

AWARD/CONTRACT		THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF PAGES 1 191
2. CONTRACT (Proc. Inst. Ident.) NO. DE-AC05-06OR23190		3. EFFECTIVE DATE 10/16/2005		4. REQUISITION/PURCHASE REQUEST/PROJECT NO. 06OR23190.000A	
5. ISSUED BY U.S. Department of Energy Attn: Connie Bayless P.O. Box 2001 Oak Ridge, Tennessee 37831		6. ADMINISTERED BY (If other than Item 5) U.S. Department of Energy Attn: Beverly Schultz P.O. Box 2001 Oak Ridge, Tennessee 37831		CODE	

7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code) LeGacy-Critique, Joint Venture 9005 Overlook Boulevard, Suite 241 Brentwood, Tennessee 37027		8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)	
9. DISCOUNT FOR PROMPT PAYMENT		10. SUBMIT INVOICE (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: ITEM	
11. SHIP TO/MARK FOR CODE		12. PAYMENT WILL BE MADE BY CODE Oak Ridge Financial Services Center	

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304(c) () <input checked="" type="checkbox"/> 41 U.S.C. 253(c) ()		14. ACCOUNTING AND APPROPRIATION DATA WA, KX03, AH39 \$300,000; TF, HA10, AISA, \$30,000; TP, EW10, VA39, \$170,000	
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15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT

15G. TOTAL AMOUNT OF CONTRACT →

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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE

17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>2</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations certifications, and specifications as are attached or incorporated by reference herein. (Attachments are listed herein.)	18. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual documentation is necessary.
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19A. NAME AND TITLE OF SIGNER (Type or print) Chiquita R. Young, President	20A. NAME OF CONTRACTING OFFICER Judith S. Wilson, Contracting Officer
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19B. NAME OF CONTRACTOR BY <u>Chiquita R. Young</u> (Signature of person authorized to sign)	19C. DATE SIGNED <u>10/16/05</u>	20B. UNITED STATES OF AMERICA BY <u>Judith S. Wilson</u> (Signature of Contracting Officer)	20C. DATE SIGNED <u>10/19/05</u>
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SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 ORO B01 Items being Acquired (Alternate I) (OCT 2004)

The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services (except as may be expressly set forth in this contract as furnished by the Government) and otherwise do all things necessary for, or incident to, the performance and providing the following items of work:

Item 1 - See Section C, ORO C01, Performance-Based Performance work statement

Item 2 - Reports in accordance with Section J, Attachment A, "Reporting Requirements" and other clauses in the contract which specify reporting requirements.

B.2 ORO B30 Obligation Of Funds (Time-And-Materials) Alternate III (JAN 2004)

Pursuant to FAR 52.232-22 entitled "Limitation of Funds," the total amount obligated to the contract for the item(s) described in the Schedule is \$500,000 which is estimated to be sufficient to cover contract performance through November 18, 2005.

B.3 ORO B13 Price Schedule (Time-And-Material And Labor-Hour) (MAY 1997)

- (a) The contractor shall provide personnel in the labor categories and at the hourly rates (wages, indirect costs, general and administrative expenses, and profit) set forth below. The quantity of labor hours are estimated amounts and may vary during the period of performance. The hourly rates are fixed for the full period of performance of the contract. The wage rates included in the fully burdened hourly rates are not subject to revision unless required by the Service Contract Act. Any adjustment required by the Service Contract Act will be in accordance with Department of Labor (DOL) Wage Determinations. Any revised DOL Wage Determination will be included in Part III, Section J of this contract. The indirect costs, general and administrative expense, and profit applied to the hourly rates are fixed for the full term of the contract and will not be changed if wage rates are adjusted as a result of the Service Contract Act.
- (b) All materials, supplies, and equipment will be furnished by the Government as set forth in Clause H95. In the event, however, that the contractor is required by the contracting officer to acquire such items, reimbursement will be in accordance with FAR 52.232-7. In the event that any travel is required, the contractor will obtain the approval of the contracting officer or any other duly authorized representative. Reasonable and allocable material handling costs may be included in the charge for materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR. The material handling cost rate is fixed for the full period of performance of the contract.
- (c) In accordance with FAR 52.246-6, Inspection--Time-and-Material and Labor-Hour, the Government may require the contractor to replace or

correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in FAR 52.246-6, paragraph h, the cost of replacement or correction shall be determined under FAR 52.232-7, Payments Under Time-and Material and Labor-Hour Contracts, but the hourly rates for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit.

