

**PART 7  
CONTRACT TYPES AND METHODS**

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**7.1 CONTRACT TYPES.**

(a) **INFORMATION:** "Contract Type" means the pricing structure of a contract which is used to allocate risk between the contractor and BPA. The pricing structure may be used to provide additional incentive to the contractor to perform faster, more economically, and/or with higher quality. Contract types typically vary according to the degree of cost risk to be assumed by the contractor. The amount of profit appropriately given depends on the degree of risk assumed. For example, fixed price contracts typically have higher risk and profit than cost reimbursement contracts.

(b) **POLICY:** The CO shall select the most appropriate contract type based on an assessment of the nature of the project and associated risks. The objective is to select a contract type which results in the best business approach for BPA, considering contractor risk and incentives for high performance. The CO shall consider the administrative costs to both BPA and the contractor when selecting the appropriate contract type. Exhibit 7A, Contract Types, compares contract types commonly used at BPA. It is provided for purposes of information except for portions specifically identified as "Policy" or "Procedure."

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(c) **POLICY:** CO's may use variations of the contract types described in the BPI as well as other contract types, with the following exception: cost plus percentage of cost contracts may not be entered into without the approval of the HCA. The HCA will not approve the use of any cost plus a percentage of cost contract if the contractor has control over either the quantity or the cost of goods/services being sold to BPA.

(d) **INFORMATION:** Contracts may be written in either completion form or term form.

(1) Completion form: the Statement of Work states a definite goal or target and specifies an end product which the Contractor is required to provide (e.g., a final report of research accomplishing the goal or target). In this case, BPA is buying an end product, and the Contractor carries greater risk regarding whether the goal of the project is met.

(2) Term form: the Statement of Work is written in general terms and obligates the Contractor to devote a specified level of effort (labor hours, materials, etc.) or assume specific responsibilities for a stated period of time. In this case, BPA is buying a level of effort, not an end product, and the Contractor is only obligated to provide a good faith effort to provide those hours. BPA carries greater risk regarding whether the goal of the project is met. Contracts where BPA buys a level of effort may be written as a time-and-material, fixed-price, or cost plus fixed-fee contract.

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**EXHIBIT 7-A -- CONTRACT TYPES**

	<b>7.1.1 Firm Fixed Price.</b>	<b>7.1.2 Fixed Price with Economic Price Adjustment.</b>
<b>D E S C R I P T I O N</b>	Price not subject to change regardless of actual costs incurred by contractor after award.	Same as fixed price, except contract price adjusted, upward or downward, based on occurrence of specific price adjustment conditions specified in contract.  Price adjustments factors are commonly based upon percent changes in a published index, either for material, commodity, or labor, or a combination of these indexes.
<b>U S E W H E N</b>	Typically used when:  1. Performance risk predicted to be minimal (e.g., readily available commercial items or repeat use of BPA detailed specification with minimal or no prior performance problems).  2. Price risk is minimal, based upon market pricing or cost information that permits realistic evaluation of probable performance cost.	Typically used when:  1. Price risk is high, usually from unstable market or labor conditions, either in the short or long term (e.g., commodity item with high content of precious metals or impending labor strike)  2. Long term business arrangement is advantageous (contract performance period usually greater than one year), but price risk--upward or downward--is unacceptable to either BPA or contractor.
<b>C O N S I D E R A T I O N S</b>	1. Price and performance risk for contractor is high, since contractor is responsible for controlling its costs and associated risks of performance within the fixed price.  2. Price risk for BPA is low, since BPA is to receive the contract deliverable for the fixed price. However, careful evaluation of project requirements and the offeror's price proposal must be made to ensure a meeting of the minds and ensure price does not include excessive allowance for risk.	1. Price risk for contractor and BPA are reduced if contract economic price adjustment factor(s) provide a reliable basis for adjusting contract price to reflect market price changes.  2. Important to ensure that the contingency (typically an index published by the Bureau Of Labor Statistics) is an objective indicator of the contractor's probable changes in cost. For example, the Employment cost Index (ECI) is generally preferable to the Consumer Price Index (CPI-U) if labor costs are the primary component of the contractor's price.  3. <b>POLICY:</b> If the contract is subject to the Service Contract Act and includes BPI Clause 10-4, Labor Standards - Price Adjustment, the CO shall ensure BPA does not duplicate price adjustments allowed under each clause.  4. <b>PROCEDURE:</b> See BPI 7.1.9 for applicable contract clause.

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**EXHIBIT 7-A -- CONTRACT TYPES (CONT.)**

	<p><b>7.1.3 Fixed Price Award Fee.</b></p>
<p><b>D E S C R I P T I O N</b></p>	<p>Fixed price contract, not subject to any adjustment on the basis of the contractor's actual costs in performing the contract. Fee consists of an award amount that the contractor may earn in whole, in part, or not at all during performance. Fee must be sufficient to provide motivation for performance excellence per award fee plan (e.g., in such areas as quality, timelines, etc.).</p> <p>The amount of the award fee paid is determined by BPA's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. Fee determination is made unilaterally by BPA, not subject to the Disputes clause (although impropriety in the determination process is subject to the Disputes clause).</p>
	<p>Typically used when:</p> <ol style="list-style-type: none"> <li>1. Work can be well enough defined to permit the use of a fixed price contract, and the CO believes BPA can benefit by providing added incentives to encourage the contractor to perform beyond the minimum contract requirements.</li> <li>2. Additional administrative effort and cost required to monitor and evaluate performance are justified by the expected benefits (typically price exceeding \$2 million).</li> <li>3. Typically multiple offices or functions will be supported by the contract.</li> </ol>
<p><b>C O N S I D E R A T I O N S</b></p>	<ol style="list-style-type: none"> <li>1. <b>POLICY:</b> CO's shall consider the probable profit included in the fixed price when establishing the award fee amount.</li> <li>2. <b>POLICY:</b> The contract shall contain an award fee determination plan which describes how BPA will determine award fee amount and frequency of payment to contractor. The following topics shall be covered:             <ol style="list-style-type: none"> <li>A. Performance criteria (describes the specific areas of performance to be evaluated, and the weighting given to each area).</li> <li>B. Frequency of evaluations, total award fee, and amount of fee allocated per performance evaluation period.</li> <li>C. Process for making changes to the plan.</li> <li>D. Termination (describes how the final period of evaluation will be treated should the contract be terminated for convenience).</li> </ol> </li> <li>3. <b>PROCEDURE:</b> See BPI 7.1.9 for applicable contract clause.</li> </ol>

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**EXHIBIT 7-A -- CONTRACT TYPES (CONT.)**

