	Provided adequate project supervision.	1	2	3	4	5	6	N/A
17.	Obtained consent of surety for increases in bonding as work-in-progress increased.	1	2	3	4	5	6	N/A
18.	Paid subcontractors/suppliers in a timely manner.	1	2	3	4	5	6	N/A
19.	Provided accurate and complete line item cost proposals including all aspects of work required for each task.	1	2	3	4	5	6	N/A
20.	Demonstrated ability to deploy equipment and materials in a timely manner	1	2	3	4	5	6	N/A
21.	Management of subcontracts	1	2	3	4	5	6	N/A
22.	Compliance with labor standards	1	2	3	4	5	6	N/A
23.	Compliance with safety standards	1	2	3	4	5	6	N/A
24.	Cooperated with contracting agency personnel after award.	1	2	3	4	5	6	N/A
25.	Selected appropriate methods & materials for arctic/sub-arctic construction	1	2	3	4	5	6	N/A
26.	Planned for mob, demob, execution in light of constraints and hardships encountered in arctic/sub-arctic construction	1	2	3	4	5	6	N/A

27.	Performed work in arctic/sub-arctic condition	1	2	3	4	5	6	N/A
28.	Build and managed cohesive team for design-build efforts	1	2	3	4	5	6	N/A
29.	Adhered to codes and regulations	1	2	3	4	5	6	N/A
30.	Met needs of and addressed concerns of future facility occupants	1	2	3	4	5	6	N/A
31.	Provided functional and operable facilities	1	2	3	4	5	6	N/A
32.	Was the contractor ever issued a cure or show cause notice under the referenced contract? If yes, explain outcome in "remarks."					Yes		No
33.	Would you award another contract to this contractor? If not, explain in "remarks."					Yes		No

Remarks:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

D. **FAX OR EMAIL COMPLETED QUESTIONNAIRE FORM TO**:

FAX (907) 753-2544
E-mail: Crystal.D.Labrecque@poa02.usace.army.mil

PART VIII. FORMAT REQUIRMENTS FOR PHASE ONE, VOLUME 1, TAB C ORGANIZATION AND MANAGEMENT, KEY TEAM MEMBERS

1. CONSTRUCTION PERSONNEL. Use separate sheets for each person.

Provide the information listed below to show qualifications of personnel listed in Part V, Tab C, Key Team Members. Use continuation sheets, if needed.

A. Name and Title:

B. Assignment on this Project:

C. Name of Firm:

D. Number of Years: With this Firm/ With other Firms:

E. Education and/or special credentials and training:

F. Specific Experience and Qualifications Relevant to this Project:

2. DESIGN PERSONNEL Use separate sheets for each person

Provide the information listed below to show qualifications of personnel listed in Part V, Tab C, Key Team Members. Use continuation sheets, if needed.

A. Name and Title:

B. Assignment on this Project:

C. Name of Firm:

D. Number Of Years: With this Firm/With other firms:

E. Education: Degree(s)/Year/Specialization:

F. Active Registration: Number/State/Year:

G. Specific Experience and Qualifications Relevant to this Project:

PART IX. SUBCONTRACTING PLAN

SUBCONTRACTING GOALS FY 2005
(THIS PLAN MAY BE SUBMITTED WITHIN
48 HOURS AFTER THE PROPOSAL DUE DATE)

Small Business (SB)	50.9%
Small Disadvantaged (SDB)	8.8%
Woman-Owned Small Business (WOSB)	7.2%
Service Disabled Veteran-Owned Small Business (SDVOSB)	0.5%
HUBZone Small Business (HUBZone SB)	2.9%

1. SUBMIT YOUR PLAN IN THE ATTACHED FORMAT. Please address each paragraph and DO NOT change the order or format of the tables. An electronic (MS Word) document is available by e-mailing a request to Crystal.D.Labrecque@poa02.usace.army.mil.

2. Subcontracting Plans will be evaluated in accordance with FAR Clause 52.219-9 Alternate II , DFARS 252.219 and AFARS Appendix DD.

SUBCONTRACTING PLAN

FIRM:_____Sol. No. W911KB-05-R-0012

_____Contract No. _____

_____

PROJECT TITLE: C-17 MAINTENANCE COMPLEX

CONTRACT SPECIALIST RESPONSIBLE FOR PRE-AWARD

__Ms. Crystal D Labrecque _907/753-5578

NAME OF OFFICE ADMINISTERING CONTRACT TO INCLUDE SUBCONTRACTING PLAN: (If more than one office, name all offices/responsible parties): _____

_____

I. Dollar Amounts (If possible, DO NOT include indirect costs):

SEE ATTACHED TABLE

II. Percentage goals (expressed in terms of percentage of total planned subcontracting dollars).

SEE ATTACHED TABLE

1. State your firm's policy statement or evidence of internal guidance to company buyers recognizing commitment to Pub. L. 99-661, Section 1207, and Pub.L. 100-180, Section 806. Describe special emphasis placed on subcontracting with SDBs. Describe corporate and management commitment to meeting your subcontracting plan. (HBCUs & MI are excluded from evaluation).

2. Describe your firm's efforts to broaden SB, SDB, WOSB, SDVOSB and HUBZone SB small business active vendor base. Specifically describe your efforts in increasing subcontracts to SBs and SDBs for non-complex and general housekeeping supplies or services normally awarded to firms already in your firm's vendor base. Describe established plans to use competition restricted to SDBs and give details about how your firm will accomplish this. (HBCUs & MI are excluded from evaluation).

3. Describe your firm's "Outreach Efforts" to work with organizations to identify potential sources for items not traditionally awarded to SB, SDB, WOSB, SDVOSB, and HUBZone SB. And, your proposed plan to conduct reviews to determine the competence, ability, experience and capacity available in SB, SDB, WOSB, SDVOSB, and HUBZone SB and to provide them technical assistance. (HBCUs & MIs are excluded from evaluation).

4. Describe supplies and services to be subcontracted and planned for subcontracting to SBs, SDBs, WOSBs , SDVOSB, and HUBZone SB firms. Indicate intent to review major product/system components and key project elements of R&D, construction, service and spare parts contracts for subcontracting to each of the above elements. Specifically describe how your plan targets specific SBs, SDBs, WOSBs, SDVOSB and HUBZone SB for review to determine their competence, ability, experience and capacity and identifies specific components or major portions of the acquisition for consideration of the above elements. Describe your firm's intent to work with large business

subcontractors for major subsystems or key project elements to ensure "flowdown" of this philosophy. (HBCUs & MIs are excluded from evaluation).

5. Describe your firm's efforts, based on results of efforts described in No. 3 and No. 4 above, to ensure that opportunity to participate in acquisitions. Specifically, describe how the firm intends to evaluate its own SB, SDB, WOSB, SDVOSB, and HUBZone SB award performance and program effectiveness against the established goals, both company-wide and for individual plan being negotiated. Include SBs, SDBs, WOSBs, SDVOSB, and HUBZone SBs by name as members of original team for providing major service or performing a significant portion of the effort. Additionally, how does your firm plan to establish long-range relationships with the above elements? (HBCUs & MIs are excluded from evaluation).

6. Your firm's plan (in section I and II) will be evaluated on the development of percentage goals based on planned subcontracting which is challenging, yet realistic as stated in item # 6 of Appendix DD of the AFARS. (HBCUs & MIs are excluded from evaluation).

7. Past performance to the extent your firm has historically been successful in establishing realistic, yet challenging, goals and achieving them will be evaluated. In cases where there has been no previous defense contract history, your firm will not be penalized. (HBCUs & MIs are excluded from evaluation).

8. Regulatory and statutory requirements described in # 8 of Appendix DD must be included in your firm's subcontracting plan and will be evaluated accordingly. If any of the subject elements are not complied with, your plan will not be approved and will be returned to your office for revision before the contract can be awarded. Included in the appendix are the following elements to include: SDB, WOSBs, SDVOSB, and HUBZone SB. (HBCUs & MIs are excluded from evaluation).

a) A separate goal for SB, SDB, WOSBs, SDVOSB and HUBZone SB.

b) A separate goal for the basic contract and, if applicable, each option.

c) The name of the company employee responsible for administration of plan and employee's duties as follows:

The individual who will administer this firm's subcontracting program:

NAME _____ ADDRESS _____
_____
TELEPHONE_____ _____
_____

Describe Description of duties:

d) A statement affirming intent to comply with subcontracting "flowdown" provisions as follows:

This firm will include Clause 52.219-8 entitled, "Utilization of Small Business Concerns, Small Disadvantaged, Women-Owned Small Business Concerns," in all subcontracts which offer further subcontracting opportunities and will require all subcontractors (except small business concerns) who receive subcontracts in excess of $500,0000.00 to adopt and comply with a plan similar to the plan required by the clause at 52.219-9 Alternate II, "Small Business Subcontracting Plan." (HBCUs & MIs are excluded from evaluation).

e) A statement affirming willingness to cooperate in studies and to provide reports as follows:

This firm will submit such periodic reports and cooperate in any studies or surveys as may be required by the Corps of Engineers, Alaska District or the Small Business Administration in order to determine the extent of compliance by the company with the subcontracting plan as follows:

This firm will submit Standard Form (SF) 294, Subcontracting Report for Individual Contract, and SF 295, Summary Subcontract in accordance with the instructions on the forms. The name, address, and telephone number of the office responsible for preparation and submission of the reports is:

I, the undersigned, a designated officer of do hereby state that this firm agrees to carry out the Government's policy to provide the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of this contract consistent with its efficient performance.

f) A statement that indirect costs are either included or excluded from the proposed goals and, and if included, how they will be prorated.

g) Description of efforts to ensure that SBs, SDBs, WOSBs, SDVOSB, and Hubzone SB have an equitable opportunity to participate in the acquisition: (HBCUs & MIs are excluded from evaluation).

h) A recitation of the types of records maintained to demonstrate procedures adopted to comply with the requirements and goals in the plan as follows:

This firm will maintain the following types of records to demonstrate procedures, which have been adopted, to comply with the requirements and goals set forth in the plan. (Set forth here are the records to be maintained. In order to be considered acceptable, the records shall include at the minimum the following:)

(1) SB, SDB, WOSB, SDVOSB, and HUBZone SB, lists, guides, and other data identifying vendors.

(2) Organizations contacted or to be contacted for SB, SDB, WOSB , SDVOSB and HUBZone SB.

(3) Record of all subcontract solicitations indicating on each solicitation (i) whether SB, SDB, WOSB, SDVOSB and HUBZone SB were solicited, and if not, why not.

(4) Records to support other outreach efforts, to include the following: contact with minority and small business trade associations, contact with business development organizations, and attendance at small and minority business procurement conferences and trade fairs.

(5) Records to support internal activities to guide and encourage buyers to include the following: workshops, seminars, training programs, and monitoring activities to evaluate compliance.

(6) Records to support award data on a contract-by-contract basis submitted to the Government to include name, address, and business size of subcontractor.

FIRM'S REPRESENTATIVE:

SIGNATURE:_____

PRINTED/TYPED NAME:_____

TITLE: _____

GOVERNMENT REVIEW

CONTRACT SPECIALIST_____

DEPUTY FOR SMALL BUSINESS (DSB) REVIEW:

1. Received Date:_____ 2. Returned Date: _____

3. Recommendation Date: _____

CONTRACTING OFFICER _____
Signature

NAME & TITLE _____

DATE _____

TABLE 1: Subcontracting dollars
TABLE 2: Subcontracting goals

TABLE 1: Subcontracting dollars

	Base CLIN 0001	Option CLIN 0002	Option CLIN 0003	Option CLIN 0004	Option CLIN 0005	Option CLIN 0006	Option CLIN 0007	Option CLIN 0008
a. Total amount of contract	$	$	$	$	$	$	$	$
b. Total estimated amount of planned subcontracted dollars	$	$	$	$	$	$	$	$
TOTAL DOLLARS PLANNED TO BE SUBCONTRACTED								
c. Small business (SB) (including d, e, f, & g below)	$	$	$	$	$	$	$	$
d. Small disadvantaged business (SDB)	$	$	$	$	$	$	$	$
e. Woman-owned small businesses (WOSB)	$	$	$	$	$	$	$	$
f. .Service disabled veteran-owned small businesses (SDVOSB)	$	$	$	$	$	$	$	$
g. HUBZone small businesses (HYBZone SB)	$	$	$	$	$	$	$	$

END OF SECTION 00100

SECTION 00120

EVALUATION FACTORS FOR AWARD

I. Initial Proposal Compliance

Before a proposal will be considered for evaluation and subsequent award of contract, the Offeror must assent to the terms and conditions in the RFP without exception and provide the information requested in the solicitation. The Government may exclude a proposal from further consideration if the Offeror takes exception to any of the terms and conditions in the RFP.

The Offeror must also be in conformance with the RFP requirements. If a proposal deviates from the RFP but improves constructability, functionality, and adds value to the Government, the Government must amend the solicitation to allow the feature. The Government may also choose to resolve proposal deviations and deficiencies prior to final proposal submission and award.

Before a proposal will be considered for evaluation and subsequent award of contract, the Offeror must assent to the terms and conditions in the RFP without exception and provide the information requested in the solicitation. The Government may exclude a proposal from further consideration if the Offeror takes exception to <u>any</u> of the terms and conditions in the RFP. The Government may choose to resolve proposal deviations and deficiencies prior to final proposal submission and award.

II. Proposal Evaluation

The Government will evaluate the proposals of each Offeror based on how well their proposal addresses each of the factors listed below and described under the various Tabs (A, B, C, etc.) in Section 00100. The evaluation will determine the Offeror's overall cohesive approach in assimilating these various elements for each factor into a comprehensive, consistent, and concise proposal that meets or exceeds the Government's minimum requirements. Tables 1-4 in Section V identify the comparative importance of each factor.

The Government intends to award the contract without discussion. The proposal is therefore expected to be self-explanatory in addressing all of the required criteria. The Government reserves the right to conduct discussions if the Contracting Officer determines them to be necessary.

III. Factors For Evaluation

<u>PHASE ONE, VOLUME 1</u>
Experience (Tab A)
Past Performance (Tab B)
Organization And Management (Tab C)
Design Approach (Tab D)

<u>PHASE TWO, VOLUME 1</u>
Design Solution(Tab A)
Proposed Schedule (Tab B)
Proposed Equipment and Material (Tab C)
Contractor's Proposed Betterments (Tab D)
Commissioning to Integrate Building Systems(Tab E)
Subcontracting Plan (TAB F)

PHASE TWO, VOLUME 2
Price Information (Tab C)

Note: Requirements associated with Tabs A, B, D, E, F & G for Phase Two Volume Two (See Section 00100) are not factors for evaluation but are information that is required to be provided to meet the Initial Proposal Compliance as stated above.

PHASE ONE, VOLUME 1 FACTORS

EXPERIENCE
Provide information for each project listed under Tab A to indicate past performance. The Government defines experience as what the Offeror has done. The Government will evaluate the depth and breadth of an Offeror's experience on the basis of projects that were similar in nature, scope, and complexity to the work that will be required under the contract for which offers are solicited by this RFP. The Government will evaluate recent (construction complete within five years of proposal date) and relevant experience to assess the Offerors ability to provide quality designs and construction. Experience provided will be evaluated for the construction and/or design firm individually and as a team. Teaming experience with other firms will also be evaluated if provided.

PAST PERFORMANCE
The Government defines past performance as how well the Offeror performed. The Government will evaluate each Offeror's past performance surveys to determine how well it satisfied its customers. Information from the Corps of Engineers maintained database of performance evaluations; Architect-Engineer Contract Administration Support System (ACASS) and/or Construction Contractor Appraisal Support System (CCASS) will be evaluated. The Government will contact some of each Offeror's customers to determine whether the Offeror: conforms to the terms and conditions of its contracts; is cooperative; maintains good labor relations; manages its subcontractors effectively; and, is committed to customer satisfaction. Offerors may furnish copies of past performance evaluations received from its customers. The Government may contact sources outside those listed in the proposal and/or utilize personal knowledge. Offeror will be evaluated on the extent to which past performance submittals demonstrate the likelihood of meeting or exceeding Government goals and requirements. How recent and relevant, and general trends in past performance will be considered in determining the likelihood of the offer's success in this endeavor. Offerors are encouraged to provide past performance information for projects listed under the Experience factor. Offerors are also encouraged to address adverse past performance, any organizational or management changes instituted to correct the adverse past performance, and the result of the changes. In the event an Offeror lacks any record of past performance, past performance will not be evaluated either favorably or unfavorably.

ORGANIZATION AND MANAGEMENT
The Government will evaluate each Offeror's ability to perform this work concurrent with other ongoing projects, how the Offeror organized personnel for this project, and the experience and capability of those personnel to include key subcontractors. The Government will also evaluate the responsibilities and lines of authority between the construction firm, design firm, and key subcontractors. The Offeror's approach to design coordination and review and the Offeror's approach to support during and after building turnover will also be evaluated.

DESIGN APPROACH
The Government will evaluate the extent to which the Offeror's narrative identifies any specific opportunities, challenges and/or constraints associated with design and construction of this project, to include Government Options, and the Offeror's ability to convince the government that the Offeror can be expected to produce an innovative and well-conceived design solution for Phase Two.

PHASE TWO, VOLUME 1 FACTORS:

DESIGN SOLUTION
The government will review the sub-elements of this factor for accuracy, completeness and the Offeror's overall cohesive approach to the requirements of the RFP. Government Options are included in Design Evaluation. Technical merit will be based on the degree to which the proposed design and methods satisfy functional and operational requirements, and exceed minimum acceptable quality including aesthetics, durability, maintainability and reliability specified in the RFP.

PROPOSED SCHEDULE
In the factor Schedule the Government will evaluate the Schedule and Network Analysis or Gantt chart along with all additional required data showing the Offeror's proposed schedule to ensure that the project can be completed within the specified time stated in FAR 52.211-10. The schedule shall be complete, reasonable, and realistic in order to evaluate the contractor's understanding of all construction requirements.

PROPOSED EQUIPMENT AND MATERIALS
For the factor of Proposed Equipment and Materials, the Government will evaluate the overall level of quality that can be expected based on the salient features of proposed equipment and quality and suitability of materials. Technical merit will be based on the degree to which the proposed materials and equipment satisfy functional and operational requirements and exceed minimum acceptable quality including aesthetics, durability, maintainability and reliability specified in the RFP.

CONTRACTOR'S PROPOSED BETTERMENTS
In the factor Betterments, the Government will evaluate Betterments proposed by the contractor relative to the minimum standards in the Request for Proposal. They will be evaluated to determine if the creative ideas of the Offeror are an enhancement to overall design and function of the building compared to the minimum criteria established in Section 01010.

COMMISSIONING TO INTEGRATE BUILDING SYSTEMS
For the factor of commissioning for the entire building the government will evaluate the proposed management plan for commissioning, testing, training, and turn over procedures based on the completeness and reasonableness of the Plan for the entire building.

SUBCONTRACTING PLAN
The Government will evaluate each Offeror's proposed subcontracting plan for the utilization of small businesses in accordance with AFARS Appendix DD and the subcontracting goals listed in Section 00100.

IV. Relative Importance of Individual Evaluation Factors

Phase One, Volume 1. The Government considers all the Factors to be of equal importance.

Phase Two, Volume 1. The Government considers the factors to be of descending order of importance. The Subcontracting Plan will be evaluated as Satisfactory or Unsatisfactory in accordance with AFARS 5119.705. There are no sub-factors. See Section 00100.

Phase Two, Volume 2. The Government will perform a price analysis comparing the proposed price to the Independent Government Estimate (IGE) and prices of other Offerors for the base and options. Price shall be evaluated for reasonableness and affordability. Reference FAR Clause 52.217-5 Evaluation of Options (Section 100). The following will be the sequence for award. The Government will determine the funds available for the project. If funds available allows for the award of more than the base items, and it is determined to be in the Government's best interest, the contracting officer will use the list of options in the proposal schedule (listed in descending order of importance) to determine the award of additional items.

Evaluation Preference: All HUBzone firms submitting as prime contractor will be provided a price evaluation adjustment by adding 10 percent adjustment to all Offerors except those offers from other HUBzone firms

that have not waived the evaluation adjustment or other successful offers from small businesses. HUBzone businesses must complete the Price Evaluation Preference form included in section 00700 (52.219-4) to elect to waive this price preference -and insert it in Volume II of their offer.

V. Relative Importance of Overall Evaluation Factors

The Government considers the overall non-price rating to be approximately equal to price.

The following Tables 1-4 summarizes the relative importance of individual and overall evaluation factors.