(d) Schedule:

Schedule: Base Year 1, October 16, 2005 – October 15, 2006							
Labor Categories	Exempt Or Non Exempt	FTEs	Estimated Base Year DPLH	Base Rate	Fully Loaded Rate	Estimated Amount	Fully Loaded OT Rate
Key Personnel							
Project Manager	E	1	1,880				
Contract/Integration Mgr	E	1	1,880				
Human Resources Mgr	E	1	1,880				
Non Key Personnel							
Administrative Assistant I	NE	2	3,760				
Administrative Assistant II	NE	18	33,840				
Administrative Support Specialist	NE	16	30,080				
Analyst I	E	5	9,400				
Analyst II	E	6	11,280				
Analyst III	E	2	3,760				
Analyst IV	E	4	7,520				
Database Administrator	E	4	7,520				
General Clerk III	NE	2	3,760				
General Clerk IV	NE	22.5	42,300				
Illustrator I	NE	1	1,880				
Illustrator II	NE	1	1,880				
Photographer (b)	E	1	1,880				
Security Officer	E	3	5,640				
Supervisor	E	3	5,640				
Technical Writer	E	1	1,880				
Total		94.5	177,660			\$5,133,319	
Overtime							
Other Direct Costs							
Travel							
Material/Other							
Relocation							
Ceiling Price						\$5,237,017	
The hourly rates include a profit of ___ percent.							
A fixed Material Handling rate of <u> N/A </u> is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ % is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ % is included in the Travel Cost above (if applicable).							
All Other Direct Costs and overtime must be approved by the Contracting Officer's Representative prior to occurrence. Travel costs will be reimbursed on an actual basis in accordance with Federal Acquisitions and GSA's Federal Travel Regulations.							

Schedule: Base Year 2, October 16, 2006 – October 15, 2007							
Labor Categories	Exempt Or Non Exempt	FTEs	Estimated Base Year DPLH	Base Rate	Fully Loaded Rate	Estimated Amount	Fully Loaded OT Rate
Key Personnel							
Project Manager	E	1	1,880				
Contract/Integration Mgr	E	1	1,880				
Human Resources Mgr	E	1	1,880				
Non Key Personnel							
Administrative Assistant I	NE	2	3,760				
Administrative Assistant II	NE	18	33,840				
Administrative Support Specialist	NE	16	30,080				
Analyst I	E	5	9,400				
Analyst II	E	6	11,280				
Analyst III	E	2	3,760				
Analyst IV	E	4	7,520				
Database Administrator	E	4	7,520				
General Clerk III	NE	2	3,760				
General Clerk IV	NE	22.5	42,300				
Illustrator I	NE	1	1,880				
Illustrator II	NE	1	1,880				
Photographer (b)	E	1	1,880				
Security Officer	E	3	5,640				
Supervisor	E	3	5,640				
Technical Writer	E	1	1,880				
Total		94.5	177,660			\$5,249,948	
Overtime							
Other Direct Costs							
Travel							
Material/Other							
Ceiling Price						\$ 5,349,948	
The hourly rates include a profit of ___ percent.							
A fixed Material Handling rate of <u> N/A </u> is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ % is included in the Material Cost above (if applicable).							
A fixed G&A rate of % ___ is included in the Travel Cost above (if applicable).							
All Other Direct Costs and overtime must be approved by the Contracting Officer's Representative prior to occurrence. Travel costs will be reimbursed on an actual basis in accordance with Federal Acquisitions and GSA's Federal Travel Regulations.							