	<b>7.1.4 Time and Materials.</b>	<b>7.1.5 Cost Reimbursement- General.</b>
<b>D E S C R I P T I O N</b>	<p>Time and Materials contracts have characteristics of both fixed price contracts (hourly rates are fixed) and cost reimbursement contracts (labor hours are estimates and payment is based on actual hours incurred and the actual cost of materials, travel, and other incidental costs.) Time and Materials contracts include a contract ceiling limitation which the contractor may not exceed without approval of BPA.</p> <p>The specified fixed hourly rates include direct wages, overhead, general &amp; administrative expenses, and profit. The profit rate may consider all cost elements, including labor, materials, etc.</p>	<p>Cost reimbursement contracts provide for payment of allowable, allocable, and reasonable costs. They establish an estimate of total cost for purposes of setting a contract ceiling limitation which the contractor may not exceed without approval of BPA.</p> <p>There are several sub-types:                      A. Cost                      B. Cost Sharing                      C. Cost Plus Fixed Fee (CPFF)                      D. Cost Plus Award Fee (CPAF)</p>
<b>U S E W H E N</b>	<p>Typically used when:                      It is not possible to reasonably estimate the level of effort, but where a cost reimbursement contract would be inappropriate due to either relatively high administrative costs or the lack of an adequate accounting system on the part of a contractor to accumulate costs.</p>	<p>Typically used when:</p> <ol style="list-style-type: none"> <li>1. Uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use a fixed price contract, and</li> <li>2. Total value of the contract is high enough to justify the higher administrative costs when compared to a Time and Materials contract, and</li> <li>3. Contractor's accounting system is adequate for determining costs.</li> </ol>
<b>C O N S I D E R A T I O N S</b>	<p><b>POLICY:</b></p> <ol style="list-style-type: none"> <li>1. All Time &amp; Material contracts shall include a ceiling price which the contractor may not exceed without the CO's approval.</li> <li>2. Costs for materials, travel, and subcontracts are compensable only if the contract specifically provides for such costs. Such costs are reimbursable at cost (excluding profit), except that a material handling fee is allowed if materials are being purchased.</li> </ol>	<p><b>POLICY :</b></p> <ol style="list-style-type: none"> <li>1. All Cost Reimbursement contracts shall include a ceiling price which the contractor may not exceed without the CO's approval.</li> <li>2. Costs shall be determined in accordance with BPI Part 13, Cost Principles and Audit Considerations.</li> <li>3. Contractor's accounting system must be adequate for determining costs applicable to the contract.</li> </ol>

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**EXHIBIT 7-A -- CONTRACT TYPES (CONT.)**

	<b>7.1.6 Cost and Cost Sharing</b>	<b>7.1.7 Cost Plus Fixed Fee (CPFF).</b>
<b>D E S C R I P T I O N</b>	<p>A cost reimbursement contract where BPA pays all or a portion of the costs, but no fee.</p> <p><b>Cost:</b> BPA pays costs, but no fee.</p> <p><b>Cost sharing:</b> BPA pays a preagreed portion of the costs, but no fee.</p>	<p>A cost reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of the contract.</p> <p>The fixed fee does not vary with actual cost, but may be adjusted as a result of changes in the scope of work to be performed under the contract.</p> <p>CPFF contracts are typically written in either completion form or term form. See BPI 7.1 for additional information.</p>
<b>U S E W H E N</b>	<p>In addition to the criteria under "Cost Reimbursement- General", typically used where profit is not appropriate, e.g., where both BPA and the contractor will benefit significantly from the contract deliverable such as research &amp; development with non-profits, educational institutions, etc.</p>	<p>In addition to the criteria under "Cost Reimbursement- General", typically used where</p> <ol style="list-style-type: none"> <li>1. Level of effort required is unknown, and</li> <li>2. Extra incentive of a Cost Plus Award Fee contract is not necessary, but payment of profit is still appropriate.</li> </ol>
<b>C O N S I D E R A T I O N S</b>	<p>See the considerations under "Cost Reimbursement- General."</p>	<p>In addition to the considerations under "Cost Reimbursement- General",</p> <ol style="list-style-type: none"> <li>1. CPFF contracts do not provide fee incentives for superior performance compared to CPAF contracts.</li> <li>2. CPFF contracts are generally less costly to administer from an administrative standpoint than CPAF contracts.</li> <li>3. Completion form is preferable to term form if the work can be adequately defined to permit development of estimates within which the contractor can be expected to complete the work. For completion form, failure to complete the work within the estimated cost may result in an increase in the cost ceiling, but not the fixed fee.</li> </ol>

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**EXHIBIT 7-A -- CONTRACT TYPES (CONT.)**

	<p><b>7.1.8 Cost Plus Award Fee (CPAF).</b></p>
<p><b>D E S C R I P T I O N</b></p>	<p>A cost reimbursement contract that provides for a fee consisting of a base amount fixed at inception of the contract and an award fee amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence.</p> <p>The amount of the award fee to be paid is based on BPA's subjective evaluation of the contractor's performance. This determination is made unilaterally by BPA and is not subject to the disputes clause.</p>
	<p>In addition to the criteria under "Cost Reimbursement- General", typically used where</p> <ol style="list-style-type: none"> <li>1. Level of effort cannot be easily estimated,</li> <li>2. It is important to provide the contractor with a special motivation for excellence, and</li> <li>3. Relatively high administrative costs are offset by the anticipated benefits.</li> </ol>
<p><b>C O N S I D E R A T I O N S</b></p>	<p>In addition to the considerations under "Cost Reimbursement- General",</p> <ol style="list-style-type: none"> <li>1. <b>POLICY:</b> Contract must include an incentive to control costs as one of the incentive items.</li> <li>2. <b>POLICY:</b> Contract shall contain an award fee determination plan which discusses the method BPA will use to determine how much of the award fee will be paid to the contractor. The following topics generally shall be covered:             <ol style="list-style-type: none"> <li>A. Performance criteria (describes the specific areas of performance to be evaluated, and the weighting given to each area).</li> <li>B. Frequency of evaluations, total award fee, and amount of fee allocated per performance evaluation period.</li> <li>C. Process for making changes to the plan.</li> <li>D. Termination (describes how the final period of evaluation will be treated should the contract be terminated for convenience).</li> </ol> </li> <li>3. <b>PROCEDURE:</b> See BPI 7.1.9 for applicable contract clause.</li> </ol>

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### 7.1.9 Clause Usage Prescriptions.

(a) **PROCEDURE:** CO's shall include a clause similar to Clause 7-1, Contract Type, in solicitations and contracts over \$50,000, except fixed price commercial supplies/services.

(b) **PROCEDURE:** CO's may include a clause similar to Clause 7-2, Price Adjustment, in fixed price or time and materials solicitations and contracts when they want to adjust the contract price after award based on an economic price adjustment formula. The references in the clause to "option periods" should be deleted if the clause is used in contracts without options. If labor costs are the primary component of the contractor's price, the Employment Cost Index (ECI) is generally preferable to the Consumer Price Index (CPI-U). However, this clause should not be used if the contract is subject to the Service Contract Act and includes BPI clause 10-4, Labor Standards - Price Adjustment, unless the CO ensures BPA does not duplicate price adjustments allowed under each clause.

(c) **PROCEDURE:** CO's shall include a clause similar to Clause 7-3, Award Fee and Payment (Fixed-price Award-fee), in Fixed Price Award Fee contracts. The CO shall substitute paragraph (a) of Alternate I in Cost-Plus Award Fee Contracts. The CO may modify paragraph (b) to allow unearned fee to be added to the award fee pool for future periods.

### 7.2 CONTRACT METHODS.

(a) **INFORMATION:** "Contract Methods" are approaches used to purchase supplies, services, or construction. The following are examples: leases or purchases; indefinite quantity contracts or definite quantity contracts; master agreements or master contracts; partnering, etc.

(b) **POLICY:** The CO shall select the appropriate method of contracting based on an assessment of the nature of the project and inherent risks.

(c) **INFORMATION:** This subpart describes some commonly used contract methods. The CO may use variations of the methods described below or may use methods other than those described below.

#### 7.2.1 Long Term Relationships and Methods.

(a) **POLICY:** Purchasing teams are encouraged to develop long term business relationships with suppliers whenever it makes good business sense. There are many methods of doing so, ranging from commonly used contract types (such as including options to extend the contract or combining requirements through an indefinite quantity contract) to commercial types of business arrangements, typically used with key suppliers (such as partnering, systems contracts, or joint management).