Table 1. Phase One Relative Importance of Evaluation Factors

Relative Importance	Criteria
Equal	A – Experience
Equal	B – Past Performance
Equal	C – Organization And Management
Equal	D – Design Approach

Table 2. Phase Two Relative Importance of Evaluation Factors

Overall Importance	Criteria
	Understanding the Requirements
Most To Least	A – Design Solution B – Proposed Schedule C – Proposed Equipment And Materials D – Contractor's Proposed Betterments E – Commissioning to Integrate Building Systems

Table 3. Phase Two Subcontracting Plan

Overall Importance	Criteria
	Understanding the Requirements
Satisfactory or Unsatisfactory	F – Subcontracting Plan

Table 4. Phase Two Combined Relative Importance of Evaluation Factors & Price

Overall Importance	Criteria	Sub-Level Importance
Equal	Phase Two Phase One	More Less
Equal	Volume 2, Tab C – Price	

VI. The Determination of Best Overall Value

Phase One proposals will be evaluated to determine up to four (4) most highly qualified Offerors who will be asked to submit their design and related information for Phase Two. Phase One ratings will be considered in the Phase Two evaluation

In order to determine which proposal represents the best overall value, the Government will compare proposals to one another in a series of paired comparisons, trading off Offerors' values based on their overall performance on the non-price factors. In comparing two proposals, if one member of a pair has both the better overall non-price value <u>and</u> the lower price, then the Government will consider that proposal to be a better value.

If both proposals have an overall equal evaluation for non-price factors, the government will consider the proposal with the lower price to be the better value.

If one member of a pair has the better overall non-price value, but a higher price than the other proposal, then the Government's Source Selection Authority will determine if the difference in non-price value is worth the higher price.

If the Source Selection Authority decides that the overall non-price value is worth the higher price, then the Government will consider the proposal with the better non-price value and the higher price to be the better overall value.

If the Source Selection Authority decides that the overall value is not worth the higher price, then the Source Selection Authority will continue to make paired comparisons in this fashion until he or she has identified the proposal that represents the best overall value.

The contract will be awarded to the Offeror with the best overall value.

VII. Debriefings

Upon written request, unsuccessful firms and awardee will be debriefed and furnished the basis for the selection decision and contract award in accordance with FAR 15.505 and FAR 15.506.

VIII. Stipends (Phase Two Only)

This solicitation provides for payment of a stipend to those unsuccessful Phase Two Offerors not selected for award of the resulting contract.

In order to promote increased competition, the Government offers to pay a stipend of **$350,000** to certain Phase Two unsuccessful Offerors, in consideration for preparation of a technical proposal, otherwise meeting the minimum requirements described herein.

To be eligible for a stipend, the unsuccessful Phase Two Offeror's technical proposal must be rated acceptable in all technical evaluation criteria, essentially meeting this solicitation's Government furnished criteria as stated in Section 01010 or provide functional and well supported innovative solutions and submit the required documents for evaluation as outlined in Section 00100. Some insignificant, minor deficiencies or weaknesses may be allowed as long as the overall proposal meets the requirements for acceptability.

The stipend will be evenly divided (rounded to the nearest dollar) among all unsuccessful Offerors who meet the previously stated eligibility requirements. If no contract award results from this solicitation, the stipend will be evenly divided (rounded to the nearest dollar) among all Offerors who submit a minimally acceptable design based upon criteria as stated in Section 01010 or provides functional and well-supported innovative solutions and submit the required documents for evaluation as outlined in Section 00100. A stipend will not be given if the project is canceled prior to the proposal due date for Phase Two.

Acceptance of the stipend is voluntary and does not relinquish the Proposer's rights to the design.

END OF SECTION 00120

Section 00600 - Representations & Certifications

CLAUSES INCORPORATED BY FULL TEXT

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)

(a)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(__) Paragraph (b) applies.

(__) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at http://orca.bpn.gov. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(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)

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INDEX OF CLAUSES
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SECTION 00700

52.202-0001 DEFINITIONS (JUL 2004)

52.203-0003 GRATUITIES (APR 1984)

52.203-0005 COVENANT AGAINST CONTINGENT FEES (APR 1984)

52.203-0006 RESTRICTIONS ON SUBCONTRACTOR SALES TO GOVERNMENT (JUL 1995)

52.203-0007 ANTI-KICKBACK PROCEDURES (JUL 1995)

52.203-0008 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

52.203-0010 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY(JAN 1997)

52.203-0012 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2003)

52.204-0004 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

52.209-0006 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTOR DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JAN 2005)

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CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

(1) The solicitation, or amended solicitation, provides a different definition;

(2) The contracting parties agree to a different definition;

(3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at http://www.acqnet.gov at the end of the FAR, after the FAR Appendix.

(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 2003)

(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, or an outlying area 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 (JAN 2005)

(a) The Government suspends or debars 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 principles, 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 in the Excluded Parties List System). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

(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)

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 870 days from receipt of the notice to proceed. The work site will not be available prior to 30 July 2006 due to other work in the area. The time stated for completion shall include final cleanup of the premises.

(End of clause)

52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount of $2,202.00 for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

52.211-13 TIME EXTENSIONS (SEP 2000)

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

(End of clause)

52.211-14 NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (SEP 1990)

Any contract awarded as a result of this solicitation will be DX rated order; C2 DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation. [Contracting Officer check appropriate box.]

(End of provision)

52.211-15 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (SEP 1990)

This is a rated order certified for national defense use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700).

(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)

52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, 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.

(b) Any reduction in the contract price under paragraph (a) 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.

(c)(1) If the Contracting Officer determines under paragraph (a) 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 (c)(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.

(d) 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)

52.215-11 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)

52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)

(a) 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.

(b) 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 (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either--

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data--Modifications.

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)

52.215-19 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)

52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (OCT 2004)

(a) Definition. HUBZone small business concern, as used in this clause, means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(b) Evaluation preference. (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference;

(ii) Otherwise successful offers from small business concerns;

(iii) Otherwise successful offers of eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded (see 25.402 of the Federal Acquisition Regulation (FAR)); and

(iv) Otherwise successful offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged

business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer.

These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

(c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply if the offeror has waived the evaluation preference.

___ Offeror elects to waive the evaluation preference.

(d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern's employees or the employees of other HUBZone small business concerns.

(e) A HUBZone joint venture agrees that in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause will be performed by the HUBZone small business participant or participants.

(f) A HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business manufacturer concerns. This paragraph does not apply in connection with construction or service contracts.

(End of clause)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

(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 service-disabled 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)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2002)

(a) This clause does not apply to small business concerns.

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

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Individual contract plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master plan means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns;

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to HUBZone small business concerns;

(v) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(vi) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror in included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) HUBZone small business concerns;

(iv) Small disadvantaged business concerns; and

(v) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, HUBZone small business, small disadvantaged business and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled ``Utilization of Small Business Concerns'' in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $500,000 ($1,000,000 for construction of any public facility) to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will--

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with paragraph (j) of this clause. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.

(iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated)

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $100,000, indicating--

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether HUBZone small business concerns were solicited and, if not, why not;

(D) Whether small disadvantaged business concerns were solicited and, if not, why not;

(E) Whether women-owned small business concerns were solicited and, if not, why not; and

(F) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through--

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all ``make-or-buy'' decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owner small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owner small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--
(1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

(j) The Contractor shall submit the following reports:

(1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.

(2) Standard Form 295, Summary Subcontract Report. This report encompasses all of the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

52.219-16 LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled “Small Business Subcontracting Plan,” the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting

plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

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)

52.222-3 CONVICT LABOR (JUN 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons--

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

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

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

(iii) 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;

(iv) 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

(v) 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.

(d) 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).

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

(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)

52.222-23 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	Goals for female participation for each trade
8.7%(Anchorage, AK) 15.1%(Locations outside City of Anchorage)	6.9%(Alaska)

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the

goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.

(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

(1) Name, address, and telephone number of the subcontractor;

(2) Employer's identification number of the subcontractor;

(3) Estimated dollar amount of the subcontract;

(4) Estimated starting and completion dates of the subcontract; and

(5) Geographical area in which the subcontract is to be performed.

(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Elmendorf AFB, Anchorage, Alaska

(End of provision)

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)

52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"Deputy Assistant Secretary," as used in this clause, means Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of $10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's

obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is

performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

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

All employment openings means 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.

Executive and top management means any employee--

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings 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.

Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Special disabled veteran means--

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability--

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.
(b) General. (1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status 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) Rate 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 apprenticeship, and on-the-job training under 38 U.S.C. 3687, 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 shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one

where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings 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.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency 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 agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency 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, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings. (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall--

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) 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 special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

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

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of $25,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor 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 SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (DEC 2001)

(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)

52.223-3 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.
_____	_____
_____	_____
_____	_____

(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 (AUG 2003)

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

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

“Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.”

(b) Executive Order 13148 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).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of section 302 of EPCRA.

(2) The emergency notice requirements of section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.

(5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.

(6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

(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 deter- mine 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) though (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)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(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 in 40 CFR 372.65;

(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 the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094.

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.)), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(5) The facility is not located in the United States or its outlying areas.

(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)

52.225-11 BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JAN 2005)

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

Caribbean Basin country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Component means an article, material, or supply incorporated directly into a construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but

excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);

(2) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

Foreign construction material means a construction material other than a domestic construction material.

Least developed country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials. (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic, designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows: None

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Act.

(1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) \1\
Item 1:			
Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....
Item 2:			
Foreign construction material....	.....	.....	.....
Domestic construction material...	.....	.....	.....

\1\ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

(End of clause)

52.225-12 NOTICE OF BUY AMERICAN ACT REQUIREMENT-- CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JAN 2005)

(a) Definitions. ``Construction material,'' ``designated country construction material,'' ``domestic construction material,'' and ``foreign construction material,'' as used in this provision, are defined in the clause of this solicitation entitled ``Buy American Act--Construction Materials Under Trade Agreements'' (Federal Acquisition Regulation (FAR) clause 52.225-11).

(b) Requests for determination of inapplicability. An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs

(c) and (d) of FAR clause 52.225-11 in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) Evaluation of offers. (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause 52.225-11.

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) Alternate offers. (1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause 52.225-11, the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause 52.225-11 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause 52.225-11 does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested-- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (DEC 2003)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports from North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at TerList1.html. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at http://www.treas.gov/ofac.

(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 Go vernment except where the Contractor has agreed to indemnify the Government.

(f) 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)

52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any United States patent (except a

patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

(End of clause)

52.227-14 RIGHTS IN DATA--GENERAL (JUN 1987)

(a) Definitions. "Computer software," as used in this clause, means computer programs, computer data bases, and documentation thereof.

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

"Form, fit, and function data," as used in this clause, means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, as well as data identifying source, size, configuration, mating, and attachment characteristics, functional characteristics, and performance requirements; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software.

"Limited rights," as used in this clause, means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of subparagraph (g)(2) if included in this clause.

"Limited rights data," as used in this clause, means data (other than computer software) that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications thereof.

"Restricted computer software," as used in this clause, means computer software developed at private expense and that is a trade secret; is commercial or financial and is confidential or privileged; or is published copyrighted computer software, including minor modifications of such computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of subparagraph (g)(3) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

"Technical data," as used in this clause, means data (other than computer software) which are of a scientific or technical nature.

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

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause regarding copyright, the Government shall have unlimited rights in--

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to--

(i) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(ii) Protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause;

(iii) Substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

Establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c)(1) of this clause.

(c) Copyright.

(1) Data first produced in the performance of this contract. Unless provided otherwise in paragraph (d) of this clause, the Contractor may establish, without prior approval of the Contracting Officer, claim to copyright subsisting in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings or similar works. The prior, express written permission of the Contracting Officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract. When claim to copyright is made, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship (including contract number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting in its behalf, a paid-up nonexclusive, irrevocable worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (c)(1) of this clause; provided, however, that if such data are computer software the Government shall acquire a copyright license as set forth in subparagraph (g)(3) of this clause if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.

(3) Removal of copyright notices. The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) Release, publication and use of data.

(1) The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract.

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in subparagraph (g)(2) or (g)(3) of this clause and use of such is not authorized by this clause, or if such data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer shall make written inquiry to the Contractor affording the Contractor 30 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 30-day period (or a longer time not exceeding 90 days approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in subdivision (e)(1)(i) of this clause, the Contracting Officer shall consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor shall be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer shall furnish the Contractor a written determination, which determination shall become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government shall continue to abide by the markings under this subdivision (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government shall thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in subparagraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.

(3) This paragraph (e) does not apply if this contract is for a major system or for support of a major system by a civilian agency other than NASA and the U.S. Coast Guard agency subject to the provisions of Title III of the Federal Property and Administrative Services Act of 1949.

(4) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by this paragraph (e) from bringing a claim under the Contract Disputes Act, including pursuant to the Disputes clause of this contract, as applicable, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without either the limited rights or restricted rights notice as authorized by paragraph (g) of this clause, or the copyright notice required by paragraph (c) of this clause, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Contractor's expense, and the Contracting Officer may agree to do so if the Contractor--

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure, use, or reproduction of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also (i) permit correction at the Contractor's expense of incorrect notices if the Contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or (ii) correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) When data other than that listed in subdivisions (b)(1)(i), (ii), and (iii) of this clause are specified to be delivered under this contract and qualify as either limited rights data or restricted computer software, if the Contractor desires to continue protection of such data, the Contractor shall withhold such data and not furnish them to the Government under this contract. As a condition to this withholding, the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof. Limited rights data that are formatted as a computer data base for delivery to the Government are to be treated as limited rights data and not restricted computer software.

(2) Reserved.

(3) Reserved.

(h) Subcontracting. The Contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the Contractor shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subcontract award without further authorization.

Relationship to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

52.228-1 BID GUARANTEE (SEP 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and

sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.-

(c) The amount of the bid guarantee shall be 20 percent of the bid price or $3,000,000, whichever is less.-

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within 10 days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.-

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

(End of clause)

52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

(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)

52.228-11 PLEDGES OF ASSETS (FEB 1992)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of clause)

52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS. (OCT 1995)

In accordance with Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999)

(a) “Irrevocable letter of credit” (ILC), as used in this clause, means a written commitment by a federally insured

financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of credit business of less than $25 million in the past year, ILCs over $5 million must be confirmed by another acceptable financial institution that had letter of credit business of less than $25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

_____

[Issuing Financial Institution's Letterhead or Name and Address]

Issue Date _____

IRREVOCABLE LETTER OF CREDIT NO. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____(for reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States $_____. This Letter of Credit is payable at [issuing financial institution's and, if any, confirming financial institution's] office at [issuing financial institution's address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.

2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the confirming financial institution, for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

_____

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

_____

[Confirming Financial Institution's Letterhead or Name and Address]

(Date) _____

Our Letter of Credit Advice Number _____

Beneficiary: _____ [U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. $_____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

_____

[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

_____

[City, State]

(Date) _____

[Name and address of financial institution]

Pay to the order of _____ [Beneficiary Agency] _____ the sum of United States $_____. This draft is drawn under Irrevocable Letter of Credit No. _____.

_____

[Beneficiary Agency]

By: _____

(End of clause)

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (JUL 2000)-

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

Original contract price means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) Amount of required bonds. Unless the resulting contract price is $100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) Performance bonds (Standard Form 25). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) Payment Bonds (Standard Form 25-A). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) Additional bond protection. (i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) Furnishing executed bonds. The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) Surety or other security for bonds. The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular

570 is published in the Federal Register or may be obtained from the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW, 2nd Floor, West Wing, Washington, DC 20227.

(e) Notice of subcontractor waiver of protection (40 U.S.C. 270b(c). Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause--

"Contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax" means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax" means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

52.231-5000 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE
MAR 1995)--EFARS

(a) This clause does not apply to terminations. See 52.249-5000, Basis for Settlement of Proposals and FAR Part 49.

(b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region IX Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.

(c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

(d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(End of clause)

52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEP 2002)

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

_____

(Name)

_____

(Title)

_____

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers

that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against
the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action

resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(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)

52.232-18 AVAILABILITY OF FUNDS (APR 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the

Contracting Officer.

(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)

52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (OCT 2003)

Notwithstanding any other payment terms 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. 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 paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual 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) 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)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(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 mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

(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) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) 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.

(xi) Any other information or documentation required by the contract.

(3) 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)(3)(i) through (a)(3)(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, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The Government will compute the interest penalty in accordance with the 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 for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, 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.

(5) 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.

(6) 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)(6)(ii) of this clause, postmarked not later than 40 days after the date 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.

(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) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to use:

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph
(e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the

Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) Third-party deficiency reports--(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a “second-tier subcontractor”) a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts DisputesAct of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(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) 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.

(f) 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.

(g) 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 separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. 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.

(h) 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.

(i) 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. (JUL 2002)

(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. 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. 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 disput 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)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), 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 Default, or the Termination for Convenience of the Government, 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 or contract price, or both, 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)

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least FIFTEEN(15) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

As prescribed in 36.502, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated and the contract amount is expected to exceed the small purchase limitation. The Contracting Officer may insert the clause in solicitations and contracts when a fixed-price construction or a fixed-price contract for dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to be within the small purchase limitation.

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving

written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of clause)

52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(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)

52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, 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. 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)

52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

(End of clause)

52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of clause)

52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

52.236-13 ACCIDENT PREVENTION (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.

(c) 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.

(g) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of clause)

52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

52.236-16 QUANTITY SURVEYS (APR 1984)

(a) Quantity surveys shall be conducted, and the data derived from these surveys shall be used in computing the quantities of work performed and the actual construction completed and in place.

(b) The Government shall conduct the original and final surveys and make the computations based on them. The Contractor shall conduct the surveys for any periods for which progress payments are requested and shall make the computations based on these surveys. All surveys conducted by the Contractor shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance.

(c) Promptly upon completing a survey, the Contractor shall furnish the originals of all field notes and all other

records relating to the survey or to the layout of the work to the Contracting Officer, who shall use them as necessary to determine the amount of progress payments. The Contractor shall retain copies of all such material furnished to the Contracting Officer.

(End of clause)

52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of clause)

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, exc ept with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of clause)

52.236-25 REQUIREMENTS FOR REGISTRATION OF DESIGNERS (JUN 2003)

Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

(End of clause)

52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(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)

52.242-14 SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract. (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

(End of clause)

52.243-4 CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Government-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating

(1) the date, circumstances, and source of the order and

(2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a

change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attemp ting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after

(1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

52.243-6 CHANGE ORDER ACCOUNTING (APR 1984)

The Contracting Officer may require change order accounting whenever the estimated cost of a change or series of related changes exceeds $100,000. The Contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.

(End of clause)

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2004)

(a) Definitions.

"Commercial item", has the meaning contained in Federal Acquistion Regulation 2.101, 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 (MAY 2004) (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) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

(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)

52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably

needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

(End of clause)

52.248-3 VALUE ENGINEERING--CONSTRUCTION (FEB 2000)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs 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.

"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.

"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 logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"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 contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) 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 (7) 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 that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) 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 paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) 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.

(7) 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 Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer will 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 will 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.

If the VECP is not accepted, the Contracting Officer will 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.

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. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or 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.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

(i) 45 percent for fixed-price contracts or

(ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or $100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of $50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) 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-- Construction 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)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) 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) for materials, services, or facilities, 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 approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and 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, and (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.

(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 (b)(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.

(c) 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.

(d) After expiration of the plant clearance period as defined in Subpart 49.001 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 title to those 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.

(e) 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.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (g) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) of this clause;

(ii) 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 subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(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.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of 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 (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of 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 the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(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) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

(i) acts of God or of the public enemy,

(ii) acts of the Government in either its sovereign or contractual capacity,

(iii) acts of another Contractor in the performance of a contract with the Government,

(iv) fires,

(v) floods,

(vi) epidemics,

(vii) quarantine restrictions,

(viii) strikes,

(ix) freight embargoes,

(x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been

issued for the convenience of the Government.

The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(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.

(h) 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)

252.201-7000 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)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (DEC 2004)

(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 this contract;

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

(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 the Contractor 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 (301) 809-4904.

(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.

(i) 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)

252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

(End of clause)

252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the contractor.

(End of clause)

252.204-7004 CENTRAL CONTRACTOR REGISTRATION (52.204-7) ALTERNATE A (NOV 2003)

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

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

“Commercial and Government Entity (CAGE) code” means--

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code.”

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

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

“Registered in the CCR database” means that--

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

(2) The Contractor's CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields and has marked the records “Active.”

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

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

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

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at http://www.dnb.com; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

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

(i) Company legal business.

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

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

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

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

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

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

(g)
(1)
(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-

name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at http://www.ccr.gov or by calling 1-888-227-2423, or 269-961-5757.