B.4 ORO B35 Option(s) to Extend the Contract (Time-and-Materials/ Labor-Hour) Alternate III (MAY 1997) (Revised)

- (a) In order to demonstrate the value it places on quality performance, the Department has provided a mechanism for continuing a contractual relationship with a successful contractor that performs at a level which meets or exceeds quality performance expectations as communicated to the contractor, in writing, by the contracting officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the contractor's performance under the contract.
- (b) This contract shall be extended, at the unilateral option of the Government in accordance with FAR 52.217-9 set forth in Section I. Further, the Contractor agrees that the performance under option(s) which are exercised shall be accomplished within the hourly rates and contract ceiling price set forth below.
- (c) The Contractor shall provide personnel in the labor classifications and at the hourly rate set forth below. The quantity of labor hours are estimated amounts and may vary during the period of performance. The hourly rates are fixed for the full period of performance of the contract. The wage rates included in the fully burdened hourly rates are not subject to revision unless required by the Service Contract Act. Any adjustment required by the Service Contract Act will be in accordance with Department of Labor (DOL) Wage Determinations. Any revised DOL Wage Determination will be included in Part III, Section J of this contract. The indirect costs, general and administrative expense, and profit are fixed for the full term of the contract and will not be changed if wage rates are adjusted as a result of the Service Contract Act.

All materials, supplies, and equipment will be furnished by the Government as set forth in Clause H95. In the event, however, that the Contractor is required by the Contracting Officer to acquire such items, reimbursement will be in accordance with FAR 52.232-7. In the event that any travel is required, the Contractor will obtain the approval of the Contracting Officer or any duly authorized representative. Reasonable and allocable material handling costs may be included in the charge for materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR. The material handling cost rate is fixed for the full period of performance of the contract.

- (d) In accordance with FAR 52.246-6 Inspection--Time-and-Materials and Labor-Hour, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in FAR 246-6, paragraph (h), the costs of replacement or correction shall be determined under FAR 52.232-7, Payments Under Time-and-Material and Labor-Hour Contracts, but the hourly rates for labor incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit.
- (e) As may be appropriate, the Government may elect to authorize the use of option hours earlier than the period stated in paragraph (f) of this clause. The contract will then be modified to exercise the

option early. The term of the contract shall be extended to the end of the exercised option period. DPLH not expended during their specified period may be expended during a subsequent period. A contract modification shall be issued unilaterally by the Contracting Officer to reflect the expiration date.

- (f) Nothing in this clause shall be construed to constitute authorization for work not in accordance with the "Obligations of Funds" clause of the contract.

(g) Schedule:

Schedule: Option Year 1, October 16, 2007 – October 17, 2008							
Labor Categories	Exempt Or Non Exempt	FTEs	Estimated Base Year DPLH	Base Rate	Fully Loaded Rate	Estimated Amount	Fully Loaded OT Rate
Key Personnel							
Project Manager	E	1	1880				
Contract/Integration Mgr	E	1	1880				
Human Resources Mgr	E	1	1880				
Non Key Personnel							
Administrative Assistant I	NE	2	3,760				
Administrative Assistant II	NE	18	33,840				
Administrative Support Specialist	NE	16	30,080				
Analyst I	E	5	9,400				
Analyst II	E	6	11,280				
Analyst III	E	2	3,760				
Analyst IV	E	4	7,520				
Database Administrator	E	4	7,520				
General Clerk III	NE	2	3,760				
General Clerk IV	NE	22.5	42,300				
Illustrator I	NE	1	1,880				
Illustrator II	NE	1	1,880				
Photographer (b)	E	1	1,880				
Security Officer	E	3	5,640				
Supervisor	E	3	5,640				
Technical Writer	E	1	1,880				
Total		94.5	177,660			\$5,351,797	
Overtime							
Other Direct Costs							
Travel							
Material/Other							
Ceiling Price							
						\$5,451,797	
The hourly rates include a profit of ___ percent.							
A fixed Material Handling rate of <u> N/A </u> is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ is included in the Travel Cost above (if applicable).							
All Other Direct Costs and overtime must be approved by the Contracting Officer's Representative prior to occurrence. Travel costs will be reimbursed on an actual basis in accordance with Federal Acquisitions and GSA's Federal Travel Regulations.							