(b) **INFORMATION:** Although long term contracts tend to be relatively long in duration, the words "long term" more accurately refer to the extent to which individual purchase transactions are "bundled" and the contractor's ongoing performance is used as a basis for awarding future work. For example, an indefinite quantity contract for circuit breakers is long term because it provides an effective mechanism to "bundle" numerous individual orders which would otherwise have to be made by individual purchase orders or contracts. Under this concept, a one year master agreement which enables BPA to more efficiently buy small circuit breakers is considered "long term" because it eliminates the need for perhaps 50 individual purchase orders during that one year period. Whereas a contract for a single large power circuit breaker would not be



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considered long term even though it may take one and a half years for the contractor to manufacture and deliver the breaker.

(c) **INFORMATION:** There are several advantages to long-term business relationships:

- (1) Administrative costs are generally lower for both BPA and the contractor.
- (2) The contractor and BPA have added incentive to track performance, to improve the quality of performance, and to conduct joint planning.
- (3) Economies of scale are generally achieved, resulting in higher quality and lower contract prices.

(d) **INFORMATION:** Long-term business relationships are not an end in themselves. Because both the business world and most markets are constantly evolving, the length of individual contracts as well as contractor relationships should be reexamined on a periodic basis. The frequency of reexamination may vary according to the market. For example, contracts for some types of utility services may not need to be closely reexamined for many years. Contracts for supplies/services in volatile markets such as computers may warrant more frequent review. It may not make good business sense to enter into long term contracts or relationships where:

- (1) The volume of similar purchases is low or infrequent.
- (2) The market is particularly volatile, possibly resulting in the exclusion of a new source with exceptional capability.

### 7.2.2 Partnering.

**INFORMATION:** "Partnering" is not a precisely defined term. In general, partnering is a relationship between a buyer and a supplier which may or may not include a written agreement. The relationship is characterized by a mutual commitment over an extended period of time, sharing of information, and sharing of the risks and rewards of the relationship. This relationship is in contrast to the more traditional, adversarial approach which emphasizes "today's" purchase with little consideration of whether the purchaser may want (or need) to do business with a particular supplier again. The traditional approach tends to place heavy emphasis on low purchase price, rather than the total long term costs and benefits of establishing an ongoing business relationship. Partnering recognizes that a successful contractual relationship requires effective communication and problem solving which continues after award and over multiple contracts.

### 7.2.3 Systems Contracts.

**INFORMATION:**

(a) Systems contracts are contracts which authorize designated employees of BPA, using a predetermined ordering system, to place orders directly with the supplier for specified supplies or materials. The contractual terms of a systems contract may be similar to the terms of an indefinite delivery contract or a master agreement. However, a systems contract is distinguished by the fact that the buyer and seller integrate and simplify as many materials management and administrative functions as possible. For example, both parties work closely to manage inventories and simplify the order placement process, the receiving process, and the payment process.

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(b) Under a systems contract, joint analysis of inventory levels and internal demand for particular materials may make it possible to reduce BPA's inventories, yet also expand the variety of materials available for purchase. Joint analysis of administrative functions may result in significant savings in BPA's administrative costs or improved efficiency by relying on the supplier to perform some administrative functions. This cannot effectively be done unless BPA and the seller establish a mutually beneficial long-term relationship and focus on the efficiencies to be gained by a cooperative effort to manage the entire purchasing and materials management process. The focus of the buyer-seller relationship created by the systems contract is to look at the total costs of acquisition and management of the supply items over the long-run, not just the purchase price and quality of each item being purchased.

### 7.2.4 Paperless Purchasing.

(a) **INFORMATION:** "Paperless purchasing," as used in this subpart, means a paperless process using both electronic systems and processes (such as, electronic mail, electronic bulletin boards, electronic funds transfer, electronic data interchange) and non-electronic means (such as, oral orders) and similar techniques to accomplish requisitioning, purchasing, receiving and purchasing payment processing transactions.

(b) **POLICY:** Paperless purchasing techniques are authorized for use at BPA whenever practicable or cost-effective. Purchasing Managers shall establish processes and management oversight to ensure that such paperless systems are capable of authentication and confidentiality commensurate with the risk and magnitude of harm from loss, misuse, or unauthorized access to or modification of information. Commercial orders of \$100,000 or less may be transmitted via facsimile and task/delivery orders in an amount specified by the Contracting Officer in a Master Agreement or master contract may be placed electronically via facsimile or the Internet without original signature whenever the contractor has agreed in writing to the terms and conditions for acceptance of such electronic orders.

#### 7.2.4.1 Clause Usage Prescriptions

(a) **PROCEDURE:** CO's shall include clause similar to Clause 7-10 E-Commerce Marketplace Ordering, in solicitations and contracts over \$50,000 in which ordering transactions will be executed through electronic means.

(b) **PROCEDURE:** CO's shall include a clause similar to Clause 7-11, Alternate purchasing Methods, in solicitations and contracts over \$50,000 in which ordering transactions will be executed through electronic means but BPA wants to reserved the right to place orders via other methods.

(c) **PROCEDURE:** CO's shall include clause 7-12, Security for Online Ordering, in solicitations and contracts over \$50,000 in which online ordering will be the normal course of contract performance.

(d) **PROCEDURE:** CO's shall include a clause similar to 7-13, Computer Fraud and Abuse Act, in solicitations and contracts in which ordering transactions will be executed through electronic means, or in any other contract utilizing electronic methods for information exchange.

(e) **PROCEDURE:** CO's shall include clause 7-14, Definitions, in all solicitations and contracts in which electronic transactions will take place.

### 7.2.5 Master Contracts and Master Agreements.

(a) **INFORMATION:** Master contracts or master agreements are used when the exact times and/or quantities of future deliveries cannot be specified at the time of award. See Exhibit 7B,

Options when Quantities/Delivery Locations Are Not Known, for a comparison of master contracts and master agreements.

**(b) INFORMATION:** "Master contracts" are legally binding contracts. They establish a firm commitment for the contractor to accept and deliver any order for specific supplies or services ordered within the terms of the contract. They include definite quantity and indefinite quantity contracts. See Exhibit 7C, Master Contracts - Indefinite Delivery Contracts, for a comparison of these methods.

**(c) INFORMATION:** "Master agreements" are not legally binding contracts. They establish terms and conditions for any future orders. Their terms and conditions only become binding upon placement of an order. Master agreements do not obligate BPA to place any orders nor obligate the supplier to accept any orders. Master agreements replace what may be known elsewhere as Blanket Purchase Agreements and Basic Order Agreements.

### **7.2.5.1 Master Contracts - Indefinite Delivery Contracts.**

**(a) INFORMATION:** Indefinite delivery contracts are used when the exact times and/or quantities of future deliveries cannot be specified at the time of award. Indefinite delivery contracts include a commitment by the buyer to purchase at least a minimum quantity of supplies/services at time of award. Indefinite delivery contracts are one method of reducing administrative costs and encouraging long term relationships by "bundling" individual purchases.

**(b) INFORMATION:** The term "requirements contract" is often used as a synonym for indefinite delivery contract. However, the term "requirements contract" more accurately describes a contract where the buyer agrees to purchase all of its requirements from a particular contractor during a specific contract period. Although this contract method should, in theory, result in more competitive pricing and assurance that delivery schedules will be met, it is seldom an effective method in actual practice because it contractually binds both parties to a long term relationship which may not be appropriate if circumstances change.