(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)

252.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions. Historically black colleges and universities,* as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term *small disadvantaged business,* when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of clause)

252.222-7000 RESTRICTIONS ON EMPLOYMENT OF PERSONNEL (MAR 2000)

(a) The Contractor shall employ, for the purpose of performing that portion of the contract work in Alaska, individuals who are residents thereof and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills to perform the contract.

(b) The Contractor shall insert the substance of this clause, including this paragraph (b), in each subcontract awarded under this contract.

(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)

252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(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)

252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004)

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

Indian means--

(1) Any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c); and

(2) Any ``Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

Native Hawaiian small business concern means an entity that is --

(1) A small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632) and relevant implementing regulations; and

(2) Owned and controlled by a Native Hawaiian as defined in 25 U.S.C. 4221(9).

(b) The Contractor shall use its best efforts to give Indian organizations, Indian-owned economic enterprises, and Native Hawaiian small business concerns the maximum practicable opportunity to participate in the subcontracts it awards, to the fullest extent consistent with efficient performance of the contract.

(c) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status.

(d) In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to--

(1) For matters relating to Indian organizations or Indian-owned economic enterprises: U.S. Department of the Interior, Bureau of Indian Affairs, Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street NW, MS-2626-MIB, Washington, DC 20240-4000. The BIA will determine the eligibility and will notify the Contracting Officer.

(2) For matters relating to Native Hawaiian small business concerns: Department of Hawaiian Home Lands, PO Box 1879, Honolulu, HI 96805. The Department of Hawaiian Home Lands will determine the eligibility and will notify the Contracting Officer.

(e) No incentive payment will be made--

(1) While a challenge is pending; or

(2) If a subcontractor is determined to be an ineligible participant.

(f)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an incentive payment in accordance with this clause.

(2) The incentive amount that may be requested is 5 percent of the estimated cost, target cost, or fixed price included in the subcontract at the time of award to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(3) In the case of a subcontract for commercial items, the Contractor may receive an incentive payment only if the subcontracted items are produced or manufactured in whole or in part by an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(4) The Contractor has the burden of proving the amount claimed and shall assert its request for an incentive payment prior to completion of contract performance.

(5) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the estimated cost, target cost, or fixed price included in the subcontract awarded to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(6) If the Contractor requests and receives an incentive payment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the incentive amount.

(g) The Contractor shall insert the substance of this clause, including this paragraph (g), in all subcontracts exceeding $500,000.
(End of clause)

252.227-7022 GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

252.227-7023 DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT. (MAR 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b). With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

252.227-7024 NOTICE AND APPROVAL OF RESTRICTED DESIGNS (APR 1984)

In the performance of this contract, the Contractor shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment that are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer, the Contractor shall not produce a design or specification that requires in this construction work the use of structures, products, materials, construction equipment, or processes that are known by the Contractor to be available only from a sole source. The Contractor shall promptly report any such design or specification to the Contracting Officer and give the reason why it is considered necessary to so restrict the design or specification.

(End of clause)

252.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower-tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

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)

252.232-7007 LIMITATION OF GOVERNMENT'S OBLIGATION (AUG 1993)

(a) Contract line item(s) _____through _____are incrementally funded. For these item(s), the sum of $_____ of the total price is presently available for payment and allotted to this contract. An allotment schedule is set forth in paragraph (i) of this clause.

(b) For items(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement in the event of termination of those item(s) for the Government's convenience, approximates the total amount currently allotted to the contract. The Contractor will not be obligated to continue work on those item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor in excess of the amount allotted to the contract for those item(s) regardless of anything to the contrary in the clause entitled "TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT." As used in this clause, the total amount payable by the Government in the event of termination of applicable contract line item(s) for convenience includes costs, profit and estimated termination settlement costs for those item(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (i) of this clause, the Contractor will notify the Contracting Officer in writing at least ninety days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the applicable item(s). The notification will state (1) the estimated date when that point will be reached and (2) an estimate of additional funding, if any, needed to continue performance of applicable line items up to the next scheduled date for allotment of funds identified in paragraph (i) of this clause, or to a mutually agreed upon substitute date. The notification will also advise the Contracting Officer of the estimated amount of additional funds that will be required for the timely performance of the item(s) funded pursuant to this clause, for subsequent period as may be specified in the allotment schedule in paragraph (i) of this clause, or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's

notification, or by an agreed substitute date, the Contracting Officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the clause of this contract entitled "TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT".

(d) When additional funds are allotted for continued performance of the contract line item(s) identified in paragraph (a) of this clause, the parties will agree as to the period of contract performance which will be covered by the funds. The provisions of paragraph (b) through (d) of this clause will apply in like manner to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly.

(e) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated below, in amounts sufficient for timely performance of the contract line item(s) identified in paragraph (a) of this clause, the Contractor incurs additional costs or is delayed in the performance of the work under this contract and if additional funds are allotted, an equitable adjustment will be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the item(s), or in the time of delivery, or both. Failure to agree to any such equitable adjustment hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled "disputes."

(f) The Government may at any time prior to termination allot additional funds for the performance of the contract line item(s) identified in paragraph (a) of this clause.

(g) The termination provisions of this clause do not limit the rights of the Government under the clause entitled "DEFAULT." The provisions of this clause are limited to work and allotment of funds for the contract line item(s) set forth in paragraph (a) of this clause. This clause no longer applies once the contract if fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (d) or (e) of this clause.

(h) Nothing in this clause affects the right of the Government to this contract pursuant to the clause of this contract entitled "TERMINATION FOR CONVENIENCE OF THE GOVERNMENT."

(i) The parties contemplate that the Government will allot funds to this contract in accordance with the following schedule:

On execution of contract.....$_____
month _day, year_____.....$_____
month day, year_____$_____
month day, year_____$_____

(End of clause)

252.236-7000 MODIFICATION PROPOSALS - PRICE BREAKDOWN. (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown --

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for --

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

252.236-7001 CONTRACT DRAWINGS, MAPS, AND SPECIFICATIONS (AUG 2000)

(a) The Government will provide to the Contractor, without charge, one set of contract drawings and specifications, except publications incorporated into the technical provisions by reference, in electronic or paper media as chosen by the Contracting Officer.

(b) The Contractor shall--

(1) Check all drawings furnished immediately upon receipt;

(2) Compare all drawings and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies;

(4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and

(5) Reproduce and print contract drawings and specifications as needed.

(c) In general--

(1) Large-scale drawings shall govern small-scale drawings; and

(2) The Contractor shall follow figures marked on drawings in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

Title	File	Drawing No.
SEE DRAWINGS INDEX SHEET		

(End of clause)

252.236-7005 AIRFIELD SAFETY PRECAUTIONS. (DEC 1991)

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

(1) "Landing areas means" --

(i) The primary surfaces, comprising the surface of the runway, runway shoulders, and lateral safety zones. The length of each primary surface is the same as the runway length. The width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline);

(ii) The "clear zone" beyond the ends of each runway, i.e., the extension of the primary surface for a distance of 1,000 feet beyond each end of each runway;

(iii) All taxiways, plus the lateral clearance zones along each side for the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiway, e.g., a 75-foot-wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and

(iv) All aircraft parking aprons, plus the area 125 feet in width extending beyond each edge all around the aprons.

(2) "Safety precaution" areas means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance, or the transitional surface.

(i) "The approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended.

(A) The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway. It continues upward at a slope of 50:1 (1 foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation. At that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there.

(B) The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone. It then flares uniformly, reaching the maximum width of 16,000 feet at the end.

(ii) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(iii) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes.

(A) The inclined plane in each case begins at the edge of the surface.

(B) The slope of the incline plane is 7:1 (1 foot vertically for each 7 feet horizontally). It continues to the point of intersection with the --

(1) Inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation); or

(2) Outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(iv) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear

zone, and approach-departure clearance zone.)

(b) General. (1) The Contractor shall comply with the requirements of this clause while --

(i) Operating all ground equipment (mobile or stationary);

(ii) Placing all materials; and

(iii) Performing all work, upon and around all airfields.

(2) The requirements of this clause are in addition to any other safety requirements of this contract.

(c) The Contractor shall -

(1) Report to the Contracting Officer before initiating any work;

(2) Notify the Contracting Officer of proposed changes to locations and operations;

(3) Not permit either its equipment or personnel to use any runway for purposes other than aircraft operation without permission of the Contracting Officer, unless the runway is -

(i) Closed by order of the Contracting Officer; and

(ii) Marked as provided in paragraph (d)(2) of this clause;

(4) Keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft;

(5) Operate mobile equipment according to the safety provisions of this clause, while actually performing work on the airfield. At all other times, the Contractor shall remove all mobile equipment to locations -

(i) Approved by the Contracting Officer;

(ii) At a distance of at least 750 feet from the runway centerline, plus any additional distance; and

(iii) Necessary to ensure compliance with the other provisions of this clause; and

(6) Not open a trench unless material is on hand and ready for placing in the trench. As soon as practicable after material has been placed and work approved, the Contractor shall backfill and compact trenches as required by the contract. Meanwhile, all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(d) Landing areas. The Contractor shall -

(1) Place nothing upon the landing areas without the authorization of the Contracting Officer;

(2) Outline those landing areas hazardous to aircraft, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated low-intensity red flasher lights by night;

(3) Obtain, at an airfield where flying is controlled, additional permission from the control tower operator every time before entering any landing area, unless the landing area is marked as hazardous in accordance with paragraph (d)(2) of this clause;

(4) Identify all vehicles it operates in landing areas by means of a flag on a staff attached to, and flying above, the vehicle. The flag shall be three feet square, and consist of a checkered pattern of international orange and white squares of 1 foot on each side (except that the flag may vary up to ten percent from each of these dimensions);

(5) Mark all other equipment and materials in the landing areas, using the same marking devices as in paragraph (d)(2) of this clause; and

(6) Perform work so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(e) Safety precaution areas. The Contractor shall -

(1) Place nothing upon the safety precaution areas without authorization of the Contracting Officer;

(2) Mark all equipment and materials in safety precaution areas, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated, low-intensity red flasher lights by night; and

(3) Provide all objects placed in safety precaution areas with a red light or red lantern at night, if the objects project above the approach-departure clearance surface or above the transitional surface.

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.

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.

252.247-7023 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)

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000)

(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 00800
SPECIAL CONTRACT REQUIREMENTS

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SECTION 00800
SPECIAL CONTRACT REQUIREMENTS

1. (SCR-7) CERTIFICATES OF COMPLIANCE:

Any certificates required for demonstrating proof of compliance of materials with specification requirements shall be executed in 3 copies. Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company and shall contain the name and address of the Contractor, the project name and location, and the quantity and date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material, if, after tests are performed on selected samples, the material is found not to meet the specific requirements.

2. (SCR-10) ELMENDORF AFB PHYSICAL DATA (APR 1984):

Data and information furnished or referred to below are furnished for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

a. The indications of physical conditions on the drawings and in the specifications are the result of site investigation.

b. Location: Elmendorf AFB is located on the north edge of Anchorage, Alaska.

c. Transportation:

(1) Water: Anchorage is a port of call for scheduled and unscheduled commercial and military deep and shallow draft vessels in the Alaska trade.

(2) Air: Scheduled and charter commercial airline service is available from airports in Anchorage.

(3) Land: Anchorage is connected to the primary and secondary state highway system and is accessible from the lower 48 states via the Alaska Highway.

(4) Railroad: The Alaska Railroad offers freight service from the 48 contiguous states and Canada via rail barge and trainship through Whittier, and from Seward, to Anchorage and Fairbanks. In addition to the freight service, scheduled passenger service and express service between Anchorage and Fairbanks, and passenger service between Anchorage and Whittier are also available. Fairbanks (including Eielson AFB and Ft. Wainwright) is the northern terminus, and Seward and Whittier are the southern terminals of the Alaska Railroad.

d. Communications: The Contractor shall make all arrangements for required communication service directly with the Alaska Communications Systems (ACS) located at 10491 Necrason Avenue, Elmendorf AFB. The Government does not guarantee the adequacy or efficiency of the service or the number of telephones that can be assigned to the Contractor.

e. Weather Data: See http://www.wrcc.dri.edu/climsum.html Climatological Summary, Elmendorf AFB, Alaska.

3. (SCR-12) ACCESS AUTHORIZATION AND PERSONNEL IDENTIFICATION REQUIREMENTS:

(a) The Contractor shall be responsible for compliance with all regulations and orders of the Commanding Officer of the Military Installation, respecting identification of employees, movements on installation, parking, truck entry, and all other military regulations, which may affect the work.

(b) The work under this contract is to be performed at an operating Military Installation with consequent restrictions on entry and movement of non-military personnel and equipment.

4. (SCR-18) AGGREGATE SOURCES:

Aggregates shall meet all applicable requirements specified in SECTION 01010: PROJECT DESCRIPTION AND TECHNICAL REQUIREMENTS.

5. (SCR-22) SALVAGE MATERIALS AND EQUIPMENT (JAN 1965):

The Contractor shall maintain adequate property control records for all materials or equipment specified and as indicated to be salvaged. These records may be in accordance with the Contractor's system of property control, if approved by the property administrator. The Contractor shall be responsible for the adequate storage and protection of all salvaged materials and equipment and shall replace, at no cost to the Government, all salvage materials and equipment which are broken or damaged during salvage operations as the result of its negligence, or while in its care.

6. (SCR-25) COMMUNICATION SECURITY:

All communications with DOD organizations are subject to COMSEC review. Contractor personnel shall be aware that telecommunications networks are continually subject to intercept by unfriendly intelligence organizations. The DOD has authorized the military departments to conduct COMSEC monitoring and recording of telephone calls originating from or terminating at DOD organizations. Therefore, civilian Contractor personnel are advised that any time they place a call to or receive a call from Alaska District offices or Resident Engineer offices located on military installations, they are subject to COMSEC procedures. The Contractor will assume the responsibility for ensuring wide and frequent dissemination of the above information to all employees dealing with official DOD information.

7. (SCR-30) OPTION FOR INCREASED QUANTITY

a. The Government may increase the quantity of work awarded by exercising Optional Items__,___, and ___ at any time, or not at all, but no later than _____, 2005. Notice to Proceed on work added by exercise of the option will be given upon execution of consent of surety.

b. The parties hereto further agree that any options herein shall be considered as having been exercised at the time the Government deposits written notification to the Contractor in the mails.

c. Optional items awarded shall be completed within the time period for completion of the base items, as stated in Section 00700.

8. (SCR-36) TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER (ER 415-1-15, 31 Oct 1989):

1. This provision specifies the procedure for determination of time extensions for unusually severe weather in accordance with the Contract Clause entitled “DEFAULT (FIXED PRICE CONSTRUCTION)”. In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

a. The weather experienced at the project site during the contract period must be found to be unusually severe; that is, more severe than the adverse weather anticipated for the project location during any given month.

b. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the Contractor.

2. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The Contractor’s progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

Monthly Anticipated Adverse Weather Delay Work Days Based on a 5-Day Work Week

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
22	20	14	0	0	0	4	3	4	1	20	22

3. Upon acknowledgement of the Notice to Proceed and continuing throughout the contract, the Contractor shall record on the daily CQC report, the occurrence of adverse weather and the resultant impact to normally scheduled work. Actual adverse weather delays days must prevent work on critical activities for 50 percent or more of the Contractor’s scheduled workday. The number of actual adverse weather days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day in each month, and be recorded as full days. If the number of actual adverse weather days exceeds the number of days anticipated in Paragraph 2, above, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather workdays, and issue a modification in accordance with the Contract Clause entitled “DEFAULT (FIXED-PRICE CONSTRUCTION)”.

9. (SCR-38) YEAR 2000 COMPLIANCE (OCT 1997) (FAR 39.106):

In accordance with FAR 39.106, the Contractor shall ensure that with respect to any design, construction, goods, or services under this contract as well as any subsequent task/delivery orders issued under this contract (if applicable), all information technology contained therein shall be Year 2000 compliant. Specifically, the Contractor shall:

(1) Perform, maintain, and provide an inventory of all major components to include structures, equipment, items, parts, and furnishings under this contract and each task/delivery order which may be affected by the Year 2000 compliance requirement.

(2) Indicate whether each component is currently Year 2000 compliant or requires an upgrade for compliance prior to Government acceptance.

10. (SCR-40) KEY PERSONNEL, SUBCONTRACTORS, and OUTSIDE ASSOCIATES OR CONSULTANTS – AUG 1997:

In connection with the services covered by this contract, any in-house personnel, sub-contractors and outside associates or consultants will be limited to the individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer’s written consent before making any substitution for these designated in-house personnel, contractors, associates or consultants.

11. (SCR-41) DESIGN-BUILD CONTRACT - ORDER OF PRECEDENCE

(a) The contract includes the standard contract clauses and schedules current at the time of the contract award. It entails (1) the solicitation in its entirety, including all drawings, cuts, illustrations, and any amendments, and (2) the successful offeror's accepted proposal. The contract constitutes and defines the entire agreement between the Contractor and the Government. No documentation shall be omitted which in any way bears upon the terms of that agreement.

(b) In the event of conflict or inconsistency between any of the provisions of this contract, precedence shall be given in the following order:

1) Betterments: Any portions of the accepted proposal which both conform to and exceed the provisions of the solicitation.

2) The provisions of the solicitation. (See also Contract Clause: SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION.)

3) All other provisions of the accepted proposal.

4) Any design products including, but not limited to, plans, specifications, engineering studies and analyses, shop drawings, equipment installation drawings, etc.. These are "deliverables" under the contract and are not part of the contract itself. Design products must conform with all provisions of the contract, in the order of precedence here.

12. (SCR-42) PROPOSED BETTERMENTS

(a) The minimum requirements of the contract are identified in the Request for Proposal. All betterments offered in the proposal become a requirement of the awarded contract.

(b) "Betterment" is defined as any component or system which exceeds the minimum requirements stated in the Request for Proposal. This includes all proposed betterments listed in accordance with the "Proposal Submission Requirements" of the Solicitation, and all Government identified betterments.

13. (SCR-43) SEQUENCE OF DESIGN-CONSTRUCTION

(a) After receipt of Notice to Proceed (NTP), the Contractor shall initiate design, comply with all design submission requirements as covered under Division 01 General Requirements, and obtain Government review of each submission. No construction may be started until the Government has reviewed the Final Design submission and determined it satisfactory for purposes of beginning construction, except that site clearing, etc. may be initiated with

the permission of the Contracting Officer. The Contracting Officer will notify the Contractor when the design is cleared for construction. The Government will not grant any time extension for any design resubmittal required when, in the opinion of the Contracting Officer, the initial submission failed to meet the minimum quality requirements as set forth in the contract.

(b) If the Government allows the Contractor to proceed with limited construction based on pending minor revisions to the reviewed Final Design submission, no payment will be made for any in-place construction related to the pending revisions until they are completed, resubmitted and are satisfactory to the Government.

14. (SCR-44) RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN

(a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other non-construction services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiency in its designs, drawings, specifications, and other non-construction services and perform any necessary rework or modifications, including any damage to real or personal property, resulting from the design error or omission.

(b) The standard of care for all design services performed under this agreement shall be the care and skill ordinarily used by members of the architectural or engineering professions practicing under similar conditions. Notwithstanding the above, in the event that the contract specifies that portions of the Work be performed in accordance with a performance standard, the design services shall be performed so as to achieve such standards.

(c) Neither the Government’s review, approval or acceptance of, nor payment for, the services required under this contact shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract. The Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor’s negligent performance of any of these services furnished under this contract.

(d) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

(e) If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.

15. (SCR-45) SAFETY AND HEALTH REQUIREMENTS MANUAL, EM 385-1-1, U.S. ARMY CORPS OF ENGINEERS:

EM 385-1-1 and its changes are available at http://www.hq.usace.army.mil (at the HQ homepage, select Safety and Occupational Health). See SECTION 01525: SAFETY AND OCCUPATIONAL HEALTH REQUIREMENTS.

16. (SCR-46) WARRANTY OF CONSTRUCTION WORK – AUG 1997

(a)In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (1) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c)The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of:

(1) The Contractor's failure to conform to contract requirements; or
(2) Any defect of equipment, material, or workmanship.

(d)The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:

(1) Obtain all warranties that would be given in normal commercial practice:

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(k.) Defects in design or manufacture of equipment, specified by the Government on a "brand name and model" basis, shall not be included in this warranty. In this event, the Contractor shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to the Government.

17. (SCR-47) VALUE ENGINEERING AFTER AWARD – JUNE 1999

(a) In reference to Contract Clause 52.248-3, "Value Engineering – Construction", the Government may refuse to entertain a "Value Engineering Change Proposal" (VECP) for those "performance oriented" aspects of the Solicitation documents which were addressed in the Contractor's accepted contract proposal and which were evaluated in competition with other offerors for award of this contract.