Schedule: Option Year 2, October 16, 2008 – October 17, 2009							
Labor Categories	Exempt Or Non Exempt	FTEs	Estimated Base Year DPLH	Base Rate	Fully Loaded Rate	Estimated Amount	Fully Loaded OT Rate
Key Personnel							
Project Manager	E	1	1880				
Contract/Integration Mgr	E	1	1880				
Human Resources Mgr	E	1	1880				
Non Key Personnel							
Administrative Assistant I	NE	2	3,760				
Administrative Assistant II	NE	18	33,840				
Administrative Support Specialist	NE	16	30,080				
Analyst I	E	5	9,400				
Analyst II	E	6	11,280				
Analyst III	E	2	3,760				
Analyst IV	E	4	7,520				
Database Administrator	E	4	7,520				
General Clerk III	NE	2	3,760				
General Clerk IV	NE	22.5	42,300				
Illustrator I	NE	1	1,880				
Illustrator II	NE	1	1,880				
Photographer (b)	E	1	1,880				
Security Officer	E	3	5,640				
Supervisor	E	3	5,640				
Technical Writer	E	1	1,880				
Total		94.5	177,660			\$5,457,124	
Overtime							
Other Direct Costs							
Travel							
Material/Other							
Ceiling Price						\$5,557,124	
The hourly rates include a profit of ___ percent.							
A fixed Material Handling rate of <u> N/A </u> is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ is included in the Material Cost above (if applicable).							
A fixed G&A rate of ___ is included in the Travel Cost above (if applicable).							
All Other Direct Costs and overtime must be approved by the Contracting Officer's Representative prior to occurrence. Travel costs will be reimbursed on an actual basis in accordance with Federal Acquisitions and GSA's Federal Travel Regulations.							

Schedule: Option Year 3, October 16, 2009 – October 17, 2010							
Labor Categories	Exempt Or Non Exempt	FTEs	Estimated Base Year DPLH	Base Rate	Fully Loaded Rate	Estimated Amount	Fully Loaded OT Rate
Key Personnel							
Project Manager	E	1	1880				
Contract/Integration Mgr	E	1	1880				
Human Resources Mgr	E	1	1880				
Non Key Personnel							
Administrative Assistant I	NE	2	3,760				
Administrative Assistant II	NE	18	33,840				
Administrative Support Specialist	NE	16	30,080				
Analyst I	E	5	9,400				
Analyst II	E	6	11,280				
Analyst III	E	2	3,760				
Analyst IV	E	4	7,520				
Database Administrator	E	4	7,520				
General Clerk III	NE	2	3,760				
General Clerk IV	NE	22.5	42,300				
Illustrator I	NE	1	1,880				
Illustrator II	NE	1	1,880				
Photographer (b)	E	1	1,880				
Security Officer	E	3	5,640				
Supervisor	E	3	5,640				
Technical Writer	E	1	1,880				
Total		94.5	177,660			\$5,561,426	
Overtime							
Other Direct Costs							
Travel							
Material/Other							
Ceiling Price						\$5,661,426	
The hourly rates include a profit of _____ percent.							
A fixed Material Handling rate of <u> N/A </u> is included in the Material Cost above (if applicable).							
A fixed G&A rate of _____ is included in the Material Cost above (if applicable).							
A fixed G&A rate of _____ is included in the Travel Cost above (if applicable).							
All Other Direct Costs and overtime must be approved by the Contracting Officer's Representative prior to occurrence. Travel costs will be reimbursed on an actual basis in accordance with Federal Acquisitions and GSA's Federal Travel Regulations.							

B.3 ORO B18 Minimum/Maximum Requirements (MAY 1997)

The Contractor shall provide the services and deliverables subject to the following minimum and maximum requirements:

- (a) The minimum amount of \$500,000 is applicable to this contract.
- (b) The maximum amount of \$35,000,000 is applicable to this contract.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 ORO C01 Performance-Based Performance Work Statement Alternate I (MAY 1997)

1.0 Introduction

The Department of Energy (DOE) Oak Ridge Office (ORO) is acquiring Administrative Support Services for multiple offices within the DOE/ORO complex in Oak Ridge, Tennessee. Support will also be required for any other offices under the purview of ORO including but not limited to the Pacific Northwest Site Office in Richland, Washington and the Jefferson Site Office in Newport News, Virginia.