#### **7.2.5.1.1 Clause Usage Prescriptions.**

**(a) INFORMATION:** The two most commonly used indefinite delivery contracts at BPA are definite quantity and indefinite quantity contracts. See Exhibit 7C, Master Contracts - Indefinite Delivery Contracts, for a comparison of these methods.

**(b) PROCEDURE:** The CO shall include a clause similar to Clause 7-4, Definite Quantity Contract: Ordering, in definite quantity solicitations and contracts. The CO may eliminate the minimum and maximum order limitations if acceptable to the Contractor. The CO shall modify paragraph "(c)" to reflect the terms and conditions that the Contractor agrees to accept for receipt and confirmation of an order (release) by means other than writing. The CO and the Contractor may agree to any one or more of written, oral, facsimile or electronic Internet order placement and confirmation means that is consistent with the policy in BPI 7.2.4.

**(c) PROCEDURE:** The CO shall include a clause similar to Clause 7-5, Indefinite Quantity Contract: Ordering, in indefinite quantity solicitations and contracts. The CO may eliminate the minimum and maximum order limitations if acceptable to the Contractor with the following exception: the CO shall retain the maximum limit for total orders in order to provide an opportunity to renegotiate contract prices if BPA's orders exceed the amounts originally anticipated. The CO shall modify paragraph "(b)" to reflect the terms and conditions that the Contractor agrees to accept for receipt and confirmation of an order (release) by means other than writing. The CO and the Contractor may agree to any one or more of written, oral, facsimile or electronic Internet order placement and confirmation means that is consistent with the policy in BPI 7.2.4.

## **Exhibit 7-B OPTIONS WHEN QUANTITIES/DELIVERY LOCATIONS ARE NOT KNOWN**

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	<b>MASTER CONTRACTS</b>	<b>MASTER AGREEMENTS</b>
<b>D E S C R I P T I O N</b>	<p>Establishes a firm commitment to accept and deliver any order for specific supplies/services ordered within the terms of the contract.</p> <p>CO's may redelegate authority if prices and delivery terms have been specified in the contract.</p> <p>Includes Definite Quantity and Indefinite Quantity contracts.</p>	<p>Establishes terms and conditions for any future orders that may be placed, but does not require the supplier to accept any orders. (Replaces what may be known elsewhere as Basic Ordering Agreements and Blanket Purchase Agreements.)</p> <p>CO's may redelegate authority as permitted under 7.2.5.2.</p>
<b>U S E</b>  <b>W H E N</b>	<p>1. Use when BPA wants a firm commitment from the contractor to accept all orders placed in accordance with the contract terms.</p> <p>2. Market conditions indicate it would be in BPA's best interest to fix contract prices.</p>	<p>1. Use to document long term relationships where orders will be accepted only with supplier consent.</p> <p>2. BPA's total requirements are unknown and it is inadvisable for BPA to commit itself to any quantity or orders.</p> <p>3. Written orders should be issued when specifications or statements of work are necessary for clear understanding of the requirements or when complicated delivery terms or bid schedules are necessary.</p>
<b>C O N S I D E R A T I O N S</b>	<p>1. Competition requirements of BPI Part 11 must be met. Competition occurs prior to contract award.</p> <p>2. Prices are negotiated and remain fixed for the duration of the contract unless specific provisions are included for price adjustment.</p>	<p>1. Competition requirements of BPI subpart 11.6 must be met.</p> <p>2. Prices may or may not be included in the master agreement.</p>

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**Exhibit 7-C  
MASTER CONTRACTS - INDEFINITE DELIVERY CONTRACTS**

	<b>DEFINITE QUANTITY</b>	<b>INDEFINITE QUANTITY</b>
<b>D E S C R I P T I O N</b>	<p>Provides for the delivery of a definite quantity of specific supplies/services for a fixed period, with deliveries to be scheduled at designated locations upon order.</p> <p>Example: Two year contract for 2000 personal computers to be delivered when delivery orders are issued.</p>	<p>Provides for the delivery of an indefinite quantity within stated limits, of specific supplies/services for a fixed period, with deliveries to be scheduled by placing orders with the contractor.</p> <p>Example: Two year contract for personal computers; BPA commits to order at least 100; to be delivered when delivery orders are issued.</p>
<b>U S E  W H E N</b>	<p>1. BPA's total requirements are known but the delivery schedule or locations are not known in advance, and</p> <p>2. The supplies/services are regularly available or will be available after a short lead time.</p>	<p>1. BPA's total requirements are unknown (above a specified minimum), and</p> <p>2. It is inadvisable for BPA to commit itself for more than a minimum quantity.</p>
<b>C O N S I D E R A T I O N S</b>	<p>1. Limits BPA's and Contractor's obligation to the quantity specified in the contract.</p> <p>2. Definite quantity contracts may also contain provisions to order option quantities. See BPI 7.2.7</p>	<p><b>PROCEDURE:</b> In addition to the considerations shown for definite quantity contracts, the Schedule of Items shall include a realistic estimate of total orders to be placed during the contract term</p>

# BONNEVILLE PURCHASING INSTRUCTIONS

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### 7.2.5.2 Master Agreements.

(a) **INFORMATION:** Master agreements are typically used to establish an ordering agreement for multiple purchases of items or services of a similar nature where it is more cost effective to consolidate order placement procedures, invoicing, payment, etc. into one written agreement. Specific items, quantities, and prices may or may not be listed in the agreement.

(b) **POLICY:** Master Agreements may cover any estimated dollar value BPA expects to purchase each year. The CO shall include contract clauses which are applicable to contracts of anticipated value of purchases each year.

(c) **POLICY:** Each order placed under master agreements is subject to the competitive requirements of BPI subpart 11.6. In those instances where a master agreement has been established non-competitively, no additional documentation other than that required by BPI 11.7 is required for orders that are within the scope of the agreement.

(d) **PROCEDURE:** Master agreements shall be awarded on the electronic form generated within the Bonneville Enterprise System, or on the paper form BPA F 4220.40, Master Agreement.

(e) **POLICY:** The CO may specifically designate BPA employees who may place orders against the master agreements. The CO shall designate the dollar limit of authority for each individual within the following limitations:

(1) A requisition is required. The individual shall ensure that funds are available. In addition, the following limits apply per order:

(A) For items that are specifically priced in the master agreement, CO's may authorize individuals to place orders in any dollar amount for those priced items.

(B) For items that are not specifically priced in the master agreement, the CO may, subject to advance notification and concurrence of HCA, establish a limited delegation of authority for ordering officials to issue orders in an amount not to exceed the following limits for any unpriced items:

(i) For ordering officials who are also warranted CO's, the limit per order may not exceed their warrant authority.

(ii) For ordering officials who are not warranted CO's, the limit per order shall generally not exceed \$10,000 (i.e., the non-competitive purchase limit). The limit per order may be greater than \$10,000 if (1) the items being purchased are exempt from the competitive requirements of BPI 11.6 (e.g., replacement parts from an original equipment manufacturer); or (2) the ordering officials obtain and document competition of each order in excess of \$10,000 and the CO has established appropriate oversight to ensure appropriate use of the agreement and continued fair and reasonable prices.