(b) The Government may consider a VECP for those "prescriptive" aspects of the Solicitation documents, not addressed in the Contractor's accepted contract proposal or addressed but evaluated only for minimum conformance with the Solicitation requirements.

(c) For purposes of this clause, the term "performance oriented" refers to those aspects of the design criteria or other contract requirements which allow the Offeror or Contractor certain latitude, choice of and flexibility to propose in its accepted contract offer a choice of design, technical approach, design solution, construction approach or other approach to fulfill the contract requirements. Such requirements generally tend to be expressed in terms of functions to be performed, performance required or essential physical characteristics, without dictating a specific process or specific design solution for achieving the desired result.

(d) In contrast, for purposes of this clause, the term "prescriptive" refers to those aspects of the design criteria or other Solicitation requirements wherein the Government expressed the design solution or other requirements in terms of specific materials, approaches, systems and/or processes to be used. Prescriptive aspects typically allow the Offerors little or no freedom in the choice of design approach, materials, fabrication techniques, methods of installation or other approach to fulfill the contract requirements.

18. (SCR-48) WARRANTY OF DESIGN (FIRM-FIXED PRICE DESIGN-BUILD CONTRACT) – MAY 2002

(a) The Contractor warrants that the design shall be performed in accordance with the Contract requirements. Design and design related construction not conforming to the Contract requirements shall be corrected at no additional cost to the Government. The standard of care for design is defined in paragraph (b) of Special Contract Requirement "RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN".

(b) The period of this warranty shall commence upon final completion and the Government's acceptance of the work, or in the case of the Government's beneficial occupancy of all or part of the work for its convenience, prior to final completion and acceptance, at the time of such occupancy.

(c) This design warranty shall be effective from the above event through the Statue of Limitations and Statute of Repose, as applicable to the state that the project is located in.

(d) The rights and remedies of the Government provided for under this clause are in addition to any other rights and remedies provided in this contract or by law.

19. (SCR-49) DEVIATING FROM THE ACCEPTED DESIGN (JUN 2002)

(a.) The Contractor must obtain the approval of the Designer of Record and the Government's concurrence for any Contractor proposed revision to the professionally stamped and sealed and Government reviewed and concurred design, before proceeding with the revision.

(b.) The Government reserves the right to non-concur with any revision to the design, which may impact furniture, furnishings, equipment selections or operations decisions that were made, based on the reviewed and concurred design.

(c.) Any revision to the design, which deviates from the contract requirements (i.e., the RFP and the accepted proposal), will require a modification, pursuant to the Changes clause, in addition to Government concurrence. The Government reserves the right to disapprove such a revision.

(d.) Unless the Government initiates a change to the contract requirements, or the Government determines that the Government furnished design criteria are incorrect and must be revised, any Contractor initiated proposed change to the contract requirements, which results in additional cost, shall strictly be at the Contractor's expense.

(e.) The Contractor shall track all approved revisions to the reviewed and accepted design and shall incorporate them into the as-built design documentation, in accordance with agreed procedures. The Designer of Record shall document its professional concurrence on the as-builts for any revisions in the stamped and sealed drawings and specifications.

20. (SCR-50) GOVERNMENT-FURNISHED RFP DRAWINGS, SURVEYS AND SPECIFICATIONS (JUL 2002)

This is to clarify that contract clause 252.236-7001, "Contract Drawings and Specifications," refers to any Government-furnished design or design criteria included in the Request for Proposal (RFP).

21. (SCR-51) GOVERNMENT-FURNISHED SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (JUL 2003)

This is to clarify that contract clause 52.236-21, "Specifications and Drawings for Construction," refers to any specifications and drawings furnished in the Request for Proposal (RFP). The term "specifications" refers to the design criteria or scope of work, in addition to any attached specifications.

-- End of Special Contract Requirements --

PROJECT DESCRIPTION / MINIMUM DESIGN AND CONSTRUCTION CRITERIA

PART 1 PROJECT DESCRIPTION / STATEMENT OF WORK

1.1 PROJECT LOCATION

1.1.1 Project Location - Elmendorf Air Force Base is located on the northern edge of Anchorage, Alaska and is accessible from the Glenn Highway at Boniface Parkway.

A. Proposed Site - The C-17 Maintenance Complex construction site is located south of Airlifter Drive and north of Taxiway 'J', at the present location of Hangar 12.

B. Sub-arctic conditions exist at Elmendorf AFB, however, permafrost is unlikely to be encountered. Winter temperatures in the range of -10 degrees C to -20 degrees C are common for extended periods; -30 degrees C temperatures can last for several days in a row. Snow begins accumulating in early October and does not begin to melt until April; .5 meters (18") snow cover is common through mid-May.

1. Climate – see Section 00800 Special Contract Requirements for Climatological Summary for Elmendorf AFB.

1.2 PROJECT OVERVIEW

1.2.1 GENERAL – This project shall be designed and constructed in coordination with the adjacent Large Airframe Maintenance Hangar to the east and the C-17 Utilities component of that project around this project site. The facility will be operational 24 hours per day/7 days per week/365 days per year. It will support personnel from the Air Force and Air Force Reserve Component (AFRC). Site work (parking, roads, and utilities) ties into and supplements work associated with the adjacent Large Airframe Maintenance Hangar and C-17 Utilities.

1.2.2 THE C-17 MAINTENANCE COMPLEX consists of:

A. Corrosion Control Hangar (CCH). The hangar is to support corrosion control activities and general maintenance on C-17 aircraft.

B. Home Station Check (HSC) General Maintenance Hangar – The hangar is to support general maintenance activities on the C-17 and occasional maintenance requirements for the KC-10 and B767-200 aircraft.

C. Fabrication Flight Shops (3 EMS – Fabrication Flight) – single integrated area comprised of:
1. Corrosion Control Shop
2. Structural Maintenance (Sheet Metal) Shop
3. Composite Shop
4. Non-Destructive Inspection (NDI)

D. Squadron Operations and Life Support Complex (517 AS Airlift Squadron).
1. Includes space for Air Force Reserve Component (AFRC) – Operations Support Flight

E. Flight Line Maintenance (703 AMXS – Aircraft Maintenance Squadron)
1. Shop – 703rd Aircraft Maintenance Squadron
2. Offices – 703rd Aircraft Maintenance Unit

F. Maintenance Flight Shops (3 EMS – Maintenance Flight)
1. Wheel and Tire (W+T)
2. Repair and Reclamation (R+R)

3. Home Station Check (HSC) Shop

G. Support Spaces – include mechanical, electrical, comm, fire protection, and other support functions, as well as mobility storage space. Only Government Owned Vehicles (GOV) and fire equipment will have access to all sides of the building.

1.3 OBJECTIVES

1.3.1 OBJECTIVES – This project shall be designed and constructed with quality materials and workmanship throughout and in accordance with all applicable codes and industry standard references and the requirements of this RFP. It is the intent of this RFP to establish minimum design and construction requirements for the project that meet or exceed the standards referenced in this RFP. Choice of materials and methods of construction shall not compromise the safety of building occupants and shall optimize quality, function, aesthetics, economy, maintainability, and life cycle cost. This facility shall be constructed as a complete and stand alone structure with its own building systems. The anticipated life of the building is 50 years with refurbishment after 20 years.

1.3.2 TECHNICAL REQUIREMENTS – will be provided in phase 2, Section 01010, Part 2 – Minimum Design and Construction Criteria for Demolition, Civil, Architectural, Structural, Mechanical, Electrical, and Fire Protection for detailed technical requirements.

A. Products specified in phase 2, Section 01010 are non-proprietary unless noted otherwise. Products specifying one manufacturer's salient features, including performance standards, sizes/capacity, warranty, etc., may be substituted with a product of equal or better quality.

B. The D-B contractor may not deviate from the minimum requirements, site concept design, spatial relationship plans, and room criteria sheets without Government approval. The Contractor may propose changes to the design via Contractor-Proposed Betterments to improve constructability, functionality, and value to the Government.

C. Project cost range and minimum/maximum building area are in Section 00100.

1.3.3 GOVERNMENT-FURNISHED AND CONTRACTOR-FURNISHED ITEMS - Portions of the work are described in section 01010 and the Room Criteria Sheets using the following abbreviations: This information will be provided in Phase 2.

A. GFCI = Government-Furnished Contractor-Installed

B. CFCI = Contractor-Furnished Contractor-Installed

C. GFGI = Government-Furnished Government-Installed

1.4 SCOPE

1.4.1 FACILITY DEMOLITION

A. Demolition of existing site facilities will be performed by a separate "Demolition Contractor" contracted by EAFB.

1.4.2 CIVIL SITE WORK - see criteria in part 2.2: will be provided in Phase 2.

A. Site Demolition: Project includes removal of existing fencing and other miscellaneous work.

B. Sitework: Project includes construction of Hangar Access Approach, drainage improvements, service utilities, water line loop for fire protection, roads, parking, and site grading to incorporate the C-17 Maintenance Complex to the site.

1.4.3 BUILDING CONSTRUCTION

A. Building Conceptual Design:

1. The D-B contractor shall develop a corrosion control hangar (CCH) design suited to C-17 corrosion control and maintenance operations in accordance with applicable codes and regulations, a solution utilizing either a pre-engineered paint booth insert within the hangar or constructing a paint hangar , complete.
   a. The CCH shall be designed in conformance with the applicable codes and standards noted in the discipline sections in Part 2, (will be provided in phase 2) including:
      1) ETL 02-15 Fire Protection Engineering – New Aircraft Facilities
      2) NFPA 409 Standard on Aircraft Hangars
      3) NFPA 33 Spray Application Using Flammable or Combustible Materials
      4) National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities (NESHAP) 40 CFR Parts 9 & 63.
      5) MIL-HDBK 1190 Facility Planning and Design Guide.
      6) MIL-HDBK 1028/1C Aircraft Maintenance Facilities
      7) TO 1-1-8 Application and Removal of Organic Coatings, Aerospace and Non-aerospace Equipment.
   b. Phase 2 mechanical section 2.5.16 for Process Heating, Ventilating, and Exhaust (PHVE) System.
   c. Phase 2 electrical section 2.6 for discussion of areas rated Class 1 Division 1, and Class 1 Division 2 explosive hazard in CCH. The paint area enclosure shall be rated Class I, Div 1 throughout.
   d. Phase 2 architectural section 2.3 for requirements of wall and ceiling panels creating a smooth-surface environment conducive to efficient laminar air flow. With the exception of fall protection systems and light fixtures, permanent building appurtenances shall not protrude into the paint environment
   e. Laminar air flow shall be directed along the longitudinal axis of the aircraft fuselage. Air shall be supplied to the paint enclosure via an air plenum. The interior plenum door shall be a metal lined door, horizontal-acting steel panel or a proven alternative.
   f. Utility stairs and work platforms shall be provided for personnel and tools to access all surfaces of the aircraft tail for painting and maintenance operations.
2. In conformance with RFP requirements, the D-B contractor is encouraged to utilize in the Proposal a single-level roof height for hangar bays. This form is desirable because it best controls snow drifting, roof runoff, snow accumulation at ground level near fire lanes and exterior doors, and reduces potential for ice damming and leaking at wall-roof interface.
3. Phase 2 section 01011 – Detailed Spatial Requirements includes Spatial Relationship Plans (SRP) and building sections with relevant clearance notations. The D-B contractor is responsible for designing the building to comply with all aircraft and equipment clearance and rough-in requirements, coordinated with referenced publications, site constraints, structural elements, and building materials and systems.
   a. Room Criteria Sheets (provided in phase 2) denote specific requirements for all areas.
   b. Equipment and Furniture by Room denotes contractor-furnished (CFCI) and government furnished (GFGI) items, including the number of workstations, rough-in information, etc., where known.
   c. Equipment catalog cuts are included to support the SRP's and Equipment and Furniture by Room. The manufacturer data is not comprehensive of all planned furniture and equipment and are for reference only. Actual procurement may differ, therefore furniture and equipment requires must be reviewed and verified during the Design.
4. The Government reserves the right to require space planning adjustments after contract award during the Post award Proposal Design Document Review Meeting.

1.4.4 PROJECT OPTIONS – Project Options are additions to the baseline scope of work, which shall be priced separately by the D-B Contractor per Section 00100 and shall be evaluated by the Government per Section 00120.

A. PROJECT OPTIONS – SITE: none.

B. PROJECT OPTIONS - BUILDING
1. Item No. 1 on the Proposal Schedule is not an option.
2. Item No. 2 on the Proposal Schedule is not an option.
3. Design/Construct Wheel & Tire Shop– add building area and functions in their entirety.
4. Provide/Install Hangar Bay Floor Coating in HSC – see paragraphs 2.3.9.A.6 and 8 in the Phase 2 package.
5. Provide/Install Hangar Bay Floor Coating in CCH – see paragraphs 2.3.9.A.6 and 7 in the Phase 2 package.
6. Design/Construct Overhead Bridge Crane and Hoists – HSC hangar bay, Shops, Wheel & Tire; see paragraph 2.3.21.F and Section 01011 Equipment & Furniture by Room in the Phase 2 package. Baseline structural system design shall accommodate crane and hoists.
7. Design/Construct Aircraft Tail Access Platform – see paragraph 2.3.21.C in the Phase 2 package.
8. Provide/Install Masonry Wainscot at Building Perimeter – 2642mm (8'-8") above grade, except at CCH bay in the vicinity of aircraft wing-tips, where it shall be 9144mm (30') above the hangar floor level.

1.4.5 GOVERNMENT BETTERMENTS – not used.

1.4.6 CONTRACTOR-PROPOSED BETTERMENTS - are materials, systems, or construction methods not described in the RFP which meet and/or exceed minimum requirements within allowable funds, increasing overall value to the government.

A. Refer to Section 00100 for Proposal submission requirements and Section 00120 for Proposal Evaluation Factors of Contractor-Proposed Betterments.

B. With the exception of Prohibited Items, all Contractor-proposed Betterments that benefit the facility will be considered and will be evaluated based on durability, function, and conformance to Base standards, maintenance, cost, and aesthetics.

1.4.7 PROHIBITED ITEMS - Proposals shall not present a design inclusive of any prohibited item described by each discipline in Part 2 - Minimum Design and Construction Criteria in the Phase 2 package.

1.5 SUPPORTING INFORMATION

1.5.1 SUMMARY OF CLEARANCE REQUIREMENTS - Aircraft dimensions are excerpted from AFH 32-1084 Table 2.4 as follows:

A. C-17 AIRCRAFT
1. Wingspan – 51.8 m (170 feet)
2. Length – 52.7 m (173 feet)
3. Tail height – 16.8 m (55.1 feet)

B. KC-10 AIRCRAFT
1. Wingspan – 50.4 m (165.3 feet)
2. Length – 55.5 m (182.1 feet)
3. Tail Height – 17.7 m (58.1 feet)

C. B767-200 AIRCRAFT
   1. Wingspan – 47.59 m (156.1 feet)
   2. Length – 48.53 m (159.17 feet)
   3. Tail Height – 15.85 m (52.0 feet)

D. Tow-bar and Tug Vehicle
   1. Tow-bar and tug vehicle dimensions are illustrated in Spatial Relationship Plan in section 01011. Provide minimum 3.05 meters (10 feet) clearance in front of tow-vehicle to wall.

E. Clearance Requirements Summary Inside Hangar – is excerpted from AFH 32-1084 Table 7.2. Where noted in section 01011 drawings (in the Phase 2 package, clearances exceed the following minimums to accommodate stated needs:
   1. Wingtip Clearance at Door – 3 m (10 feet)
   2. Wingtip Clearance at Walls (and structure) – 4.6 m (15 feet)
   3. Fuselage Clearance at Door – 3 m (10 feet)
   4. Fuselage Clearance at Walls (and structure) – 4.6 m (15 feet)
   5. Fuselage Clearance at Roof Framing (permanent obstructions) – 3 m (10 feet)
   6. Tail Clearance, Vertical, at Door – 2.1 m (7 feet)
   7. Tail Clearance, Vertical, at Permanent Overhead Obstructions – 3 m (10 feet)
   8. Tail Clearance, Horizontal, at Door – 3 m (10 feet)
   9. Tail Clearance, Horizontal, at Walls (and structure) – 3 m (10 feet)
   10. Tail Clearance, Horizontal, at Roof Framing (permanent obstructions) – 3 m (10 feet)

1.5.2 SITE ENVIRONMENTAL

A. The project site is within boundaries of known and suspected contamination from a fire training pit to the northeast. A Chemical Data Report (Appendix attachment) was prepared from preliminary investigations at the site. Field screening and sampling will be required during excavation. See section 2.2.6 Environmental Issues in the Phase 2 package.

B. Air Quality – a Source Emissions Permit application is underway by the Government, addressing the facility's planned emission sources including: back-up generator, boiler, and radiant heaters.

1.5.3 ANTI-TERRORISM / FORCE PROTECTION (AT/FP)

A. Summary AT/FP Checklist (Appendix attachment) shall be utilized and completed by the D-B contractor to demonstrate the Proposal design's compliance with requirements stated in UFC 4-010-01. Project classifications are:
   1. Building Occupancy Classification
      a. "Inhabited Building" (>11 DoD personnel and density greater than 1 person per 40 gross square meters) at Hangar Bays and Shops.
      b. "Primary Gathering" (>50 or more DoD personnel) at Offices on upper levels.
   2. Level of Protection – "Low", per Table 2-1.

B. See Part 2 (in the Phase 2 package) discipline sections for descriptions of additional requirements.

1.5.4 SUSTAINABILITY –the D-B team shall use the SPiRiT checklist in ETL 1110-3-491 Sustainable Design for Military Facilities, design, and construct the project to achieve "Bronze" Sustainable Project Level Rating.

1.5.5 ACCESSIBILITY – Americans With Disabilities Act (ADA)

A. Accessibility standards for this facility shall apply to parking and site access, northeast building entrance and second floor offices and restrooms. It is presumed that the personnel working in all hangars and 1st floor spaces are able-bodied, therefore the locker rooms, hangar bays and

shops, mechanical support, and 2nd floor mezzanine offices are not required to be accessible. Restroom in the office areas shall be accessible.

B. In accordance with UFC 1-200-01 paragraph 1-6.12, comply with Uniform Federal Accessibility Standards (UFAS) and Americans with Disabilities Act Accessibility Guidelines (ADAAG) in lieu of International Building Code (IBC) 2003 chapter 11 for all site and building elements requiring accessibility.

1.5.6 DESIGN and DRAWING FORMATTING

A. This project shall be designed, drawn and constructed with materials of SI Units (metric) as described in ER 1110-2-1200 Plans and Specifications and the U.S. Army Corps of Engineers Alaska District CADD Guidelines. Drawings shall adhere to the most current version of The CADD/GIS Technology Center A/E/C CADD Standard ERDC/ITL TR-01-6 published by the U.S. Army Engineer Research and Development Center 3909 Halls Ferry Road, Vicksburg, MS 39180-6199. This publication is also available at http;//tsc.wes.army.mil.

B. Drawings shall be archived on CD-ROM in AutoCad 2004 ".dwg" format. Any electronic drawings with xref's shall have the xref's bound to the original drawing; one AutoCAD drawing sheet per electronic file."

1.5.7 DESIGNER OF RECORD

A. Final design submittals, drawings included therein shall be signed by and affixed with the seal of an Architect and Professional Engineer of Record who shall be termed the "Designer of Record" for the respective disciplines. See section 01010 part 2 discipline sections for required qualifications, provided in Phase 2. At a minimum, "Designer of record" shall be licensed in their respective discipline, and shall have at least five (5) years continuous experience in sub-arctic regions design.

B. Where construction and testing standards and criteria are contained within Section 01010 or 01012, the Designer of Record shall place them in the construction documents and require them of the Contractor during construction.

1.6 PROJECT BOUNDARIES AND SITE ACCESS RESTRICTIONS

1.6.1 CONSTRUCTION OF THE LARGE AIRFRAME MAINTENANCE HANGAR (LAMH) AND C-17 UTILITIES PROJECT adjacent to this site will be in progress during construction of this project. The utilities component extends along all sides of this Project.

A. Topographic surveys that will be provided in Step II represent existing conditions. Sitework of the LAMH will affect site conditions around this site. Reference Civil sitework drawings for the LAMH in the Appendix for design of those improvements.

B. Design / Build Contractor shall develop the site plan using the provided conceptual site plans along with the design documents for the LAMH. Contractor shall integrate the sitework of the C-17 Maintenance Complex project into the design improvements of the LAMH to develop a fully coordinated site plan.

1.6.2 The PROJECT BOUNDARY will vary over the duration of the project due to construction activities at the Large Airframe Maintenance Hangar site. Project boundaries are noted on civil drawing G1.2 in Appendix drawings.