2.0 Background

The contractor shall perform a variety of administrative services to support the successful accomplishments of the missions of multiple offices. The contractor shall provide the necessary fully-trained, knowledgeable, and skilled personnel to perform the administrative services, and provide an appropriate level of supervision and project management. The Government shall provide the space, utilities (including telephone and telephone service), equipment, and supplies necessary for the contractor to accomplish the work onsite. The work will be defined in performance-based task orders. It is anticipated that five task orders will be established to perform the work identified in this performance work statement. General breakdown for the tasks are as follows:

Task 1 - General Administrative Support - Provide support to multiple offices within the Department of Energy (DOE) Oak Ridge Operations Office (ORO) Federal Building, Oak Ridge National Laboratory Site Office and other off-site facilities. Duties include but not limited to: general administrative support, information preparations, reproduction, graphics, database management, technical editing and writing, professional photographic support, assist with Freedom of Information Act inquiry assistance, support for multiple file rooms, and mail services.

Task 2 - Oak Ridge Financial Service Center (ORFSC) and Planning and Budget Division - The ORFSC is the central payment center for all DOE. A new DOE-side Oracle Federal Financials based standard accounting and reporting system (STARS) was implemented April, 2005. Task 2a - ORFSC Duties include but not limited to: payment processing, performing analytical reviews to ensure data quality, mail and file services, records retirement, answer telephone and assist visitors. Task 2b - CFO and Planning and Budget Division - Duties include but not limited to: mail and file services, records retirement, answer telephones, and assist visitors.

Task 3 - Safeguards and Security/Personnel Clearance - Duties include but not limited to: general clerical and administrative support, mail services, security clearance processing and coordination of foreign national visits.

Task 4 - Environmental Management - Duties include but not limited to: general office administration, answer telephone, assist visitors,

graphics, and reproduction.

Task 5 - DOE/ORO Classification - Duties include but not limited to: operations management, generation of training modules, ORO classification appraisals, and Freedom of Information Act declassification and sanitization.

3.0 Scope of Work

The scope of administrative services includes but is not limited to, the following broad array of activities.

The contractor shall assist in general office support as directed, which may include answering telephones, word processing, transmitting facsimiles, and reproducing copies. The contractor shall assist ORO in collecting, preparing, organizing, maintaining, and reporting information in paper and/or electronic formats. The contractor shall maintain paper and/or electronic files, documents, manuals, etc., and establish and maintain logs or indices as directed by ORO. The contractor shall assist in logistics and arrangement for meetings as required.

The contractor shall provide central reproduction services including operating government-furnished reproduction machines, coordinating duplicating services from receipt to delivery, maintaining adequate supplies, performing minor service to equipment and requesting repairs from the machine maintenance contractor for major or breakdown maintenance. Turnaround times and internal procedures will be specified.

The contractor shall provide mail services for the central facility and other organizational elements as necessary for the efficient flow of written information coming into and leaving ORO facilities. This work includes sorting, scheduled pickup and delivery, processing express mail, implementing security measures for classified and sensitive mailing, operating facsimile equipment and other services necessary for expeditious processing of mail. These services include maintaining correspondence and other document control systems such as logs and suspense files, etc.

The contractor shall provide external messenger services necessary for the efficient flow of written information coming into and leaving ORO facilities. The contractor shall provide services to local DOE facilities as directed by ORO.

The contractor shall provide library services.

The contractor shall control and maintain accountability of classified documents.

The contractor shall provide records management services including records retrieval, retirement and disposal.

The contractor shall record and analytically review data and manage databases.

Provide communications security (COMSEC) and TEMPEST Support.

The contractor shall provide information processing and transcription services, data entry, and graphics including presentation boards, and computer based presentation packages but not computer aided design packages.

The contractor shall provide technical editing and writing.

The contractor shall provide routine support to the mission of emergency management system planning and response to emergency exercises and events.

The contractor shall provide payment processing, document and report analysis, and control services.