(2) **POLICY:** Daily limits and annual limits:

The CO may choose any limit on the amount of orders placed per day or per year. However, the CO shall review the volume and amount of orders not less than annually to ensure the volume of business warrants renegotiation of the agreed prices, changes to the terms and conditions, or use of a different contractual instrument.

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### 7.2.5.2.1 Clause Usage Prescriptions.

(a) **PROCEDURE:** The CO shall include a clause similar to Clause 7-6, Master Agreement: Basic Terms, in master agreements. The CO may add additional provisions as appropriate, but shall include at least the following:

- (1) Delivery terms
- (2) A description of the point at which each order becomes a binding contract (upon issuance, upon receipt in a specified manner, etc.)
- (3) Ordering procedures
- (4) Applicable terms and conditions. See 7.2.5.2(b), above.

### 7.2.5.3 Delivery Orders and Task Orders.

(a) **INFORMATION:** "Delivery Order" means an individual order for supplies placed under the terms of a master contract or master agreement. "Task Order" means an individual order for services placed under the terms and conditions of a master contract or master agreement. Delivery orders and task orders are typically used where the scope of work can be generally defined in the master contract/agreement, but there is some uncertainty regarding the individual orders to be placed or tasks to be performed. There are two general categories of orders commonly used at BPA:

- (1) Orders where numerous delivery or task orders are contemplated and each item or task is typically for a small dollar amount. Negotiations are typically brief and the item is delivered or the task is completed in a few days or weeks. A requisition is required for each order.
- (2) All other orders, where items or tasks may be of high dollar amounts, more complex, and of a longer duration than those described in (1) above. This level of complexity typically results in more extensive negotiations before the order is awarded. A requisition is required for each order.

(b) **PROCEDURE:** Orders may be placed orally, via facsimile, electronically, or in writing as agreed to by the Contractor in the terms of the Master Contract or Master Agreement.

- (1) Written orders should be issued when specifications or statements of work are necessary for clear understanding of the requirements or when complicated delivery terms, bid schedules, etc. are necessary. Written orders (releases) shall be prepared using the BES generated order (release) form.
- (2) Oral or electronic orders to the Contractor may be placed, provided the terms and conditions for oral or electronic orders are included in the written bilateral Master Agreement or Master Contract. Electronic orders may be placed via facsimile or as an unalterable electronic read-only format document transmitted via the Internet. A binding order will be formed when the Contracting Officer or his/her authorized representative transmits to the Contractor a complete and legible order that includes an order (release) number and the Master Agreement Number of Master Contract number, and receives from the Contractor a written or facsimile or electronic Internet confirmation. An order or confirmation transmitted via facsimile or the Internet will be deemed "writings".

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### 7.2.6 Task Assignments.

(a) **INFORMATION:** Task Assignments may be issued where a time and materials, fixed-price, or cost-plus-fixed-fee contract is awarded on a level of effort basis and includes a limit on total authorized labor hours (level of effort)(see also BPI 7.1.(d)(2)). Generally tasks should be identified in the contract's Statement of Work, but the sequence of performance of those tasks may change after award. For this reason, tasks are assigned after award of the contract as the sequence of tasks becomes more clear.

(b) **PROCEDURE:** Because the scope of the project and individual tasks can be adequately defined at the time the contract is awarded, the total budget is committed at the time of award and no additional Requisitions or CO signatures are necessary to order the sequence of work. Task Assignments are typically signed by the COTR, with a copy provided to the CO.

(c) **POLICY:** CO's shall provide adequate oversight to ensure proper usage.

### 7.2.7 Options.

(a) **INFORMATION:** The use of options in contracts can be an effective method of managing risk, reducing the administrative costs of resoliciting for recurring requirements, and encouraging high quality/long term performance.

(b) **POLICY:** Options shall be pre-priced. Pre-priced options may contain specific option pricing or an appropriate economic price adjustment index.

(c) **INFORMATION:** Pre-priced options give BPA the unilateral right to purchase additional supplies/services or extend the term of the contract at pre-agreed prices and/or terms. Pre-priced options may be appropriate where the market is relatively stable, price inflation is fairly predictable, the nature of the contract is not likely to change significantly between award and the time the option is exercised, or where it may be difficult to test the market at a future date.

#### 7.2.7.1 Clause Usage Prescriptions.

(a) **PROCEDURE:** CO's shall include a clause similar to Clause 7-7, Performance Period And Options, in solicitations and contracts where an option is appropriate to add to the term of the contract.

(b) **PROCEDURE:** CO's shall include a clause similar to Clause 7-8, Option For Increased Quantity, in solicitations and contracts where an option is appropriate to increase the quantities of supplies or services being purchased.

### 7.2.8 Free Trial Agreements.

(a) **INFORMATION:** "Free Trial" is the use of a product offered by a vendor without obligation or consideration (i.e. no fees, reports, technical advice, shipping, supplies, or any other costs) for a specified time period, with the ability to return the product at any time during the trial period without explanation. Free Trial Agreements are an effective method of evaluating the characteristics of supplies or equipment while protecting the rights of the offeror and BPA in case of loss, damage, or release of proprietary information. More informal arrangements may be appropriate for consumable and/or non-returnable items, excluding software.



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(b) **POLICY:** Free Trial Agreements are required for items only when property or proprietary data rights must be protected. The following restrictions apply when a free trial agreement is being considered:

- (1) The total value of all items must be within the authority limit of the CO.
- (2) Use of the program/product is at BPA's sole discretion and within the parameters for which the program/product was designed.
- (3) Programs/products do not require extensive training programs or start-ups.
- (4) Programs/products do not create a dependency on them.
- (5) The use of the program/product will be for a reasonable period, usually not for more than 90 days.
- (6) Only the OCIO may enter into free trial agreements for software. No one at BPA outside the OCIO is allowed to download any software at his or her desktop without OCIO pre-approval.

(c) **PROCEDURE:**

- (1) Any BPA employee interested in accepting an offer to try a program/product requiring a free trial agreement shall submit a request to the CO. The request shall include any relevant background information.
- (2) The CO shall negotiate the agreement to ensure that the supplier understands that the use on a free trial basis of the program/product does not preclude the use of BPA's competitive process in the purchase of the same or similar program/product.
- (3) The CO and the supplier shall execute a written agreement outlining the parameters of the transaction (see Exhibit 7D, Sample Free Trial Agreement).
- (4) BPA may return the merchandise at any time during or at the completion of the free trial period.

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### Exhibit 7-D -- SAMPLE FREE TRIAL AGREEMENT

1. This agreement is between Bonneville Power Administration (BPA) and \_\_\_\_\_(Submitter). The program/product submitted by the firm shall hereinafter be referred to as "merchandise".

2. The trial use period shall begin on \_\_\_\_\_ and terminate on\_\_\_\_\_

3. The Submitter hereby agrees to provide BPA the following merchandise:

[This section is for the CO to provide the description of the merchandise to be evaluated on a free trial basis. The description should include but not be limited to descriptive instruction material, manuals, diagrams, flow charts, installation instructions, or technical advice needed to evaluate the merchandise. The CO shall instruct the submitter to carefully mark or label all of the materials associated with the merchandise being used by BPA which are to be returned at the end of the trial period.]

4. BPA shall use reasonable care with the merchandise, but it shall not be liable for loss of or damage to the merchandise during the trial use if such loss or damage results from defective merchandise. BPA shall be responsible for costs for any damage resulting from normal use of the merchandise, except for damage resulting from or caused by a defect in the merchandise.

5. BPA agrees to keep confidential and will not copy, in whole or in part, any of the technical data, materials, or other proprietary information furnished to it for use during the Free Trial.