1.6.3 ADDITIONAL RESTRICTIONS shall apply within and around the project boundaries.

A. Elmendorf AFB Air Show – a one-week event in 2006 and 2007:

1. The Base will be closed to all construction activities for three days in June or July, two of which will fall on a weekend for the actual Air Show. For three days prior to the Air Show there will be restricted site access.
2. The above restrictions are approximate. EAFB airfield manager will state specific restrictions in the months prior to the events.

B. Hangar 14 is located on the south side of Taxiway J across from the site. Access to Hangar 14 from the west must be maintained throughout the project. Access to Hangar 14 for aircraft will be provided by utilizing the south half of Taxiway J from the C-130 Ramp east to Hangar 14. The contractor will be able to utilize the area north of the centerline of Taxiway J for the project as indicated in civil drawings G1.2.

C. The following road and gate construction activities shall be noted:
1. The Airlifter Drive road improvement project will occur from 1 May, 2006 through 30 September, 2006 in two to three construction phases, during which time the contractor will be provided access to the construction site at all times. The east phase is anticipated to be a 60 day construction timeframe from 1 July 2006 through 30 August 06. The east phase extends from Tally Road to Hangar 18 on Airlifter Drive. During the "east" phase of road construction, access will be via Fairchild Drive west of the East/West runway. Traffic delays should be expected during this period.

D. F-15 aircraft trim pad and C-130 engine test stand is located on Hardstand A-19, east of the JMC Access Road. During the operational use of these facilities, aircraft engines are powered up to troubleshoot maintenance issues. When this occurs, the Contractor can expect elevated noise levels in excess of 85 dB. Take necessary precautions to protect workers in this area. The use of these facilities will continue throughout the course of construction.

1.7 REFERENCES

1.7.1 APPENDICES - drawings and documents included in this RFP delineate project-specific design criteria in support of the codes and references.

1.7.2 CODES AND REFERENCES: Design and construction shall comply with referenced codes and standards listed in Part 2 Minimum Design and Construction Criteria of this section, provided in Phase 2. Requirements contained in this RFP may revise, add to, or substitute for criteria contained in the referenced documents. This RFP shall be deemed the controlling authority wherever such differences exist.

A. Selected project-specific references are attached electronically to this RFP for the Offeror's convenience. This attachment of references is not all-inclusive of the required standards to which D-B proposal must conform. It is the D-B contractor's responsibility to access and comply with all referenced codes, standards, and criteria in this RFP. See RFP Table of Contents for listing.

B. Codes and Industry standard references are not published with this RFP. Each offeror shall be responsible for obtaining all documents referenced as criteria for this project.
1. The Engineering Improvement Recommendations System can be found at www.usace.army.mil/inet/usace-docs/
2. US Army Corps of Engineers publications can be found at http://www.hnd.usace.army.mil/techinfo/
3. Unified Facilities Guide Specifications can be found at http://www.hnd.usace.army.mil/techinfo/gspec.htm
4. Air Force publications can be found at:
   a. http://www.afcesa.af.mil/Library/indes.asp
   b. http://www.e-publishing.af.mil/
5. Unified Facilities Criteria publications can be found at http://65.204.17.188/report/doc_ufc.html

C. Publications: Design and construction shall be in accordance with the codes, standards, and regulations noted within the discipline design criteria sections. If dates are not given for reference standards or criteria, the latest edition is to be used. The most stringent shall govern where discrepancies occur.

1.7.3 UNIFIED FACILITIES GUIDE SPECIFICATIONS (UFGS)

A. Unified Facilities Guide Specifications (UFGS) describe materials and methods required for this project. Each Part 2 Technical Requirements section lists applicable UFGS sections for that discipline, provided in Phase 2. If no UFGS exists for work described in Part 2 of this Section and Contractor-Proposed Betterments, the D-B contractor shall develop additional specifications per requirements stated in UFC 1-300-02.

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DIVISION 01 - GENERAL REQUIREMENTS

SECTION 01451

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SECTION 01451

CONTRACTOR QUALITY CONTROL

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by basic designation only.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

ASTM D 3740	(2001) Minimum Requirements for Agencies Engaged in the Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction
ASTM E 329	(2000b) Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction

U.S. ARMY CORPS OF ENGINEERS (USACE)

ER 1110-1-12	Quality Management

1.2 PAYMENT

Separate payment will not be made for providing and maintaining an effective Quality Control program, and all costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Bidding Schedule.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL REQUIREMENTS

The Contractor is responsible for quality control and shall establish and maintain an effective quality control system in compliance with the Contract Clause titled "Inspection of Construction." The quality control system shall consist of plans, procedures, and organization necessary to produce an end product which complies with the contract requirements. The system shall cover all design and construction operations, both onsite and offsite, and shall be keyed to the proposed construction sequence. The site project superintendent will be held responsible for the quality of work on the job and is subject to removal by the Contracting Officer for non-compliance with the quality requirements specified in the contract. The site project superintendent in this context shall be the highest level manager responsible for the overall construction activities at the site, including quality and production. The site project superintendent shall maintain a physical presence at the site at all times, except as otherwise acceptable to the Contracting Officer, and shall be responsible for all

construction and construction related activities at the site.

3.2 QUALITY CONTROL PLAN

The Contractor shall furnish for review by the Government, not later than 30 days after receipt of notice to proceed, the Contractor Quality Control (CQC) Plan proposed to implement the requirements of the Contract Clause titled "Inspection of Construction." The plan shall identify personnel, procedures, control, instructions, tests, records, and forms to be used. The Government will consider an interim plan for the first 30 days of operation. Design and construction will be permitted to begin only after acceptance of the CQC Plan or acceptance of an interim plan applicable to the particular feature of work to be started. Work outside of the features of work included in an accepted interim plan will not be permitted to begin until acceptance of a CQC Plan or another interim plan containing the additional features of work to be started.

3.2.1 Content of the CQC Plan

The CQC Plan shall include, as a minimum, the following to cover all design and construction operations, both onsite and offsite, including work by subcontractors, designers of record, consultants, architect/engineers (AE), fabricators, suppliers, and purchasing agents:

a. A description of the quality control organization, including a chart showing lines of authority and acknowledgment that the CQC staff shall implement the three phase control system for all aspects of the work specified. The staff shall include a CQC System Manager who shall report to the project superintendent.

b. The name, qualifications (in resume format), duties, responsibilities, and authorities of each person assigned a CQC function.

c. A copy of the letter to the CQC System Manager signed by an authorized official of the firm which describes the responsibilities and delegates sufficient authorities to adequately perform the functions of the CQC System Manager, including authority to stop work which is not in compliance with the contract. The CQC System Manager shall issue letters of direction to all other various quality control representatives outlining duties, authorities, and responsibilities. Copies of these letters shall also be furnished to the Government.

d. Procedures for scheduling, reviewing, certifying, and managing submittals, including those of subcontractors, designers of record, consultants, architect engineers (AE), offsite fabricators, suppliers, and purchasing agents. These procedures shall be in accordance with SECTION 01330 SUBMITTAL PROCEDURES.

e. Control, verification, and acceptance testing procedures for each specific test to include the test name, specification paragraph requiring test, feature of work to be tested, test frequency, and person responsible for each test with an estimated number of tests required. Laboratory facilities approved by the Contracting Officer shall be used.

f. Procedures for tracking preparatory, initial, and follow-up control phases and control, verification, and acceptance tests

including documentation.

g. Procedures for tracking design and construction deficiencies from identification through acceptable corrective action. These procedures shall establish verification that identified deficiencies have been corrected.

h. Reporting procedures, including proposed reporting formats.

i. A list of the definable features of work. A definable feature of work is a task which is separate and distinct from other tasks, has separate control requirements, and may be identified by different trades or disciplines, or it may be work by the same trade in a different environment. Although each section of the specifications may generally be considered as a definable feature of work, there are frequently more than one definable features under a particular section. This list will be agreed upon during the coordination meeting.

3.2.2 Additional Requirements for Design Quality Control (DQC) Plan

The followng additional requirements apply to the Design Quality Control (DQC) plan:

(1) The Contractor's QCP Plan shall provide and maintain a Design Quality Control (DQC) Plan as an effective quality control program which will assure that all services required by this design-build contract are performed and provided in a manner that meets professional architectural and engineering quality standards. As a minimum, all documents shall be technically reviewed by competent, independent reviewers identified in the DQC Plan. The same element that produced the product shall not perform the independent technical review (ITR). The Contractor shall correct errors and deficiencies in the design documents prior to submitting them to the Government.

(2) The Contractor shall include the design schedule in the master project schedule, showing the sequence of events involved in carrying out the project design tasks within the specific contract period. This should be at a detailed level of scheduling sufficient to identify all major design tasks, including those that control the flow of work. The schedule shall include review and correction periods associated with each item. This should be a forward planning as well as a project monitoring tool. The schedule reflects calendar days and not dates for each activity. If the schedule is changed, the Contractor shall submit a revised schedule reflecting the change within 7 calendar days. The Contractor shall include in the DQC Plan the discipline-specific checklists to be used during the design and quality control of each submittal. These completed checklists shall be submitted at each design phase as part of the project documentation. Example checklists can be found in ER 1110-1-12.

(3) The DQC Plan shall be implemented by an Design Quality Control Manager who has the responsibility of being cognizant of and assuring that all documents on the project have been coordinated. This individual shall be a person who has verifiable engineering or architectural design experience and is a registered professional engineer or architect. The Contractor shall notify

the Contracting Officer, in writing, of the name of the individual, and the name of an alternate person assigned to the position.

The Contracting Officer will notify the Contractor in writing of the acceptance of the DQC Plan. After acceptance, any changes proposed by the Contractor are subject to the acceptance of the Contracting Officer.

3.2.3 Acceptance of Plan

Acceptance of the Contractor's plan is required prior to the start of design and construction. Acceptance is conditional and will be predicated on satisfactory performance during the design and construction. The Government reserves the right to require the Contractor to make changes in his CQC Plan and operations including removal of personnel, as necessary, to obtain the quality specified.

3.2.4 Notification of Changes

After acceptance of the CQC Plan, the Contractor shall notify the Contracting Officer in writing of any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

3.3 COORDINATION MEETING

After the Postaward Conference, before start of design or construction, and prior to acceptance by the Government of the CQC Plan, the Contractor shall meet with the Contracting Officer or Authorized Representative and discuss the Contractor's quality control system. The CQC Plan shall be submitted for review a minimum of 30 calendar days prior to the Coordination Meeting. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the CQC operations, design activities, control activities, testing, administration of the system for both onsite and offsite work, and the interrelationship of Contractor's Management and control with the Government's Quality Assurance. Minutes of the meeting shall be prepared by the Government and signed by both the Contractor and the Contracting Officer. The minutes shall become a part of the contract file. There may be occasions when subsequent conferences will be called by either party to reconfirm mutual understandings and/or address deficiencies in the CQC system or procedures which may require corrective action by the Contractor.

3.4 QUALITY CONTROL ORGANIZATION

3.4.1 Personnel Requirements

The requirements for the CQC organization are a CQC System Manager, a Design Quality Manager, and sufficient number of additional qualified personnel to ensure contract compliance. The Contractor shall provide a CQC organization which shall be at the site at all times during the progress of the work and with complete authority to take any action necessary to ensure contract compliance. All CQC staff members shall be subject to acceptance by the Contracting Officer.

3.4.2 CQC System Manager

The Contractor shall identify as CQC System Manager an individual within the onsite work organization who shall be responsible for overall

management of CQC and have the authority to act in all CQC matters for the Contractor. The CQC System Manager shall be a graduate engineer, graduate architect, or a graduate of construction management, with a minimum of 5 years construction experience on construction similar to this contract. This CQC System Manager shall be on the site at all times during construction and shall be employed by the prime Contractor. The CQC System Manager shall be assigned no other duties. An alternate for the CQC System Manager shall be identified in the plan to serve in the event of the System Manager's absence. The requirements for the alternate shall be the same as for the designated CQC System Manager.

3.4.3 CQC Personnel

In addition to CQC personnel specified elsewhere in the contract, the Contractor shall provide as part of the CQC organization qualified and experienced personnel to assist the CQC System Manager as identified in the matrix below. This list is a minimum requirement and additional personnel may be required to satisfactorily perform all quality control requirements. These individuals may either be directly employed by the prime contractor or contracted as independent third parties; must personally review and approve all shop drawing submittals and requests for information in their area of responsibility; must be physically present at the construction site for all preparatory inspections, initial inspections, testing, certification, and commissioning on work in their areas of responsibility; and must make daily inspections of work in progress in their areas of responsibility to ensure full compliance with contract quality control requirements.

Experience Matrix

	Area	Qualifications
a.	Civil	Graduate Civil Engineer with 2 years experience in the type of work being performed on this project or technician With 5 yrs related experience
b.	Mechanical	Graduate Mechanical Engineer with 2 yrs experience or person with 5 yrs related experience
c.	Electrical	Graduate Electrical Engineer with 2 yrs related experience or person with 5 yrs related experience
d.	Structural	Graduate Structural Engineer with 2 yrs experience or person with 5 yrs related experience
e.	Architectural	Graduate Architect with 2 yrs experience or person with 5 yrs related experience

Experience Matrix

	Area	Qualifications
f.	Fire Protection	Graduate Fire Protection Engineer with 2 yrs experience in aircraft fie protection / suppression systems or a person with 5 yrs experience in aircraft fie protection
g.	Testing, Adjusting and Balancing (TAB) Personnel	Specialist must be a member of AABC or an experienced technician of a firm certified by the NEBB.

3.4.4 Additional Requirement

In addition to the above experience and/or education requirements the CQC System Manager shall have completed the course entitled "Construction Quality Management For Contractors". This course is periodically offered at the Associated General Contractors of Alaska office in Anchorage and Fairbanks.

3.4.5 Organizational Changes

The Contractor shall maintain the CQC staff at full strength at all times. When it is necessary to make changes to the CQC staff, the Contractor shall revise the CQC Plan to reflect the changes and submit the changes to the Contracting Officer for acceptance.

3.5 SUBMITTALS AND DELIVERABLES

Submittals, if needed, shall be made as specified in SECTION 01330 SUBMITTAL PROCEDURES. The CQC organization shall be responsible for certifying that all submittals and deliverables are in compliance with the contract requirements.

3.6 CONTROL

Contractor Quality Control is the means by which the Contractor ensures that the construction, to include that of subcontractors and suppliers, complies with the requirements of the contract. At least three phases of control shall be conducted by the CQC System Manager for each definable feature of the construction work as follows:

3.6.1 Preparatory Phase

This phase shall be performed prior to beginning work on each definable feature of work, after all required plans/documents/materials are approved/accepted, and after copies are at the work site. This phase shall include:

a. A review of each paragraph of applicable specifications, reference codes, and standards. A copy of those sections of referenced codes and standards applicable to that portion of the work to be accomplished in the field shall be made available by the

Contractor at the preparatory inspection. These copies shall be maintained in the field and available for use by Government personnel until final acceptance of the work.

b. A review of the contract drawings.

c. A check to assure that all materials and/or equipment have been tested, submitted, and approved.

d. Review of provisions that have been made to provide required control inspection and testing.

e. Examination of the work area to assure that all required preliminary work has been completed and is in compliance with the contract.

f. A physical examination of required materials, equipment, and sample work to assure that they are on hand, conform to approved shop drawings or submitted data, and are properly stored.

g. A review of the appropriate activity hazard analysis to assure safety requirements are met.

h. Discussion of procedures for controlling quality of the work including repetitive deficiencies. Document construction tolerances and workmanship standards for that feature of work.

i. A check to ensure that the portion of the plan for the work to be performed has been accepted by the Contracting Officer.

j. Discussion of the initial control phase.

k. The Government shall be notified at least 48 hours in advance of beginning the preparatory control phase. This phase shall include a meeting conducted by the CQC System Manager and attended by the superintendent, other CQC personnel (as applicable), and the foreman responsible for the definable feature. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC System Manager and attached to the daily CQC report. The Contractor shall instruct applicable workers as to the acceptable level of workmanship required in order to meet contract specifications.

3.6.2 Initial Phase

This phase shall be accomplished at the beginning of a definable feature of work. The following shall be accomplished:

a. A check of work to ensure that it is in full compliance with contract requirements. Review minutes of the preparatory meeting.

b. Verify adequacy of controls to ensure full contract compliance. Verify required control inspection and testing.

c. Establish level of workmanship and verify that it meets minimum acceptable workmanship standards. Compare with required sample panels as appropriate.

d. Resolve all differences.

e. Check safety to include compliance with and upgrading of the safety plan and activity hazard analysis. Review the activity analysis with each worker.

f. The Government shall be notified at least 24 hours in advance of beginning the initial phase. Separate minutes of this phase shall be prepared by the CQC System Manager and attached to the daily CQC report. Exact location of initial phase shall be indicated for future reference and comparison with follow-up phases.

g. The initial phase should be repeated for each new crew to work onsite, or any time acceptable specified quality standards are not being met.

3.6.3 Follow-up Phase

Daily checks shall be performed to assure control activities, including control testing, are providing continued compliance with contract requirements, until completion of the particular feature of work. The checks shall be made a matter of record in the CQC documentation. Final follow-up checks shall be conducted and all deficiencies corrected prior to the start of additional features of work which may be affected by the deficient work. The Contractor shall not build upon nor conceal non-conforming work.

3.6.4 Additional Preparatory and Initial Phases

Additional preparatory and initial phases shall be conducted on the same definable features of work if: the quality of on-going work is unacceptable; if there are changes in the applicable CQC staff, onsite production supervision or work crew; if work on a definable feature is resumed after a substantial period of inactivity; or if other problems develop.

3.7 TESTS

3.7.1 Testing Procedure

The Contractor shall perform specified tests to verify that the control measures are adequate to provide a product which conforms to contract requirements. The Contractor shall obtain the services of an industry recognized testing laboratory, or may establish an testing laboratory at the project site acceptable to the CO or the COR. However, tests contractually required to be performed by an industry recognized testing laboratory shall not be accomplished by the Contractor established laboratory. A list of all tests required by contract shall be furnished as part of the QC Plan. This list shall give the test name, specification section and paragraph reference requiring the test, frequency, the personnel and/or laboratories responsible for each type of test, with an estimated number of tests required. Qualifications of personnel performing the required QC testing shall be included in the QC Plan. The CQC organization shall perform and provide documentation on the following:

a. Verify that testing procedures comply with contract requirements.

b. Verify that facilities and testing equipment are available and comply with testing standards.

c. Check test instrument calibration data against certified standards.

d. Verify that recording forms and test identification control number system, including all of the test documentation requirements, have been prepared.

e. Results of all tests taken, both passing and failing tests, shall be recorded on the CQC report for the date taken. Specification paragraph reference, location where tests were taken, and the sequential control number identifying the test shall be given. If approved by the Contracting Officer, actual test reports may be submitted later with a reference to the test number and date taken. An information copy of tests performed by an offsite or commercial test facility shall be provided directly to the Contracting Officer. Failure to submit timely test reports as stated may result in nonpayment for related work performed and disapproval of the test facility for this contract.

3.7.2 Testing Laboratories

3.7.2.1 Capability Check

The Government reserves the right to check laboratory equipment in the proposed laboratory for compliance with the standards set forth in the contract specifications and to check the laboratory technician's testing procedures and techniques. Laboratories utilized for testing soils, concrete, asphalt, and steel shall meet criteria detailed in ASTM D 3740 and ASTM E 329.

3.7.2.2 Capability Recheck

If the selected laboratory fails the capability check, the Contractor will be assessed actual costs to reimburse the Government for each succeeding recheck of the laboratory or the checking of a subsequently selected laboratory. Such costs will be deducted from the contract amount due the Contractor.

3.7.3 Onsite Laboratory

The Government reserves the right to utilize the Contractor's control testing laboratory and equipment to make assurance tests, and to check the Contractor's testing procedures, techniques, and test results at no additional cost to the Government.

3.7.4 Furnishing or Transportation of Samples for Testing

Costs incidental to the transportation of samples or materials shall be borne by the Contractor. Samples of materials for test verification and acceptance testing by the Government shall be delivered to a laboratory to be designated by the Contracting Officer.

Coordination for each specific test, exact delivery location, and dates will be made through the Area Office.

3.8 COMPLETION INSPECTION

3.8.1 Punch-Out Inspection

Near the end of the work, or any increment of the work established by a

time stated in the SPECIAL CONTRACT REQUIREMENTS Clause, "Commencement, Prosecution, and Completion of Work", or by the specifications, the CQC Manager shall conduct an inspection of the work. A punch list of items which do not conform to the approved drawings and specifications shall be prepared and included in the CQC documentation, as required by paragraph DOCUMENTATION. The list of deficiencies shall include the estimated date by which the deficiencies will be corrected. The CQC System Manager or staff shall make a second inspection to ascertain that all deficiencies have been corrected. Once this is accomplished, the Contractor shall notify the Government that the facility is ready for the Government Pre-Final inspection.