The contractor shall provide professional quality photographic support. This will include taking photographs and limited development. Work may be performed in the Oak Ridge area and at remote locations.

The contractor shall provide expert personnel security clearance assistance and guidance to ORO, DOE Headquarters and field offices, and other customers. The contractor shall provide support to DOE in processing requests for security clearances, create and maintain dependable personnel security clearance records and systems, provide personnel security clearance data, tracking and control, and quality assurance.

The contractor shall provide security escorts upon request by ORO. The escorts must be knowledgeable of security requirements and the limitations of access by uncleared persons.

The contractor shall provide support for processing requests for foreign travel by DOE and contractor employees, and for visits and assignments by foreign nationals.

The contractor shall provide other administrative office services as required.

The contractor is prohibited from performing any functions which are determined to be inherently governmental functions or personal services. An appropriate level of supervision will be required by the contractor; DOE will not supervise contractor employees.

4.0 Applicable Documents

The contractor shall fully comply with all applicable regulations, ORO procedures, and DOE directives. Specific documents will be defined in task orders.

5.0 Performance Evaluation

On an annual basis, DOE shall formally evaluate the contractor's performance. The evaluation elements may include quality, cost control, timeliness of performance, business relations, customer/DOE satisfaction, key personnel performance and compliance with safety and security standards.

The contractor is expected to conduct all work in a manner that promotes and improves productivity and minimizes waste. The contractor shall provide recommendations to continually improve the efficiency and cost effectiveness of operations.

SECTION D - PACKAGING AND MARKING

D.1 ORO D01 Packaging (MAY 1997)

- (a) Preservation, packaging, and packing for shipment or mailing of all work delivered hereunder shall be in accordance with good commercial practice and adequate to insure acceptance by common carrier and safe transportation at the most economical rate(s).
- (b) Except for those reports required by the Reporting Requirements Checklist of the contract, which are coded by A (As required) or X (With proposal) where the urgency of receipt of the report by the Government necessitates the use of the most expeditious method of delivery, reports deliverable under this contract shall be mailed by other than first-class mail, unless the urgency of the deliverable sufficiently justifies the use of first-class mail. The Contractor shall not utilize certified or registered mail or private parcel delivery service for the distribution of reports under this contract without the advance approval of the Contracting Officer except for those reports coded A or X.

D.2 ORO D05 Marking (MAY 1997)

- (a) Each package, report or other deliverable shall be accompanied by a letter or other document which:
 - (1) Identifies the contract by number under which the item is being delivered.
 - (2) Identifies the deliverable Item Number or Report Requirement which requires the delivered item(s).
 - (3) Indicates whether the Contractor considers the delivered item to be a partial or full satisfaction of the requirement.
- (b) For any package, report, or other deliverable being delivered to a party other than the Contracting Officer, a copy of the document required in (a) above shall be simultaneously provided to the office administering the contract, as identified in Section G of the contract, or if none, to the Contracting Officer.

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.246-6 Inspection - Time-and-Material and Labor-Hour. (MAY 2001)

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

"Contractor's managerial personnel," means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of -

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operation at any one plant or separate location where the contract is being performed; or
- (3) A separate and complete major industrial operation connected with the performance of this contract.

"Materials," includes data when the contract does not include the Warranty of Data clause.

- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the material, fabricating methods, work, and services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.
- (e) Unless otherwise specified in the contract, the Government shall accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the date of delivery, unless accepted earlier.
- (f) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (h) of this clause, the cost of replacement or correction

shall be determined under the Payments Under Time-and-Materials and Labor-Hour Contracts clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

- (g) (1) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may -

(i) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(ii) Terminate this contract for default.

(2) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute.

- (h) Notwithstanding paragraphs (f) and (g) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to -

(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(2) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

- (i) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.
- (j) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.
- (k) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

E.2 ORO E03 Inspection (MAY 1997)

Inspection of all items under this contract shall be accomplished by the DOE Contracting Officer's Representative (COR), or any other duly authorized Government representative.

E.3 ORO E05 Acceptance (MAY 1997)

Acceptance of all work and effort under this contract (including "Reporting Requirements," if any) shall be accomplished by the Contracting Officer, or any duly designated successors.