6. There shall be no payment made from BPA to submitter under this agreement. Each party shall pay its own expenses that may be incurred because of this trial. Submitter is responsible for all costs associated with delivery and return of the merchandise.

7. The submitter shall not publish any information about BPA's trial use of the merchandise without prior written approval from BPA, nor shall the submitter use BPA's name in any advertisement or promotion or other solicitation for business without written approval from BPA.

8. At any time during the free trial evaluation period, BPA may return the merchandise to the submitter without explanation or obligation and at no cost to BPA.

\_\_\_\_\_  
BPA Contracting                      Date  
Officer's Signature

\_\_\_\_\_  
Submitter's Signature              Date

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### 7.2.9 Quick Response Contracts.

(a) **INFORMATION:** A quick response contract, sometimes referred to as a "letter contract", is a written contract, signed by a CO, that authorizes the contractor to immediately begin the manufacture of supplies or performance of services before all contract terms and requirements have been finalized. It is a unilateral authorization or offer by BPA that becomes a binding contractual agreement if performance by the contractor has commenced. The signature of the prospective contractor is not required, but may be obtained in order to protect BPA's interests.

(b) **POLICY:** A quick response contract may be used when:

- (1) The interests of BPA demand that the contractor be given a binding commitment so that work can start immediately; and
- (2) Complete negotiation and assembly of a definitive contract is not possible in time to meet the requirement.

(c) **POLICY:** Quick response contracts shall be used judiciously, and not as substitutes for properly planned, scheduled, and executed acquisition plans. They may not be awarded until after the parties have reached agreement in principle on the substance of the contract. Quick response contracts must be definitized within 30 days unless the CO's first line performance manager approves an extension. Funding commitments should not exceed what is required for performance before definitization and for acquisition of specific long lead-time materials. Quick response contracts shall not --

- (1) Be entered into without competition when competition is practicable;
- (2) Be amended to satisfy a new requirement unless that requirement is inseparable from the existing quick response contract. Any such amendment is subject to the same requirements and limitations as a new quick response contract.

(d) **PROCEDURE:**

- (1) Prior to initiating a quick response contract, the CO must have received:
  - (A) A material request, purchase requisition, or contract requisition.
  - (B) An initial statement of work or specification that describes the fundamental goods or services to be provided, key elements of quality or acceptability, and deliverables. (Such statement of work or specification may be revised to provide greater detail when the contract is definitized.); and
  - (C) An approved request for ratification, if applicable.
- (2) Quick response contracts are subject to the competitive requirements described in BPI subpart 11.6.
- (3) Each quick response contract must contain provisions substantially the same as shown in Exhibit 7E, Sample Quick Response Contract. The contract may be documented in letter form, as shown in Exhibit 7E, or may be documented on a paper or electronic contract award form.
- (4) Copies of the quick response contract shall be distributed to the same organizations that will receive the definitized contract when it is executed.

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(5) The definitized contract, when completed, shall incorporate the quick response contract. The effective date of the contract shall be the start work date authorized in the quick response contract.

(6) For contracts which require a subcontracting plan (see BPI 8.3.1), the plan shall be obtained within 90 days after award of the quick response contract, or by contract definitization, whichever occurs first.

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### EXHIBIT 7-E -- SAMPLE QUICK RESPONSE CONTRACT

Alex Johnson Services Company  
6847 Kingsway East Court  
Baldwin, Oklahoma 84711

Dear Mr. Johnson:

Subject: Proposed Contract No. 01234, Hazardous Waste Clean-up

This letter constitutes an authorization for you to commence work on the project described above, subject to the following:

- (a) A maximum of \$75,000 of costs may be incurred.
- (b) Expenditures above that amount are not authorized, and are at your risk.
- (c) Work is authorized to begin \_\_\_\_\_ (insert date not earlier than date of letter).
- (d) This authorization is subject to the cost principles described in Part 13 of the Bonneville Purchasing Instructions.
- (e) When the contract for this project is definitized, it will be a \_\_\_\_\_ (insert appropriate type of contract) type contract.
- (f) In the event of contract termination, calculation of payments due under this authorization will be accomplished under the provisions of clause(s) \_\_\_\_\_ (enter appropriate termination clauses) of the Bonneville Purchasing Instructions.
- (g) The work authorized by this letter is described in your proposal of \_\_\_\_\_ (date or other appropriate reference to the statement of work or company offer and type of transmission: oral, written, facsimile, e-mail, etc.).
- (h) No payments will be made before a definitized contract is completed for this project. (CO may allow for interim payments, if necessary. In this case, appropriate payment and invoicing clauses shall be included in the quick response contract.)
- (i) The Contracting Officer's Representative is Alice Adams and her telephone number is (503) 230-4817.
- (j) You are obligated to furnish cost or pricing information if the Contracting Officer requests such information.
- (k) (The CO may enter any other terms and conditions deemed necessary for the proper execution of the project.)
- (l) A definitized contract is expected to be executed within 30 days.
- (m) This is contract number \_\_\_(fill in)\_\_\_; Accounting data: \_\_\_(fill in)\_\_\_.

Sincerely,

Contracting Officer

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### 7.2.10 Trade-Ins.

(a) **POLICY:** BPA may trade-in non-excess personal property concurrent with the purchase of similar replacement items with the concurrence of the responsible Asset Center Representative. A separate solicitation is not required when the need or opportunity to trade in property occurs after contract award.

(b) **PROCEDURE:** Requisitioners are responsible for determining whether current property should be traded in, concurrent with the purchase of similar replacement property. CO's shall not enter into contracts that involve trade-ins of property without first obtaining from the requisitioner a copy of the Asset Center Representative's disposal analysis and approved Property Survey Report. See BPI Part 6.12.

#### 7.2.10.1 Clause Usage Prescriptions.

PROCEDURE: CO's shall include a clause similar to Clause 7-9, Trade-In of Personal Property, in solicitations and contracts that include trade-in of personal property.

### 7.50 TEXT OF CLAUSES.

The following clauses are referred to in BPI Part 7:

- 7-1 Contract Type
- 7-2 Price Adjustment
- 7-3 Award Fee and Payment (Fixed-price award fee)
- 7-4 Definite Quantity Contract: Ordering
- 7-5 Indefinite Quantity Contract: Ordering
- 7-6 Master Agreement: Basic Terms
- 7-7 Performance Period And Options
- 7-8 Option for Increased Quantity
- 7-9 Trade-In of Personal Property
- 7-10 E-Commerce Marketplace Ordering
- 7-11 Alternate Purchasing Methods
- 7-12 Security for Online Ordering
- 7-13 Computer Fraud and Abuse Act
- 7-14 Definitions

#### Clause 7-1 CONTRACT TYPE (Sep 98)(BPI 7.1.9)

This is a FILL-IN type contract.

(End of clause)

#### Clause 7-2 PRICE ADJUSTMENT (Sep 98)(BPI 7.1.9)

(a) From \_\_\_\_\_[FILL IN event or date which triggers price adjustment review, e.g., "the start of the 13th month after the date of award"], through the remainder of the contract option periods, the \_\_\_\_\_[FILL IN, e.g., "hourly rates", "unit prices", etc.] identified in the Schedule of Items may be adjusted upward or downward based on increases or decreases in \_\_\_\_\_[FILL IN appropriate index including appropriate dates, e.g., "the Consumer Price Index (CPI-U) for All Urban Consumers, all Items 1982-84 = 100, as published by the U.S. Bureau of Labor Statistics"]. The final index point at date of award is \_\_\_\_\_[FILL IN], dated \_\_\_\_\_[FILL IN].