3.8.2 Pre-Final Inspection

The Government will perform the pre-final inspection to verify that the facility is complete and ready to be occupied. A Government Pre-Final Punch List may be developed as a result of this inspection. The Contractor's CQC System Manager shall ensure that all items on this list have been corrected before notifying the Government, so that a Final inspection with the customer can be scheduled. Any items noted on the Pre-Final inspection shall be corrected in a timely manner. These inspections and any deficiency corrections required by this paragraph shall be accomplished within the time slated for completion of the entire work or any particular increment of the work if the project is divided into increments by separate completion dates.

3.8.3 Final Acceptance Inspection

The Contractor's Quality Control Inspection personnel, plus the superintendent or other primary management person, and the Contracting Officer's Representative shall be in attendance at the final acceptance inspection. Additional Government personnel including, but not limited to, those from Base Civil Facility Engineer user groups, and major commands may also be in attendance. The final acceptance inspection will be formally scheduled by the Contracting Officer based upon results of the Pre-Final inspection. Notice shall be given to the Contracting Officer at least 14 days prior to the final acceptance inspection and shall include the Contractor's assurance that all specific items previously identified to the Contractor as being unacceptable, along with all remaining work performed under the contract, will be complete and acceptable by the date scheduled for the final acceptance inspection. Failure of the Contractor to have all contract work acceptably complete for this inspection will be cause for the Contracting Officer to bill the Contractor for the Government's additional inspection cost in accordance with the contract clause titled "Inspection of Construction".

3.9 DOCUMENTATION

The Contractor shall maintain current records providing factual evidence that required quality control activities and/or tests have been performed. These records shall include the work of subcontractors and suppliers and shall be on an acceptable form that includes, as a minimum, the following information:

a. Contractor/subcontractor and their area of responsibility.

b. Operating plant/equipment with hours worked, idle, or down for repair.

c. Work performed each day, giving location, description, and by whom. When Network Analysis (NAS) is used, identify each phase of work performed each day by NAS activity number.

d. Test and/or control activities performed with results and references to specifications/drawings requirements. The control phase shall be identified (Preparatory, Initial, Follow-up). List of deficiencies noted, along with corrective action.

e. Quantity of materials received at the site with statement as to acceptability, storage, and reference to specifications/drawings requirements.

f. Submittals and deliverables reviewed, with contract reference, by whom, and action taken.

g. Offsite surveillance activities, including actions taken.

h. Job safety evaluations stating what was checked, results, and instructions or corrective actions.

i. Instructions given/received and conflicts in plans and/or specifications.

j. Contractor's verification statement.

These records shall indicate a description of trades working on the project; the number of personnel working; weather conditions encountered; and any delays encountered. These records shall cover both conforming and deficient features and shall include a statement that equipment and materials incorporated in the work and workmanship comply with the contract. The original and one copy of these records in report form shall be furnished to the Government daily within 24 hours after the date covered by the report, except that reports need not be submitted for days on which no work is performed. As a minimum, one report shall be prepared and submitted for every 7 days of no work and on the last day of a no work period. All calendar days shall be accounted for throughout the life of the contract. The first report following a day of no work shall be for that day only. Reports shall be signed and dated by the CQC System Manager. The report from the CQC System Manager shall include copies of test reports and copies of reports prepared by all subordinate quality control personnel.

3.10 SAMPLE FORMS

Sample forms enclosed at the end of this section.

3.11 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the foregoing requirements. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

3.12 ATTACHMENTS

CQC Report

CONTRACTOR'S QUALITY CONTROL REPORT (CQC) (ER 1180-1-6)	DATE	REPORT NO.
CONTRACT NO. AND NAME OF CONTRACTOR:	DESCRIPTION AND LOCATION OF THE WORK:	

WEATHER CLASSIFICATION:

CLASS A No interruption of any kind from weather conditions occurring on this or previous shifts.
CLASS B Weather occurred during this shift that caused a complete stoppage of all work.
CLASS C Weather occurred during this shift that caused a partial stoppage of work.
CLASS D Weather overhead excellent or suitable during shift. Work completely stopped due to results of previous adverse weather.
CLASS E Weather overhead excellent or suitable during shift but work partially stopped due to previous adverse manner.
OTHER Explain.

CLASSIFICATION:

CLASS _____

TEMPERATURE:

MAX ____ MIN ____

PRECIPITATION:

INCHES _____

CONTRACTOR/SUBCONTRACTORS AND AREA OF RESPONSIBILITY FOR WORK PERFORMED TODAY: (Attach list of items of equipment either idle or working as appropriate.)

a. _____
b. _____
c. _____
d. _____
e. _____
f. _____

1. WORK PERFORMED TODAY: (Indicate location and description of work performed. Refer to work performed by prime and/or subcontractors by letter in Table above.)

2. TYPE AND RESULTS OF INSPECTION: (Indicate whether P-Prepatory, I-Initial, or F-Followup and include satisfactory work completed or deficiencies with action to be taken.)

3. TESTS REQUIRED BY PLANS AND/OR SPECIFICATIONS PERFORMED AND RESULTS OF TESTS:

4. VERBAL INSTRUCTIONS RECEIVED: (List any instructions given by Government personnel on construction deficiencies, retesting required, etc., with action to be taken.)

5. REMARKS: (Cover any conflicts in plans, specifications or instructions: acceptability of incoming materials; offsite surveillance activities; progress of work, delays, causes and extent thereof; days of no work with reasons for same.)

6. SAFETY: (Include any infractions of approved safety plan, safety manual, or instructions from Government personnel. Specify correctve action taken).

CONTRACTOR: _____

CONTRACTOR'S CERTIFICATION: I certify that the above report is complete and correct and that all material and equipment used, work performed and tests conducted during this reporting period were in strict compliance with the contract plans and specifications except as noted above.

_____
CONTRACTOR'S APPROVED AUTHORIZED REPRESENTATIVE

---END OF SECTION---

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SECTION 01500

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SECTION 01500

TEMPORARY CONSTRUCTION FACILITIES

PART 1 GENERAL

1.1 GENERAL REQUIREMENTS

1.1.1 Site Plan

The Contractor shall prepare a site plan for Government approval prior to start of work indicating the proposed location and dimensions of any area to be fenced and used by the Contractor, the number of trailers to be used, avenues of ingress/egress to the fenced area and details of the fence installation. Any areas which may have to be graveled to prevent the tracking of mud shall also be identified. The Contractor shall also indicate if the use of a supplemental or other staging area is desired.

1.1.2 Identification of Employees

The Contractor shall be responsible for furnishing to each employee, and for requiring each employee engaged on the work to display, identification as approved and directed by the Contracting Officer. Prescribed identification shall immediately be delivered to the Contracting Officer for cancellation upon release of any employee. When required, the Contractor shall obtain and provide fingerprints of persons employed on the project. Contractor and subcontractor personnel shall wear identifying markings on hard hats clearly identifying the company for whom the employee works.

1.1.3 Employee Parking

Contractor employees shall park privately owned vehicles in an area designated by the Contracting Officer. This area will be within reasonable walking distance of the construction site. Contractor employee parking shall not interfere with existing and established parking requirements of the military installation.

1.2 AVAILABILITY AND USE OF UTILITY SERVICES

1.2.1 Payment for Utility Services

The Government will make all reasonably required utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

UTILITY SCHEDULE

Utility	Maximum Amount	Cost

Water	Reasonable	$2.00/kGAL
Electricity	Reasonable	$0.06563/kWH
Gas	Reasonable	$4.12/MCF
Sewage	Reasonable	$1.29/kGAL
Steam	Reasonable	$5.23/MBTU

1.2.2 Meters and Temporary Connections

The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall provide and maintain necessary temporary connections, distribution lines, and meters required to measure the amount of each utility used for the purpose of determining charges. The Contractor shall notify the Contracting Officer, in writing, 5 working days before final electrical connection is desired so that a utilities contract can be established.

1.2.3 Final Meter Reading

Before completion of the work and final acceptance of the work by the Government, the Contractor shall notify the Contracting Officer, in writing, 5 working days before termination is desired. The Government will take a final meter reading. The Contractor shall then remove all the temporary distribution lines, meters and associated paraphernalia. The Contractor shall pay all outstanding utility bills before final acceptance of the work by the Government.

1.2.4 Sanitation

The Contractor shall provide and maintain within the construction area minimum field-type sanitary facilities in accordance with the requirements of EM 385-1-1. Government toilet facilities will not be available to Contractor's personnel.

1.2.5 Telephone

The Contractor shall make arrangements and pay all costs for telephone facilities desired.

1.3 BULLETIN BOARD, PROJECT SIGN, AND PROJECT SAFETY SIGN

1.3.1 Bulletin Board

Immediately upon beginning of work, the Contractor shall provide a weatherproof glass-covered bulletin board not less than 915 by 1220 mm in size for displaying the Equal Employment Opportunity poster, a copy of the wage decision contained in the contract, Wage Rate Information poster, and other information approved by the Contracting Officer. The bulletin board shall be located at the project site in a conspicuous place easily accessible to all employees, as approved by the Contracting Officer. Legible copies of the aforementioned data shall be displayed until work is completed. Upon completion of work the bulletin board shall be removed by and remain the property of the Contractor.

1.3.2 Project and Safety Signs

The requirements for the signs, their content, and location shall be as specified in SECTION 01582 AIR FORCE PROJECT SIGN. The signs shall be erected within 15 days after receipt of the notice to proceed. The data

required by the safety sign shall be corrected daily, with light colored metallic or non-metallic numerals. Upon completion of the project, the signs shall be removed from the site.

1.4 PROTECTION AND MAINTENANCE OF TRAFFIC

During construction the Contractor shall provide access and temporary relocated roads as necessary to maintain traffic. The Contractor shall maintain and protect traffic on all affected roads during the construction period except as otherwise specifically directed by the Contracting Officer. Measures for the protection and diversion of traffic, including the provision of watchmen and flagmen, erection of barricades, placing of lights around and in front of equipment and the work, and the erection and maintenance of adequate warning, danger, and direction signs, shall be as required by the State and local authorities having jurisdiction. The traveling public shall be protected from damage to person and property. The Contractor's traffic on roads selected for hauling material to and from the site shall interfere as little as possible with public traffic. The Contractor shall investigate the adequacy of existing roads and the allowable load limit on these roads. The Contractor shall be responsible for the repair of any damage to roads caused by construction operations.

1.4.1 Haul Roads

The Contractor shall, at its own expense, construct access and haul roads necessary for proper prosecution of the work under this contract. Haul roads shall be constructed with suitable grades and widths; sharp curves, blind corners, and dangerous cross traffic shall be avoided. The Contractor shall provide necessary lighting, signs, barricades, and distinctive markings for the safe movement of traffic. The method of dust control, although optional, shall be adequate to ensure safe operation at all times. Location, grade, width, and alignment of construction and hauling roads shall be subject to approval by the Contracting Officer. Lighting shall be adequate to assure full and clear visibility for full width of haul road and work areas during any night work operations. Upon completion of the work, haul roads designated by the Contracting Officer shall be removed.

1.4.2 Barricades

The Contractor shall erect and maintain temporary barricades to limit public access to hazardous areas. Such barricades shall be required whenever safe public access to paved areas such as roads, parking areas or sidewalks is prevented by construction activities or as otherwise necessary to ensure the safety of both pedestrian and vehicular traffic. Barricades shall be securely placed, clearly visible with adequate illumination to provide sufficient visual warning of the hazard during both day and night.

1.4.3 Temporary Fences

The Contractor shall erect and maintain temporary fence between the project area and the existing active soil remediation sites adjacent to the project area in order to isolate the project activities and the existing soil remediation site. Prior to erecting these temporary fences, the Contractor must discuss with the Contracting Officer for the required setback distances between the project and the active soil remediation site. In any event, the Contractor must not disturb any existing operations of the existing soil remediation project. In the event that the Contractor accidentally disturb or damage any equipment in the operation of the soil

remediation activities, the Contractor is required to fix or replace the damaged equipment and put back into their original operation or better. The Contractor shall also erect jersey barriers and orange safety fencing between the project and the flight line in order to prevent access by the Contractor's workers and the public to the flight line.

1.5 CONTRACTOR'S TEMPORARY FACILITIES

1.5.1 Administrative Field Offices

The Contractor shall provide and maintain administrative field office facilities within the construction area at the designated site. Government office and warehouse facilities will not be available to the Contractor's personnel.

1.5.2 Fencing

The Contractor shall construct a temporary 1.8 m high chain link fence around the main work site, the administrative office area, and designated materials storage and lay down areas. The fence shall include brown fabric, so that visibility through the fence is obstructed. This fabric shall be maintained by the Contractor in good repair throughout the duration of the project. Fence posts may be driven, in lieu of concrete bases, where soil conditions permit.

1.5.3 Appearance of Trailers and/or Temporary Buildings

Trailers and/or temporary buildings utilized by the Contractor for administrative or material storage purposes shall present a clean and neat exterior appearance and shall be in a state of good repair. Trailers and/or temporary buildings which, in the opinion of the Contracting Officer, require exterior painting or maintenance will not be allowed on the military property.

1.5.4 Maintenance of Storage Area

Fencing shall be kept in a state of good repair and proper alignment. Should the Contractor elect to traverse, with construction equipment or other vehicles, grassed or unpaved areas which are not established roadways, such areas shall be covered with a layer of gravel as necessary to prevent rutting and the tracking of mud onto paved or established roadways; gravel gradation shall be at the contractor's discretion. Grass located within the boundaries of the construction site shall be mowed for the duration of the project. Grass and vegetation along fences, buildings, under trailers, and in areas not accessible to mowers shall be edged or trimmed neatly.

1.5.5 Security Provisions

Adequate outside security lighting shall be provided at the Contractor's temporary facilities. The Contractor shall be responsible for the security of its own equipment; in addition, the Contractor shall notify the appropriate law enforcement agency requesting periodic security checks of the temporary project field office.

1.6 GOVERNMENT FIELD OFFICE

1.6.1 Resident Engineer's Office

The Contractor shall provide the Government Resident Engineer with an office, approximately 19 square meters in floor area, located where directed and providing space heat, electric light and power. A mail slot in the door or a lockable mail box mounted on the surface of the door shall be provided. At completion of the project, the office shall remain the property of the Contractor and shall be removed from the site. Utilities shall be connected and disconnected in accordance with local codes and to the satisfaction of the Contracting Officer.

The Government Resident Engineer Field Office shall be furnished with one desk, one drawing layout table, three chairs, a four-drawer vertical or two-drawer lateral file cabinet, a plain paper FAX machine, a business telephone with answering machine a portable copier with automatic document feed. The telephone and FAX machine shall have single party lines, different from each other, and separate from the Contractor's phone line(s). All costs shall be borne by the Contractor and included in the contract price, except that long distance charges incurred by the Government representative will be paid for by the Government upon arrangement with Contracting Officer.

1.6.2 Trailer-Type Mobile Office

The Contractor may, at its option, furnish and maintain a trailer-type mobile office acceptable to the Contracting Officer and providing as a minimum the facilities specified above. The trailer shall be securely anchored to the ground at all four corners to guard against movement during high winds.

1.7 PLANT COMMUNICATION

Whenever the Contractor has the individual elements of its plant so located that operation by normal voice between these elements is not satisfactory, the Contractor shall install a satisfactory means of communication, such as telephone or other suitable devices. The devices shall be made available for use by Government personnel.

1.8 TEMPORARY PROJECT SAFETY FENCING

The Contractor shall furnish and erect temporary project safety fencing at any defined work areas outside the designated main working area prior to commencing work. The temporary safety fencing shall be a high visibility orange colored, high density polyethylene grid or approved equal, a minimum of 1.10 meters high, supported and tightly secured to steel posts located on maximum 3 meters on centers, constructed at the approved location. The temporary safety fencing shall be maintained by the Contractor during construction. Upon completion and acceptance of the work, the temporary safety fencing shall be promptly removed from the work site by the Contractor.

1.9 CLEANUP

Construction debris, waste materials, packaging material and the like shall be removed from the work site daily. Any dirt or mud which is tracked onto paved or surfaced roadways shall be cleaned away. Materials resulting from demolition activities which are salvageable shall be stored within the

fenced area described above or at the supplemental storage area. Stored material not in trailers, whether new or salvaged, shall be neatly stacked when stored.

1.10 RESTORATION OF STORAGE AREA

Upon completion of the project and after removal of trailers, materials, and equipment from within the fenced area, the fence shall be removed and will become the property of the Contractor. Areas used by the Contractor for the storage of equipment or material, or other use, shall be restored to the original or better condition. Gravel used to traverse grassed areas shall be removed and the area restored to its original condition, including top soil and seeding as necessary.

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SECTION 01525

SAFETY AND OCCUPATIONAL HEALTH REQUIREMENTS

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

ANSI Z359.1	(1992; R 1999) Safety Requirements for Personal Fall Arrest Systems, Subsystems and Components

ASME INTERNATIONAL (ASME)

ASME B30.22	(2000) Articulating Boom Cranes
ASME B30.5	(2000) Mobile and Locomotive Cranes

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)

NFPA 10	(2002) Portable Fire Extinguishers
NFPA 241	(2000) Safeguarding Construction, Alteration, and Demolition Operations
NFPA 51B	(2003) Fire Prevention During Welding, Cutting, and Other Hot Work
NFPA 70	(2002) National Electrical Code

U.S. ARMY CORPS OF ENGINEERS (USACE)

EM 385-1-1	(2003) Safety and Health Requirements Manual

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

29 CFR 1910	Occupational Safety and Health Standards
29 CFR 1910.146	Permit-required Confined Spaces
29 CFR 1910.94	Ventilation
29 CFR 1915	Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment
29 CFR 1926	Safety and Health Regulations for Construction

29 CFR 1926.500 Fall Protection

1.2 SUBMITTALS

Government approval is required for submittals with a "G" designation; submittals not having a "G" designation are for information only or as otherwise designated. When used, a designation following the "G" designation identifies the office that will review the submittal for the Government. The following shall be submitted in accordance with SECTION 01330 SUBMITTAL PROCEDURES:

SD-01 Preconstruction Submittals

Accident Prevention Plan (APP); G

Activity Hazard Analysis (AHA); G

Crane Critical Lift Plan; G

Crane Work Plan; G

Proof of qualification for Crane Operators; G

SD-06 Test Reports

Reports

Submit reports as their incidence occurs, in accordance with the requirements of the paragraph entitled, "Reports."

Accident Reports

Monthly Exposure Reports

Regulatory Citations and Violations

Crane Reports

SD-07 Certificates

Confined Space Entry Permit

Certificate of Compliance (Crane)

Submit one copy of each permit/certificate attached to each Daily Quality Control Report.

1.3 DEFINITIONS

a. Competent Person for Fall Protection. A person who is capable of identifying hazardous or dangerous conditions in the personal fall arrest system or any component thereof, as well as their application and use with related equipment, and has the authority to take prompt corrective measures to eliminate the hazards of falling.

b. High Visibility Accident. Any mishap which may generate publicity and/or high visibility.

c. Medical Treatment. Treatment administered by a physician or by

registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even through provided by a physician or registered personnel.

d. Multi-Employer Work Site (MEWS). A multi-employer work site, as defined by OSHA, is one in which many employers occupy the same site. The Government considers the Prime Contractor to be the "controlling authority" for all work site safety and health of the subcontractors.

e. Operating Envelope. The area surrounding any crane. Inside this "envelope" is the crane, the operator, riggers, rigging gear between the hook and the load, the load and the crane's supporting structure (ground, rail, etc.).

f. Qualified Person for Fall Protection. A person with a recognized degree or professional certificate, extensive knowledge, training and experience in the field of fall protection who is capable of performing design, analysis, and evaluation of fall protection systems and equipment.

g. Recordable Injuries or Illnesses. Any work-related injury or illness that results in:

(1) Death, regardless of the time between the injury and death, or the length of the illness;

(2) Days away from work;

(3) Restricted work;

(4) Transfer to another job;

(5) Medical treatment beyond first aid;

(6) Loss of consciousness; or

(7) A significant injury or illness diagnosed by a physician or other licensed health care professional, even if it did not result in (1) through (6) above.

h. Site Safety and Health Officer (SSHO). The superintendent or other qualified or competent person who is responsible for the on-site safety and health required for the project. The Contractor quality control (QC) person cannot be the SSHO, even though the QC has safety inspection responsibilities as part of the QC duties.

i. "USACE" property and equipment specified in USACE EM 385-1-1 should be interpreted as Government property and equipment.

j. Weight Handling Equipment (WHE) Accident. A WHE accident occurs when any one or more of the six elements in the operating envelope fails to perform correctly during operation, including operation during maintenance or testing resulting in personnel injury or death; material or equipment damage; dropped load; derailment; two-blocking; overload; and collision, including unplanned contact between the load, crane, and/or other objects. A dropped load, derailment, two-blocking, overload and collision are considered accidents even though no material damage or injury occurs. A component failure (e.g., motor burnout, gear tooth failure, bearing failure) is not considered an accident

solely due to material or equipment damage unless the component failure results in damage to other components (e.g., dropped boom, dropped load, roll over, etc.).

1.4 REGULATORY REQUIREMENTS

In addition to the detailed requirements included in the provisions of this contract, work performed shall comply with USACE EM 385-1-1, and applicable federal, state, and local laws and regulations. Submit matters of interpretation of standards to the appropriate administrative agency for resolution before starting work. Where the requirements of this specification, applicable laws, criteria, ordinances, regulations, and referenced documents vary, the most stringent requirements shall apply.

1.5 DRUG PREVENTION PROGRAM

Conduct a proactive drug and alcohol use prevention program for all workers, prime and subcontractor, on the site. Ensure that no employee uses illegal drugs or consumes alcohol during work hours. Ensure there are no employees under the influence of drugs or alcohol during work hours. After accidents, collect blood, urine, or saliva specimens and test the injured and involved employees for the influence of drugs and alcohol. A copy of the test shall be made available to the Contracting Officer upon request.

1.6 SITE QUALIFICATIONS, DUTIES AND MEETINGS

1.6.1 Personnel Qualifications

1.6.1.1 Site Safety and Health Officer (SSHO)

Site Safety and Health Officer (SSHO) shall be provided at the work site at all times to perform safety and occupational health management, surveillance, inspections, and safety enforcement for the Contractor. The SSHO shall meet the following requirements:

Level 4:
A minimum of 10 years safety work of a progressive nature with at least 5 years of experience on similar projects.
30-hour OSHA construction safety class or equivalent within the last 5 years.
An average of at least 24 hours of formal safety training each year for the past 5 years with training for competent person status for at least the following 4 areas of competency: Excavation; Scaffolding; Fall protection; Hazardous energy; Confined space; Health hazard recognition; Personal protective equipment and clothing to include selection, use and maintenance.

1.6.1.2 Competent Person for Confined Space Entry

Provide a competent person meeting the requirements of EM 385-1-1 who is assigned in writing by the Designated Authority to assess confined spaces and who possesses demonstrated knowledge, skill and ability to:

a. Identify the structure, location, and designation of confined and permit-required confined spaces where work is done;

b. Calibrate and use testing equipment including but not limited to, oxygen indicators, combustible gas indicators, carbon monoxide

indicators, and carbon dioxide indicators, and to interpret accurately the test results of that equipment;

c. Perform all required tests and inspections specified in 29 CFR 1910.146 and 29 CFR 1915 Subpart B;

d. Assess hazardous conditions including atmospheric hazards in confined space and adjacent spaces and specify the necessary protection and precautions to be taken;

e. Determine ventilation requirements for confined space entries and operations;

f. Assess hazards associated with hot work in confined and adjacent space and determine fire watch requirements; and,

g. Maintain records required.

1.6.1.3 Crane Operators

Crane operators shall meet the requirements in USACE EM 385-1-1, Section 16 and Appendix G. In addition, for mobile cranes with Original Equipment Manufacturer (OEM) rated capacitates of 50,000 pounds or greater, crane operators shall be designated as qualified by a source that qualifies crane operators (i.e., union, a government agency, or and organization that tests and qualifies crane operators). Proof of current qualification shall be provided.

1.6.2 Personnel Duties

1.6.2.1 Site Safety and Health Officer (SSHO)/Superintendent

a. Conduct daily safety and health inspections and maintain a written log which includes area/operation inspected, date of inspection, identified hazards, recommended corrective actions, estimated and actual dates of corrections. Safety inspection logs shall be attached to the Contractors' daily quality control report.

b. Conduct mishap investigations and complete required reports. Maintain the OSHA Form 300 and Daily Production reports for prime and sub-contractors.

c. Maintain applicable safety reference material on the job site.

d. Attend the pre-construction conference, pre-work meetings including preparatory inspection meeting, and periodic in-progress meetings.

e. Implement and enforce accepted APPS and AHAs.

f. Maintain a safety and health deficiency tracking system that monitors outstanding deficiencies until resolution. A list of unresolved safety and health deficiencies shall be posted on the safety bulletin board.

g. Ensure sub-contractor compliance with safety and health requirements.

Failure to perform the above duties will result in dismissal of the superintendent and/or SSHO, and a project work stoppage. The project work

stoppage will remain in effect pending approval of a suitable replacement.

1.6.3 Meetings

1.6.3.1 Preconstruction Conference

a. The Contractor will be informed, in writing, of the date of the preconstruction conference. The purpose of the preconstruction conference is for the Contractor and the Contracting Officer's representatives to become acquainted and explain the functions and operating procedures of their respective organizations and to reach mutual understanding relative to the administration of the overall project's Accident Prevention Plan (APP) before the initiation of work.

b. Contractor representatives who have a responsibility or significant role in accident prevention on the project shall attend the preconstruction conference. This includes the project superintendent, site safety and health officer, quality control supervisor, or any other assigned safety and health professionals who participated in the development of the APP (including the Activity Hazard Analyses (AHAs) and special plans, program and procedures associated with it).

c. The Contractor shall discuss the details of the submitted APP to include incorporated plans, programs, procedures and a listing of anticipated AHAs that will be developed and implemented during the performance of the contract. This list of proposed AHAs will be reviewed at the conference and an agreement will be reached between the Contractor and the Contracting Officer's representative as to which phases will require an analysis. In addition, a schedule for the preparation, submittal, review, and acceptance of AHAs shall be established to preclude project delays.

d. Deficiencies in the submitted APP will be brought to the attention of the Contractor at the preconstruction conference, and the Contractor shall revise the plan to correct deficiencies and re-submit it for acceptance. Work shall not begin until there is an accepted APP.

e. The functions of a Preconstruction conference may take place at the Post-Award Kickoff meeting for Design Build Contracts.

1.6.3.2 Weekly Safety Meetings

Conduct weekly safety meetings at the project site for all employees. The Contracting Officer will be informed of the meeting in advance and be allowed attendance. Minutes showing contract title, signatures of attendees and a list of topics discussed shall be attached to the Contractors' daily quality control report.

1.6.3.3 Work Phase Meetings

The appropriate AHA shall be reviewed and attendance documented by the Contractor at the preparatory, initial, and follow-up phases of quality control inspection. The analysis should be used during daily inspections to ensure the implementation and effectiveness of safety and health controls.

1.7 TRAINING

1.7.1 New Employee Indoctrination

New employees (prime and sub-contractor) will be informed of specific site hazards before they begin work. Documentation of this orientation shall be kept on file at the project site.

1.7.2 Periodic Training

Provide Safety and Health Training in accordance with USACE EM 385-1-1 and the accepted APP. Ensure all required training has been accomplished for all onsite employees.

1.7.3 Training on Activity Hazard Analysis (AHA)

Prior to beginning a new phase, training will be provided to all affected employees to include a review of the AHA to be implemented.

1.8 ACCIDENT PREVENTION PLAN (APP)

The Contractor shall use a qualified person to prepare the written site-specific APP. Prepare the APP in accordance with the format and requirements of USACE EM 385-1-1 and as supplemented herein. Cover all paragraph and subparagraph elements in USACE EM 385-1-1, Appendix A, "Minimum Basic Outline for Preparation of Accident Prevention Plan". Where a paragraph or subparagraph element is not applicable to the work to be performed indicate "Not Applicable" next to the heading. Specific requirements for some of the APP elements are described below at paragraph 1.8.1, EM 385-1-1 Contents. The APP shall be job-specific and shall address any unusual or unique aspects of the project or activity for which it is written. The APP shall interface with the Contractor's overall safety and health program. Any portions of the Contractor's overall safety and health program referenced in the APP shall be included in the applicable APP element and made site-specific. The Government considers the Prime Contractor to be the "controlling authority" for all work site safety and health of the subcontractors. Contractors are responsible for informing their subcontractors of the safety provisions under the terms of the contract and the penalties for noncompliance, coordinating the work to prevent one craft from interfering with or creating hazardous working conditions for other crafts, and inspecting subcontractor operations to ensure that accident prevention responsibilities are being carried out. The APP shall be signed by the person and firm (senior person) preparing the APP, the Contractor, the on-site superintendent, the designated site safety and health officer and any designated CSP and/or CIH.

Submit the APP to the Contracting Officer 15 calendar days prior to the date of the preconstruction conference for acceptance. Work cannot proceed without an accepted APP. The Contracting Officer reviews and comments on the Contractor's submitted APP and accepts it when it meets the requirements of the contract provisions.

Once accepted by the Contracting Officer, the APP and attachments will be enforced as part of the contract. Disregarding the provisions of this contract or the accepted APP will be cause for stopping of work, at the discretion of the Contracting Officer, until the matter has been rectified.

Once work begins, changes to the accepted APP shall be made with the knowledge and concurrence of the Contracting Officer, project

superintendent, SSHO and quality control manager. Should any unforeseen hazard become evident during the performance of work, the project superintendent shall inform the Contracting Officer, both verbally and in writing, for resolution as soon as possible. In the interim, all necessary action shall be taken by the Contractor to restore and maintain safe working conditions in order to safeguard onsite personnel, visitors, the public, and the environment.

Copies of the accepted plan will be maintained at the Resident Engineer's office and at the job site. The APP shall be continuously reviewed and amended, as necessary, throughout the life of the contract. Unusual or high-hazard activities not identified in the original APP shall be incorporated in the plan as they are discovered.

1.8.1 EM 385-1-1 Contents

In addition to the requirements outlines in Appendix A of USACE EM 385-1-1, the following is required:

a. Names and qualifications (resumes including education, training, experience and certifications) of all site safety and health personnel designated to perform work on this project to include the designated site safety and health officer and other competent and qualified personnel to be used such as CSPs, CIHs, STSs, CHSTs. The duties of each position shall be specified.

b. Qualifications of competent and of qualified persons. As a minimum, competent persons shall be designated and qualifications submitted for each of the following major areas: excavation; scaffolding; fall protection; hazardous energy; confined space; health hazard recognition, evaluation and control of chemical, physical and biological agents; personal protective equipment and clothing to include selection, use and maintenance.

c. Confined Space Entry Plan. Develop a confined space entry plan in accordance with USACE EM 385-1-1, applicable OSHA standards 29 CFR 1910, 29 CFR 1915, and 29 CFR 1926, and any other federal, state and local regulatory requirements identified in this contract. Identify the qualified person's name and qualifications, training, and experience. Delineate the qualified person's authority to direct work stoppage in the event of hazardous conditions. Include procedure for rescue by contractor personnel and the coordination with emergency responders. (If there is no confined space work, include a statement that no confined space work exists and none will be created.)

d. Health Hazard Control Program. The Contractor shall designate a competent and qualified person to establish and oversee a Health Hazard Control Program in accordance with USACE EM 385-1-1, Section 6. The program shall ensure that employees, on-site Government representatives, and others, are not adversely exposed to chemical, physical and biological agents and that necessary controls and protective actions are instituted to ensure health.

e. Crane Critical Lift Plan. Prepare and sign weight handling critical lift plans for lifts over 75 percent of the capacity of the crane or hoist (or lifts over 50 percent of the capacity of a barge mounted mobile crane's hoists) at any radius of lift; lifts involving more than one crane or hoist; lifts of personnel; and lifts involving non-routine rigging or operation, sensitive equipment, or unusual safety risks.

The plan shall be submitted 15 calendar days prior to on-site work and include the requirements of USACE EM 385-1-1, paragraph 16.c.18. and the following:

(1) For lifts of personnel, the plan shall demonstrate compliance with the requirements of 29 CFR 1926.550(g).

f. Alcohol and Drug Abuse Plan

(1) Describe plan for random checks and testing with pre-employment screening in accordance with the DFAR Clause subpart 252.223-7004, "Drug Free Work Force."

(2) Description of the on-site prevention program

g. Fall Protection and Prevention (FP&P) Plan. The plan shall be site specific and address all fall hazards in the work place and during different phases of construction. It shall address how to protect and prevent workers from falling to lower levels when they are exposed to fall hazards above 1.8 m (6 feet). A qualified person for fall protection shall prepare and sign the plan. The plan shall include fall protection and prevention systems, equipment and methods employed for every phase of work, responsibilities, assisted rescue, self-rescue and evacuation procedures, training requirements, and monitoring methods. Fall Protection and Prevention Plan shall be revised every six months for lengthy projects, reflecting any changes during the course of construction due to changes in personnel, equipment, systems or work habits. The accepted Fall Protection and Prevention Plan shall be kept and maintained at the job site for the duration of the project. The Fall Protection and Prevention Plan shall be included in the Accident Prevention Plan (APP).

h. Training Records and Requirements. List of mandatory training and certifications which are applicable to this project (e.g. explosive actuated tools, confined space entry, fall protection, crane operation, vehicle operator, forklift operators, personal protective equipment); list of requirements for periodic retraining/certification; outline requirements for supervisory and employee safety meetings.

i. Site Safety and Health Plan. The safety and health aspects prepared is in accordance with the requirements of this Contract.

j. Site Demolition Plan. The safety and health aspects prepared in accordance with the requirements of this contract. Include engineering survey as applicable.

k. Excavation Plan. The safety and health aspects prepared in accordance with SECTION 01525: SAFETY AND OCCUPATIONAL HEALTH REQUIREMENTS .

l. Crane Work Plan. The contractor shall provide a crane work plan to the Contracting Officer for acceptance. The crane work plan shall include the specific model of each crane and a drawing identifying their locations (exact), the dimensions, wheel sizes, number of wheels, wheel spacing, tire pressure(s), number of axles, axle spacing, minimum wheel load to be exerted during operations and maximum outrigger load to be exerted during operations. The Contractor shall allow at least 20 working days for acceptance/non-acceptance of the crane work plan. No crane operations shall begin prior to written

acceptance of the crane work plan by the Government.

1.9 ACTIVITY HAZARD ANALYSIS (AHA)

The Activity Hazard Analysis (AHA) format shall be in accordance with USACE EM 385-1-1. An AHA will be developed by the Contractor for every operation involving a type of work presenting hazards not experienced in previous project operations or where a new work crew or subcontractor is to perform work. The analysis must identify and evaluate hazards and outline the proposed methods and techniques for the safe completion of each phase of work. At a minimum, define activity being performed, sequence of work, specific safety and health hazards anticipated, control measures (to include personal protective equipment) to eliminate or reduce each hazard to acceptable levels, equipment to be used, inspection requirements, training requirements for all involved, and the competent person in charge of that phase of work. For work with fall hazards, including fall hazards associated with scaffold erection and removal, identify the appropriate fall protection methods used. For work with materials handling equipment, address safeguarding measures related to materials handling equipment. For work requiring excavations, include requirements for safeguarding excavations. An activity requiring an AHA shall not proceed until the AHA has been accepted by the Contracting Officer's representative and a meeting has been conducted by the Contractor to discuss its contents with everyone engaged in the activity, including on-site Government representatives. The Contractor shall document meeting attendance at the preparatory, initial, and follow-up phases of quality control inspection. The AHA shall be continuously reviewed and, when appropriate, modified to address changing site conditions or operations. The analysis should be used during daily inspections to ensure the implementation and effectiveness of the activity's safety and health controls.

The AHA list will be reviewed periodically (at least monthly) at the Contractor supervisory safety meeting and updated as necessary when procedures, scheduling, or hazards change.

Activity hazard analyses shall be updated as necessary to provide an effective response to changing work conditions and activities. The on-site superintendent, site safety and health officer and competent persons used to develop the AHAs, including updates, shall sign and date the AHAs before they are implemented.

The activity hazard analyses shall be developed using the project schedule as the basis for the activities performed. Any activities listed on the project schedule will require an AHA. The AHAs will be developed by the contractor, supplier or subcontractor and provided to the prime contractor for submittal to the Contracting Officer.

1.10 DISPLAY OF SAFETY INFORMATION

Within 1 calendar dayafter commencement of work, erect a safety bulletin board at the job site. The following information shall be displayed on the safety bulletin board in clear view of the on-site construction personnel, maintained current, and protected against the elements and unauthorized removal:

a. Map denoting the route to the nearest emergency care facility.

b. Emergency phone numbers.

c. Copy of the most up-to-date APP.

d. Current AHA(s).

e. OSHA 300A Form.

f. OSHA Safety and Health Protection-On-The-Job Poster.

g. Confined space entry permit.

h. Hot work permit.

i. A sign indicating the number of hours worked since last lost workday accident.

j. Safety and Health Warning Posters.

1.11 SITE SAFETY REFERENCE MATERIALS

Maintain safety-related references applicable to the project, including those listed in the article "References." Maintain applicable equipment manufacturer's manuals.

1.12 EMERGENCY MEDICAL TREATMENT

Contractors will arrange for their own emergency medical treatment. Government has no responsibility to provide emergency medical treatment.

1.13 REPORTS

1.13.1 Accident Reports

a. For recordable injuries and illnesses, and property damage accidents resulting in at least $2,000 in damages, the Prime Contractor shall conduct an accident investigation to establish the root cause(s) of the accident, complete the USACE Accident Report Form 3394 and provide the report to the Contracting Officer within 24 hours of the accident of the accident. The Contracting Officer will provide copies of any required or special forms.

b. For any weight handling equipment accident (including rigging gear accidents) the Prime Contractor shall conduct an accident investigation to establish the root cause(s) of the accident, complete the WHE Accident Report (Crane and Rigging Gear) form and provide the report to the Contracting Officer within 30 calendar days of the accident. Crane operations shall not proceed until cause is determined and corrective actions have been implemented to the satisfaction of the contracting officer. The Contracting Officer will provide a blank copy of the accident report form.

1.13.2 Accident Notification

Notify the Contracting Officer immediately after any accident meeting the definition of Recordable Injuries or Illnesses or High Visibility Accidents, property damage equal to or greater than $2,000, or any weight handling equipment accident. Information shall include contractor name; contract title; type of contract; name of activity, installation or location where accident occurred; date and time of accident; names of personnel injured; extent of property damage, if any; extent of injury, if

known, and brief description of accident (to include type of construction equipment used, PPE used, etc.). Preserve the conditions and evidence on the accident site until the Government investigation team arrives on-site and Government investigation is conducted.

1.13.3 Monthly Exposure Reports

Monthly exposure reporting to the Contracting Officer is required to be attached to the monthly billing request. This report is a compilation of employee-hours worked each month for all site workers, both prime and subcontractor. The Contracting Officer will provide copies of any special forms.

1.13.4 Regulatory Citations and Violations

Contact the Contracting Officer immediately of any OSHA or other regulatory agency inspection or visit, and provide the Contracting Officer with a copy of each citation, report, and contractor response. Correct violations and citations promptly and provide written corrective actions to the Contracting Officer.

1.13.5 Crane Reports

Submit crane inspection reports required in accordance with USACE EM 385-1-1, Appendix H and as specified herein with Daily Reports of Inspections.

1.13.6 Certificate of Compliance

The Contractor shall provide a Certificate of Compliance for each crane entering an activity under this contract (see Contracting Officer for a blank certificate). Certificate shall state that the crane and rigging gear meet applicable OSHA regulations (with the Contractor citing which OSHA regulations are applicable, e.g., cranes used in construction, demolition, or maintenance shall comply with 29 CFR 1926 and USACE EM 385-1-1 section 16 and Appendix H. Certify on the Certificate of Compliance that the crane operator(s) is qualified and trained in the operation of the crane to be used. The Contractor shall also certify that all of its crane operators working on the DOD activity have been trained in the proper use of all safety devices (e.g., anti-two block devices). These certifications shall be posted on the crane.