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(b) On \_\_\_\_\_ [FILL IN date or event which triggers price adjustment review, e.g., "each anniversary of the date of award"], if an option year is exercised, the percent of increase or decrease in the index will be computed by the Contracting Officer. No prices will be adjusted unless the percent of change in the index (since the date of contract award or date of last adjustment) amounts to \_\_\_\_\_ FILL IN, e.g., "six percent or more". If the index has changed by six percent or more since the date of award or since the previous calculation that resulted in a price adjustment, the specific prices will be adjusted for the ensuing year. If an adjustment is warranted in accordance with the above, the then current unit prices will be increased or decreased, for the ensuing year, by the product of the unit price times the percent of change reported in the index (figured to two decimal places).

(c) No upward adjustment shall apply to supplies or services which are required to be delivered or performed prior to the effective date of the adjustment unless the Contractor's failure to deliver or perform in accordance with the delivery schedules results from causes beyond the control and without the result or negligence of the Contractor.

(d) The index base rate shown above for the first year of the contract shall be the latest rate published at the date of contract award. Should an adjustment in the hourly rates be effected per this clause, the index base rate will be revised to reflect the latest rate published at the date of contract renewal.

(End of clause)

#### **Clause 7-3 AWARD FEE AND PAYMENT (Fixed-Price Award Fee) (Sep 98)(BPI 7.1.9)**

(a) In addition to any profit included in the fixed price portion of the contract payment, the Contractor may earn an additional fee, referred to as an award fee, not to exceed \$\_\_\_\_\_. Payment of the award fee will be based on the degree to which the Contractor's performance exceeds the requirements of the contract during each evaluation period. See the Award Fee Plan, Attachment \_\_\_\_\_.

(b) The Contractor's performance will be evaluated after the completion of each evaluation period, which shall be every 4 months. The available award fee allocation in an evaluation period is determined by dividing the award fee pool negotiated annually as stated in the Schedule of Items by three. Unearned award fee will not be added to any evaluation periods for future periods.

(c) The award fee will be paid after determination of the award fee by BPA and submission of an invoice by the Contractor for the earned amount.

(d) Before an evaluation period is started, BPA may unilaterally modify the award fee performance evaluation criteria, performance evaluations areas, and/or weights applicable to the evaluation period. The Contractor will be notified in writing of these changes by the Contracting Officer before the relevant evaluation period is started. The Award Fee Plan will be modified accordingly.

(e) The decision of the Fee Determining Official on the amount of the earned award fee is not subject to the Disputes clause.

(End of clause)

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### Alternate I (Sep 98)

(a) In addition to a base fee of not to exceed \_\_\_\_\_ percent of estimated costs, the Contractor may earn an award fee on the basis of its performance during each evaluation period. See the Award Fee Plan, Attachment \_\_\_\_\_.

(End of Alternate I)

### Clause 7-4 DEFINITE QUANTITY CONTRACT: ORDERING (SEP 02)(BPI 7.2.5.1.1)

(a) This is a definite-quantity, indefinite-delivery contract. The Contractor shall furnish to BPA, when ordered, all supplies or services specified in the Schedule of Items. Delivery or performance shall be at locations designated in orders.

(b) BPA will order the quantity of supplies or services specified in the Schedule of Items.

(c) Only orders placed by individuals or BPA offices designated by the Contracting Officer will be considered valid orders. If mailed, a delivery order is considered "issued" when BPA deposits the order in the mail. Orders may also be issued orally or by facsimile. Orders may also be issued electronically as an unalterable, electronic read-only formatted document transmitted via the Internet. A binding order will be formed after the Contracting Officer or his;/her authorized representative transmits to the Contractor a complete and legible order that includes an order (release) number and the contract number, and has received from the Contractor a written, or electronic Internet confirmation. An order or confirmation transmitted via facsimile or the Internet will be deemed "writings."

(d) Except for any limitations on quantities shown below, there is no limit on the number of orders that may be issued.

(1) Minimum Individual Order: \_\_\_\_\_ [FILL IN quantity or dollar amount]

(2) Maximum Individual Order: \_\_\_\_\_ [FILL IN quantity or dollar amount]

(e) Any order issued must be completed/delivered prior to the expiration date of this contract.

(f) All orders are subject to the Terms and Conditions of this contract. In the event of conflict or terms between an individual order and this contract, the contract shall control.

(End of clause)

### Clause 7-5 INDEFINITE QUANTITY CONTRACT: ORDERING (SEP 02)(BPI 7.2.5.1.1)

(a) This is an indefinite-quantity contract. The Contractor shall furnish to BPA, when and if ordered, the supplies or services specified in the Schedule of Items. The quantities of supplies and services specified in the Schedule of Items are estimates only and are not purchased by this contract. Delivery or performance shall be at locations designated in orders.

(b) Only orders placed by individuals, or by BPA offices, that are specifically designated in writing by the Contracting Officer, are valid orders. If mailed, a delivery order is considered "issued" when BPA deposits the order in the mail. Orders may also be issued orally or by facsimile. Orders may also be issued electronically as an unalterable, electronic read-only formatted document transmitted via the Internet. A binding order will be formed when the Contracting Officer or his/her authorized representative transmits to the Contractor a complete and legible order that includes an order (release) number and the contract number, and receives from the



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Contractor a written or facsimile or electronic Internet confirmation. An order or confirmation transmitted via facsimile or the Internet will be deemed "writings."

(c) Except for any limitations on quantities shown below, there is no limit on the number of orders that may be issued.

(1) Minimum, Individual Order: \_\_\_\_\_[FILL IN quantity or dollar amount]

(2) Maximum, Individual Order: \_\_\_\_\_[FILL IN quantity or dollar amount]

(3) Minimum, Total Orders: \_\_\_\_\_[FILL IN quantity or dollar amount]  
BPA will order at least this quantity of supplies or services.

(4) Maximum, Total Orders \_\_\_\_\_[FILL IN quantity or dollar amount]

(d) Any order issued during the effective period of this contract and not completed within that time shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and BPA's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided that the Contractor is not obligated to make deliveries after \_\_\_\_\_[FILL IN date or period of time.]

(e) All orders are subject to the Terms and Conditions of this contract. In the event of conflict between an order and this contract, the contract shall control.

(End of clause)

### **Clause 7-6 MASTER AGREEMENT: BASIC TERMS (SEP 03)(BPI 7.2.5.2.1)**

(a) Effective Period. This agreement is effective upon receipt and acceptance of this Agreement and continues until canceled by BPA or the Contractor in writing, or the date in Block 5, Page 1 of this master agreement, whichever occurs first.

(b) BPA's Obligation. This agreement places no obligation on BPA to purchase a minimum amount of supplies or services. BPA is obligated only to the extent of authorized orders actually placed against this agreement.

(c) Order Placement, Confirmation and Contract Formation. Only orders placed by individuals specifically authorized by the Contracting Officer will be considered valid orders. Orders may also be issued orally or by facsimile. Orders may also be issued electronically as an unalterable, electronic, read-only formatted document transmitted via the Internet. A binding order will be formed when the Contracting Officer or his/her authorized representative transmits to the Contractor a complete and legible order that includes an order (release) number and the contract number, and receives from the Contractor a written or facsimile or electronic Internet confirmation. An order or confirmation transmitted via facsimile or the Internet will be deemed "writings." There is no limit on the number of orders that may be issued, unless otherwise limited in the Schedule of Items.

(d) Order Numbers. An "order number" will be the identifying number for each order placed against this agreement. Both this order number and the Master Agreement Number must be included on all correspondence, packing lists, invoices, etc.

(e) Delivery Tickets. All deliveries made under this agreement shall be accompanied by a delivery ticket or sales slip which shall contain the following minimum information: (1) Name of Contractor; (2) Master Agreement Number; (3) Date of order; (4) Name of BPA employee

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placing order; (5) Order number; (6) Itemized list of supplies or services furnished (quantity, unit price, and extended price, less discounts; and (7) Date of delivery or shipment.

(f) Variation In Quantity. No variation in the quantity of any item ordered will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this agreement or in any specific order.

(g) Transportation Charges. No allowance will be made for packing, cartage, carting, or transportation charges unless specifically provided elsewhere in this agreement or unless provided at the time a specific order is placed.

(h) Inspection and Acceptance. Inspection and acceptance will be at the place specified in each order for delivery or performance.

(i) Taxes and Duties. The price includes all applicable Federal, State, and local taxes and duties in effect on the date an order is placed, but does not include any taxes from which BPA, the Supplier, or any specific order is exempt. Upon request of the Supplier, BPA shall furnish a Tax Exemption Certificate or similar evidence of exemption, if appropriate, with respect to any such tax not included in the price pursuant to this clause.

(j) Payment.

(1) Payment Due Date. Payment shall be due not later than thirty (30) calendar days after the later of the date on which BPA actually receives a proper invoice in the designated billing office or the date when the items delivered or completed services are accepted by BPA. For purposes of payment only, items will be deemed accepted not later than seven (7) working days after proper delivery. If delivered items or completed services are found defective, the provisions of this paragraph will be reapplied upon receipt of a corrected item or service.

(2) Invoices. Supplier's may invoice monthly or at more frequent intervals as may be agreed to by the CO. Invoices shall include:

- supplier's name and address;
- invoice date;
- master agreement number;
- order number;
- description of products delivered or work performed;
- price and quantity of item(s) actually delivered or rendered identified separately by order number,
- the name and address of the person to whom payment will be made, and
- name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

If the order is for supplies, each invoice shall also contain a reference to each delivery ticket and shall be supported by a copy of the delivery ticket. Failure to submit a proper invoice may result in a delay in payment.

(3) Prompt Payment Act. This agreement is subject to the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), and the regulations at 5 CFR Part 1315.

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(4) Interest Penalty Payments. If interest penalty payments are determined due under the provisions of the Prompt Payment Act, payment shall be made at the rates determined by the U.S. Treasury, Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

(End of clause)

### Clause 7-7 PERFORMANCE PERIOD AND OPTIONS (Sep 98)(BPI 7.2.7.1)

(a) This is a \_\_\_\_\_[FILL IN] year contract with options to extend for \_\_\_\_\_[FILL IN] additional \_\_\_\_\_[FILL IN] year periods.

(b) BPA may unilaterally extend the term of this contract by written notice to the Contractor. BPA will give the Contractor preliminary notice of its intent to extend at least 30 days before the contract expires.

(End of clause)

### Clause 7-8 OPTION FOR INCREASED QUANTITY (Sep 98)(BPI 7.2.7.1)

BPA may acquire the option quantity listed in the Schedule of Items at the unit price(s) specified. The Contracting Officer may exercise the option by written notice to the Contractor not later than 30 days prior to the end of the contract. Delivery of the option quantity shall be \_\_\_\_\_[FILL IN delivery terms].

(End of clause)

### Clause 7-9 TRADE-IN OF PERSONAL PROPERTY (Sep 98)(BPI 7.2.10.1)

The following property is offered for trade-in. The property is offered on an "as is-where is" basis. BPA's descriptions of the property may not accurately reflect the condition or value of the property. The Contractor is responsible for determining the condition of the property and assessing its value prior to award. The contractor will be given title to the specified property upon award of the contract, and will remove the property from BPA's custody within 30 days after award.

Description of Property	Location
FILL IN	FILL IN

(End of clause)

### Clause 7-10 E-COMMERCE MARKETPLACE ORDERING (Sep 04) (BPI 7.2.4.1)

BPA has an agreement with \_\_\_\_\_ (CO FILL IN) for Internet ordering. BPA intends to place orders against this agreement by accessing the \_\_\_\_\_ (CO FILL IN) where the E-Catalog will reside.

BPA shall make the electronic catalog content of this contract available on the \_\_\_\_\_ (CO FILL IN) for authorized agents to place orders. Access shall be limited to individuals designated in writing by the Contracting Officer. BPA will provide instructions and requirements for use of the \_\_\_\_\_ (CO FILL IN) ordering system upon award of contract or when available. BPA will Host and assume all costs associated with hosting the \_\_\_\_\_ (CO FILL IN).

(End of clause)

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### **Clause 7-11 ALTERNATE PURCHASING METHODS (Sep 04) (BPI 7.2.4)**

BPA reserves the right to place orders without using the e-catalog and electronic purchase method that is defined elsewhere in this contract. Such off-line orders may be transmitted via telephone, US Mail, FAX, or E-MAIL, and will contain the order (release) number. The Contractor will provide written confirmation of acceptance of these order(s). The Contracting Officer shall advise the Contractor of the order-numbering scheme that will be used to ensure that orders placed off-line do not duplicate online numbers.

(End of clause)

### **Clause 7-12 SECURITY FOR ONLINE ORDERING (Sep 04) (BPI 7.2.4)**

Both parties agree to share information between system administration or operations personnel which might affect the security or operation of this ordering agreement with respect to system security, virus concerns, scams, spam, fraud attempts, hacker attacks, firewall violation, etc. as might be applicable.

(End of clause)

### **Clause 7-13 COMPUTER FRAUD AND ABUSE ACT (Sep 04) (BPI 7.2.4)**

Unauthorized attempts to upload information and/or change information on this Web site are strictly prohibited and subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Sec.1001 and 1030.

(End of clause)

### **Clause 7-14 DEFINITIONS (Sep 04) (BPI 7.2.4)**

(a) Terms and Meanings. The following terms are used interchangeably in this award and carry the same meaning: Contract and Agreement, and Order and Release.

(b) Electronic Commerce.

(1) Electronic Commerce (EC) is the interchange and processing of information using electronic techniques for accomplishing business within the framework of commercial standards and practices. Further, an integral part of implementing EC is the application of business process improvements or reengineering principles to streamline business processes prior to the incorporation of technologies facilitating the electronic exchange of business information.

(2) EC is the paperless exchange of business information. The following is a partial list of some of the techniques being used in the industry to assist companies in doing business electronically:

(c) Electronic Catalogs. Electronic Catalogs (ECAT) are Internet-based entities that allow Agency buyers to browse for products and services, compare prices, and place orders.

(d) Electronic Malls. Electronic Malls (EMALLs) consist of several ECATs spliced together. At EMALLs, Federal Government buyers can access supplier catalogs in "mall"-type settings. To have a presence on an EMALL, vendors must submit their catalogs in an electronic format.

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(e) Force Majeure. BPA and the Contractor shall not be liable for delays in performance due to causes beyond the parties' reasonable control or for delays of the Seller's suppliers at any tier if the delay is beyond the control of both the Seller and its suppliers and without fault or negligence of either

(End of clause)