1.14 HOT WORK

Prior to performing "Hot Work" (welding, cutting, etc.) or operating other flame-producing/spark producing devices, a written permit shall be requested from the Base Fire Department. CONTRACTORS ARE REQUIRED TO MEET ALL CRITERIA BEFORE A PERMIT IS ISSUED. The Contractor will provide at least two (2) twenty (20) pound 4A:20 BC rated extinguishers for normal "Hot Work". All extinguishers shall be current inspection tagged, approved safety pin and tamper resistant seal. It is also mandatory to have a designated FIRE WATCH for any "Hot Work" done at this activity. The Fire Watch shall be trained in accordance with NFPA 51B and remain on-site for a minimum of 30 minutes after completion of the task or as specified on the hot work permit.

a. Oil painting materials (paint, brushes, empty paint cans, etc.), and all flammable liquids shall be removed from the facility at quitting time. All painting materials and flammable liquids shall be stored outside in a suitable metal locker or box and will require

re-submittal with non-hazardous materials.

b. Accumulation of trays, paper, shavings, sawdust, boxes and other packing materials shall be removed from the facility at the close of each workday and such material disposed of in the proper containers located away from the facility.

c. The storage of combustible supplies shall be a safe distance from structures.

d. Area outside the facility undergoing work shall be cleaned of trash, paper, or other discarded combustibles at the close of each workday.

e. All portable electric devices (saws, sanders, compressors, extension chord, lights, etc.) shall be disconnected at the close of each workday. When possible, the main electric switch in the facility shall be deactivated.

f. When starting work in the facility, Contractors shall require their personnel to familiarize themselves with the location of the nearest fire alarm boxes and place in memory the emergency Base Fire Department phone number. ANY FIRE, NO MATTER HOW SMALL, SHALL BE REPORTED TO THE RESPONSIBLE BASE FIRE DEPARTMENT IMMEDIATELY.

PART 2 PRODUCTS

2.1 CONFINED SPACE SIGNAGE

The Contractor shall provide permanent signs integral to or securely attached to access covers for new permit-required confined spaces. Signs wording: "DANGER--PERMIT-REQUIRED CONFINED SPACE - DO NOT ENTER -" in bold letters a minimum of 25 mm (one inch) in height and constructed to be clearly legible with all paint removed. The signal word "DANGER" shall be red and readable from 1.52 m (5 feet).

2.2 FALL PROTECTION ANCHORAGE

Fall protection anchorage, conforming to ANSI Z359.1, installed under the supervision of a qualified person in fall protection, shall be left in place for continued customer use and so identified by signage stating the capacity of the anchorage (strength and number of persons who may be tied-off to it at any one time).

PART 3 EXECUTION

3.1 CONSTRUCTION AND/OR OTHER WORK

The Contractor shall comply with USACE EM 385-1-1, NFPA 241, the APP, the AHA, Federal and/or State OSHA regulations, and other related submittals and activity fire and safety regulations. The most stringent standard shall prevail.

3.1.1 Hazardous Material Use

Any work or storage involving hazardous chemicals or materials must be done in a manner that will not expose Government or Contractor employees to any unsafe or unhealthful conditions. Adequate protective measures must be taken to prevent Government or Contractor employees from being exposed to

any hazardous condition that could result from the work or storage. The Prime Contractor shall keep a complete inventory of hazardous materials brought onto the work-site. Approval by the Contracting Officer of protective measures and storage area is required prior to the start of the work.

3.1.2 Hazardous Material Exclusions

Notwithstanding any other hazardous material used in this contract, radioactive materials or instruments capable of producing ionizing/non-ionizing radiation (with the exception of radioactive material and devices used in accordance with USACE EM 385-1-1 such as nuclear density meters for compaction testing and laboratory equipment with radioactive sources) as well as materials which contain asbestos, mercury or polychlorinated biphenyls, di-isocynates, lead-based paint are prohibited. The Contracting Officer, upon written request by the Contractor, may consider exceptions to the use of any of the above excluded materials.

3.1.3 Unforeseen Hazardous Material

The design should have identified materials such as PCB, lead paint, and friable and non-friable asbestos. If additional material, not indicated, that may be hazardous to human health upon disturbance during construction operations is encountered, stop that portion of work and notify the Contracting Officer immediately. Within 14 calendar days the Government will determine if the material is hazardous. If material is not hazardous or poses no danger, the Government will direct the Contractor to proceed without change. If material is hazardous and handling of the material is necessary to accomplish the work, the Government will issue a modification pursuant to "FAR 52.243-4, Changes" and "FAR 52.236-2, Differing Site Conditions."

3.2 PRE-OUTAGE COORDINATION MEETING

Contractors are required to apply for utility outages at least 14 calendar days in advance. As a minimum, the request should include the location of the outage, utilities being affected, duration of outage and any necessary sketches. Special requirements for electrical outage requests are contained elsewhere in this specification section. Once approved, and prior to beginning work on the utility system requiring shut down, the Contractor shall attend a pre-outage coordination meeting with the Contracting Officer and the Base Civil Engineer to review the scope of work and the lock-out/tag-out procedures for worker protection. No work will be performed on energized electrical circuits unless proof is provided that no other means exist.

3.3 FALL HAZARD PROTECTION AND PREVENTION PROGRAM

The Contractor shall establish a fall protection and prevention program, for the protection of all employees exposed to fall hazards. The program shall include company policy, identify responsibilities, education and training requirements, fall hazard identification, prevention and control measures, inspection, storage, care and maintenance of fall protection equipment and rescue and escape procedures.

3.3.1 Training

The Contractor shall institute a fall protection training program. As part

of the Fall Hazard Protection and Prevention Program, the Contractor shall provide training for each employee who might be exposed to fall hazards. A competent person for fall protection shall provide the training. Training requirements shall be in accordance with USACE EM 385-1-1, section 21.A.16.

3.3.2 Fall Protection Equipment

The Contractor shall enforce use of the fall protection equipment designated for each specific work activity in the Fall Protection and Prevention Plan and/or AHA at all times when an employee is on a surface 1.8 m(6 feet) or more above lower levels. Fall protection systems such as guardrails, personnel fall arrest system, safety nets, etc., are required when working within 1.8m (6 feet) of any leading edge. In addition to the required fall protection systems, safety skiff, personal floatation devices, life rings etc., are required when working above or next to water in accordance with USACE EM 385-1-1, paragraphs 05.I. and 05.J. Personal fall arrest systems are required when working from an articulating or extendible boom, swing stages, or suspended platform. In addition, personal fall arrest systems are required when operating other equipment such as scissor lifts if the work platform is capable of being positioned outside the wheelbase. The need for tying-off in such equipment is to prevent ejection of the employee from the equipment during raising, lowering, or travel. Fall protection must comply with 29 CFR 1926.500, Subpart M and USACE EM 385-1-1.

3.3.2.1 Personal Fall Arrest Equipment

Personal fall arrest equipment, systems, subsystems, and components shall meet ANSI Z359.1. Only a full-body harness with a shock-absorbing lanyard or self-retracting lanyard is an acceptable personal fall arrest device. Body belts may only be used as a positioning device system (for uses such as steel reinforcing assembly and in addition to an approved fall arrest system). Harnesses shall have a fall arrest attachment affixed to the body support (usually a Dorsal D-ring) and specifically designated for attachment to the rest of the system. Only locking snap hooks and carabiners shall be used. Webbing, straps, and ropes shall be made of synthetic fiber. The maximum free fall distance when using fall arrest equipment shall not exceed 1.8 m (6 feet). The total fall distance and any swinging of the worker (pendulum-like motion) that can occur during a fall shall always be taken into consideration when attaching a person to a fall arrest system.

3.3.3 Fall Protection for Roofing Work

Fall protection controls shall be implemented based on the type of roof being constructed and work being performed. The roof area to be accessed shall be evaluated for its structural integrity including weight-bearing capabilities for the projected loading.

3.3.4 Safety Nets

If safety nets are used as the selected fall protection system on the project, they shall be provided at unguarded work places, leading edge work or when working over water, machinery, dangerous operations or other surfaces where the use of ladders, scaffolds, catch platforms, temporary floors, fall arrest systems or restraint/positioning systems are impractical. Safety nets shall be tested immediately after installation with a drop test of 181.4 kg (400 pounds) dropped from the same elevation a person might fall, and every six months thereafter.

3.3.5 Existing Anchorage

Existing anchorages, to be used for attachment of personal fall arrest equipment, shall be certified (or re-certified) by a qualified person for fall protection in accordance with ANSI Z359.1. Exiting horizontal lifeline anchorages shall be certified (or re-certified) by a registered professional engineer with experience in designing horizontal lifeline systems.

3.3.6 Horizontal Lifelines

Horizontal lifelines shall be designed, installed, certified and used under the supervision of a qualified person for fall protection as part of a complete fall arrest system which maintains a safety factor of 2 (29 CFR 1926.500).

3.3.7 Guardrail Systems

Guardrails shall consist of top and mid-rails, post and toe boards. The top edge height of standard railing must be 106 centimeters (42 inches) plus or minus 7.60 centimeters (3 inches) above the walking/working level. When mid-rails are used, they must be installed at a height midway between the top edge of the guardrail system and the walking/working level. Posts shall be placed no more than 8 feet apart (29 CFR 1926.500 and USACE EM 385-1-1).

3.3.8 Rescue and Evacuation Procedures

When personal fall arrest systems are used, the contractor must ensure that the mishap victim can self-rescue or can be rescued promptly should a fall occur. A Rescue and Evacuation Plan shall be prepared by the contractor and include a detailed discussion of the following: methods of rescue; methods of self-rescue; equipment used; training requirement; specialized training for the rescuers; procedures for requesting rescue and medical assistance; and transportation routes to a medical facility. The Rescue and Evacuation Plan shall be included in the Activity Hazard Analysis (AHA) for the phase of work, in the Fall Protection and Prevention (FP&P) Plan, and the Accident Prevention Plan (APP).

3.4 SCAFFOLDING

Employees shall be provided with a safe means of access to the work area on the scaffold. Climbing of any scaffold braces or supports not specifically designed for access is prohibited. Access to scaffold platforms greater than 6 m (20 feet) in height shall be accessed by use of a scaffold stair system. Vertical ladders commonly provided by scaffold system manufacturers shall not be used for accessing scaffold platforms greater than 6 m (20 feet) in height. The use of an adequate gate is required. Contractor shall ensure that employees are qualified to perform scaffold erection and dismantling. Do not use scaffold without the capability of supporting at least four times the maximum intended load or without appropriate fall protection as delineated in the accepted fall protection and prevention plan. Stationary scaffolds must be attached to structural building components to safeguard against tipping forward or backward. Special care shall be given to ensure scaffold systems are not overloaded. Side brackets used to extend scaffold platforms on self-supported scaffold systems for the storage of material is prohibited. The first tie-in shall be at the height equal to 4 times the width of the smallest dimension of

the scaffold base. Work platforms shall be placed on mud sills. Scaffold or work platform erectors shall have fall protection during the erection and dismantling of scaffolding or work platforms that are more than six feet. Delineate fall protection requirements when working above six feet or above dangerous operations in the Fall Protection and Prevention (FP&P) Plan and Activity Hazard Analysis (AHA) for the phase of work.

3.5 EQUIPMENT

3.5.1 Material Handling Equipment

a. Material handling equipment such as forklifts shall not be modified with work platform attachments for supporting employees unless specifically delineated in the manufacturer's printed operating instructions.

b. The use of hooks on equipment for lifting of material must be in accordance with manufacturer's printed instructions.

c. Operators of forklifts or power industrial trucks shall be licensed in accordance with OSHA.

3.5.2 Weight Handling Equipment

a. Cranes must be equipped with:

(1) Load indicating devices (LIDs) and a boom angle or radius indicator,

(2) or load moment indicating devices (LMIs).

(3) Anti-two block prevention devices.

(4) Boom hoist hydraulic relief valve, disconnect, or shutoff (stops hoist when boom reaches a predetermined high angle).

(5) Boom length indicator (for telescoping booms).

(6) Device to prevent uncontrolled lowering of a telescoping hydraulic boom.

(7) Device to prevent uncontrolled retraction of a telescoping hydraulic boom.

(8) Wind indicating device.

(9) Drum rotation indicator.

b. The Contractor shall notify the Contracting Officer 15 days in advance of any cranes entering the activity so that necessary quality assurance spot checks can be coordinated. Contractor's operator shall remain with the crane during the spot check.

c. The Contractor shall comply with the crane manufacturer's specifications and limitations for erection and operation of cranes and hoists used in support of the work. Erection shall be performed under the supervision of a designated person (as defined in ASME B30.5). All testing shall be performed in accordance with the manufacturer's recommended procedures.

d. The Contractor shall comply with ASME B30.5 for mobile cranes ASME B30.22 for articulating boom cranes.

e. The presence of Government personnel does not relieve the Contractor of an obligation to comply with all applicable safety regulations. The Government will investigate all complaints of unsafe or unhealthful working conditions received in writing from contractor employees, federal civilian employees, or military personnel.

f. Each load shall be rigged/attached independently to the hook/master-link in such a fashion that the load cannot slide or otherwise become detached. Christmas-tree lifting (multiple rigged materials) is not allowed.

g. Under no circumstance shall a Contractor make a lift at or above 90% of the cranes rated capacity in any configuration.

h. When operating in the vicinity of overhead transmission lines, operators and riggers shall be alert to this special hazard and shall follow the requirements of USACE EM 385-1-1 section 11 and ASME B30.5 or ASME B30.22 as applicable.

i. Crane suspended personnel work platforms (baskets) shall not be used unless the Contractor proves that using any other access to the work location would provide a greater hazard to the workers or is impossible. Personnel shall not be lifted with a line hoist or friction crane.

j. A fire extinguisher having a minimum rating of 10BC and a minimum nominal capacity of 2.27 kg. (5 lb) of extinguishing agent shall be available at all operator stations or crane cabs. Portable fire extinguishers shall be inspected, maintained, and recharged as specified in NFPA 10, Standard for Portable Fire Extinguishers.

k. All employees shall be kept clear of loads about to be lifted and of suspended loads.

l. A weight handling equipment operator shall not leave his position at the controls while a load is suspended.

m. The Contractor shall use cribbing when performing lifts on outriggers.

n. The crane hook/block must be positioned directly over the load. Side loading of the crane is prohibited.

o. A physical barricade must be positioned to prevent personnel from entering the counterweight swing (tail swing) area of the crane.

p. A substantial and durable rating chart containing legible letters and figures shall be provided with each crane and securely mounted onto the crane cab in a location allowing easy reading by the operator while seated in the control station.

q. Certification records which include the date of inspection, signature of the person performing the inspection, and the serial number or other identifier of the crane that was inspected shall always be available for review by Contracting Officer personnel.

r. Written reports listing the load test procedures used along with any repairs or alterations performed on the crane shall be available for review by Contracting Officer personnel.

s. The Contractor shall certify that all crane operators have been trained in proper use of all safety devices (e.g. anti-two block devices).

3.5.3 Equipment and Mechanized Equipment

a. Equipment shall be operated by designated qualified operators. Proof of qualifications shall be kept on the project site for review.

b. Manufacture specifications or owner's manual for the equipment shall be on-site and reviewed for additional safety precautions or requirements that are sometimes not identified by OSHA or USACE EM 385-1-1. Such additional safety precautions or requirements shall be incorporated into the AHAs.

c. Equipment and mechanized equipment shall be inspected in accordance with manufacturer's recommendations for safe operation by a competent person prior to being placed into use.

d. Daily checks or tests shall be conducted and documented on equipment and mechanized equipment by designated competent persons.

3.6 EXCAVATIONS

The competent person for excavations performed as a result of contract work shall be on-site when excavation work is being performed, and shall inspect, and document the excavations daily prior to entry by workers. The competent person must evaluate all hazards, including atmospheric, that may be associated with the work, and shall have the resources necessary to correct hazards promptly. The competent person shall perform soil classification in accordance with 29 CFR 1926.

3.6.1 Utility Locations

Prior to digging, the appropriate digging permit must be obtained. All underground utilities in the work area must be positively identified by a private utility locating service in addition to any station locating service and coordinated with the station utility department. Any markings made during the utility investigation must be maintained throughout the contract.

3.6.2 Utility Location Verification

The Contractor must physically verify underground utility locations by hand digging using wood or fiberglass handled tools when any adjacent construction work is expected to come within three feet of the underground system. Digging within 0.061 m (2 feet) of a known utility must not be performed by means of mechanical equipment; hand digging shall be used. If construction is parallel to an existing utility the utility shall be exposed by hand digging every 30.5 m (100 feet) if parallel within 1.5 m (5 feet) of the excavation.

3.6.3 Utilities with Concrete Slabs

Utilities located within concrete slabs or pier decks, bridges, and the like are extremely difficult to identify. The location must be coordinated with station utility departments in addition to a private locating service. Outages on system utilities shall be used in circumstances where concrete chipping, saw cutting, or core drilling is required and utilities are unable to be completely identified.

3.6.4 Shoring Systems

Trench and shoring systems must be identified in the accepted safety plan and AHA. Manufacture tabulated data and specifications or registered engineer tabulated data for shoring or benching systems shall be readily available on-site for review. Job-made shoring or shielding shall have the registered professional engineer stamp, specifications, and tabulated data. Extreme care must be used when excavating near direct burial electric underground cables.

3.6.5 Trenching Machinery

Trenching machines with digging chain drives shall be operated only when the spotters/laborers are in plain view of the operator. Operator and spotters/laborers shall be provided training on the hazards of the digging chain drives with emphasis on the distance that needs to be maintained when the digging chain is operating. Documentation of the training shall be kept on file at the project site.

3.7 ELECTRICAL

3.7.1 Conduct of Electrical Work

Underground electrical spaces must be certified safe for entry before entering to conduct work. Cables that will be cut must be positively identified and de-energized prior to performing each cut. Positive cable identification must be made prior to submitting any outage request for electrical systems. Arrangements are to be coordinated with the Contracting Officer and Station Utilities for identification. The Contracting Officer will not accept an outage request until the Contractor satisfactorily documents that the circuits have been clearly identified. Perform all high voltage cable cutting remotely using hydraulic cutting tool. When racking in or live switching of circuit breakers, no additional person other than the switch operator will be allowed in the space during the actual operation. Plan so that work near energized parts is minimized to the fullest extent possible. Use of electrical outages clear of any energized electrical sources is the preferred method. When working in energized substations, only qualified electrical workers shall be permitted to enter. When work requires Contractor to work near energized circuits as defined by the NFPA 70, high voltage personnel must use personal protective equipment that includes, as a minimum, electrical hard hat, safety shoes, insulating gloves with leather protective sleeves, fire retarding shirts, coveralls, face shields, and safety glasses. In addition, provide electrical arc flash protection for personnel as required. Insulating blankets, hearing protection, and switching suits may also be required, depending on the specific job and as delineated in the Contractor's AHA.

3.7.2 Portable Extension Cords

Portable extension cords shall be sized in accordance with manufacturer

ratings for the tool to be powered and protected from damage. All damaged extension cords shall be immediately removed from service. Portable extension cords shall meet the requirements of NFPA 70.

3.8 WORK IN CONFINED SPACES

The Contractor shall comply with the requirements in Section 06.I of USACE EM 385-1-1 and OSHA 29 CFR 1910.146. Any potential for a hazard in the confined space requires a permit system to be used.

a. Entry Procedures. Prohibit entry into a confined space by personnel for any purpose, including hot work, until the qualified person has conducted appropriate tests to ensure the confined or enclosed space is safe for the work intended and that all potential hazards are controlled or eliminated and documented. (See Section 06.I.05 of USACE EM 385-1-1 for entry procedures.) All hazards pertaining to the space shall be reviewed with each employee during review of the AHA.

b. Forced air ventilation is required for all confined space entry operations and the minimum air exchange requirements must be maintained to ensure exposure to any hazardous atmosphere is kept below its' action level.

c. Ensure the use of rescue and retrieval devices in confined spaces greater than 1.5 m (5 feet) in depth. Conform to Sections 06.I.09, 06.I.10 and 06.I.11 of USACE EM 385-1-1.

d. Sewer wet wells require continuous atmosphere monitoring with audible alarm for toxic gas detection.

e. Include training information for employees who will be involved as entrants and attendants for the work. Conform to Section 06.I.06 of USACE EM 385-1-1.

f. Daily Entry Permit. Post the permit in a conspicuous place close to the confined space entrance.

3.9 CRYSTALLINE SILICA

Grinding, abrasive blasting, and foundry operations of construction materials containing crystalline silica, shall comply with OSHA regulations, such as 29 CFR 1910.94, and USACE EM 385-1-1, Appendix C. The Contractor shall develop and implement effective exposure control and elimination procedures to include dust control systems, engineering controls, and establishment of work area boundaries, as well as medical surveillance, training, air monitoring, and personal protective equipment.

3.10 HOUSEKEEPING

3.10.1 Clean-Up

All debris in work areas shall be cleaned up daily or more frequently if necessary. Construction debris may be temporarily located in an approved location, however garbage accumulation must be removed each day.

3.10.2 Falling Object Protection

All areas must be barricaded to safeguard employees. When working

overhead, Barricade the area below to prevent entry by unauthorized employees. Construction warning tape and signs shall be posted so they are clearly visible from all possible access points. When employees are working overhead all tools and equipment shall be secured so that they will not fall. When using guardrail as falling object protection, all openings shall be small enough to prevent passage of potential falling objects.

-- End of Section --