SECTION F - DELIVERIES OR PERFORMANCE

F.1 52.242-15 Stop-Work Order. (AUG 1989)

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

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the 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 or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule 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 the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

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

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

F.2 ORO F03 Term Of Contract Alternate II (MAY 1997) (Revised)

The term of the contract is for two year(s). However, at the Government's sole discretion, this contract may be extended for three one year options pursuant to the clauses entitled "Option(s) to Extend the Contract (Time-and-Materials/Labor-Hour) (Alternate III)".

F.3 ORO F05 Principal Place Of Performance (MAY 1997)

The principal places of performance are in normal office environments within the Oak Ridge Office complexes in Oak Ridge, Tennessee. Additional support may be required at Jefferson Site Office in Newport News, Virginia and Pacific Northwest National Laboratory in Richland, Washington.

F.4 ORO F07 Performance Evaluation (MAY 2005)

On an annual basis, DOE shall formally evaluate the contractor's performance. The evaluation elements may include quality, cost control, timeliness of performance, business relations, customer/DOE satisfaction, key personnel performance and compliance with safety and security standards. Acceptable quality levels are defined in the Quality Assurance Surveillance Plan in Section J.

The contractor is expected to conduct all work in a manner that promotes and improves productivity and minimizes waste. The contractor shall provide recommendations to continually improve the efficiency and cost effectiveness of operations.

SECTION G - CONTRACT ADMINISTRATION DATA**G.1 ORO G01 Correspondence Procedures (OCT 2004)**

All correspondence submitted by the Contractor (except for invoices and reports) shall be subject to the following procedures:

- (a) Technical Correspondence. Technical correspondence concerning performance of this contract shall be addressed to the DOE Contracting Officer's Representative (COR), with an information copy of the correspondence to the DOE Contract Specialist.
- (b) Patents/Technical Data/ Intellectual Property Correspondence. Correspondence concerning patent and technical data issues shall be addressed to the Assistant Chief Counsel for Intellectual Property, Office of Chief Counsel, USDOE, Post Office Box 2001, Oak Ridge, TN, 37831-8751, with an informational copy to the Contracting Officer and the COR.
- (c) Non-technical Administrative Correspondence. All correspondence, other than technical correspondence, shall be addressed to the Contracting Officer or Contract Specialist designated in ORO G25, with information copies of the correspondence to the DOE COR.
- (d) Subject Line(s). All correspondence shall contain a subject line commencing with the contract number, as illustrated below:

"SUBJECT: Contract No. (Insert the contract number), (Insert subject topic after contract number, e.g., "Request for subcontract placement consent")".

G.2 ORO G10 Submission Of Vouchers/Invoices (OCT 2004)

- (a) The Contractor shall submit invoices in accordance with the FAR payment clause in Section I of the contract (unless prior written consent from the Contracting Officer for more frequent billing is obtained). The period of performance covered by the invoices should be the same as covered by any required monthly cost management reports.
- (b) The invoice (Standard Form 1034 located at <http://professionals.pr.doe.gov/ma5/MA-5Web.nsf/Procurement/ProcurementForms?OpenDocument>) should include a statement of cost for services rendered. This statement should include, as a minimum, a breakout by cost or price element and task order (if applicable) of all services actually provided by the Contractor, both for the current billing period and cumulatively for the entire contract. The statement of cost must include a certification statement (see Section J, Attachment B) signed by a responsible official of the Contractor. The contractor is required to submit payment invoices and supporting documentation electronically through Vendor Inquiry Payment Electronic Reporting System (VIPERS) which is accessible at <http://finweb.oro.doe.gov/vipers.htm>.

The website provides the vendor the following system capability, required EFT banking form/information, and instructions:

- Logon to VIPERS
- Request Access
- Vendor Banking Data Form
- Registration
- Invoice Status
- Electronic Invoicing

G.3 ORO G20 Contracting Officer's Representative (COR) (MAY 1997)

The Contracting Officer's Representative will be designated by separate letter and will represent the Contracting Officer in the technical phases of the work. A copy of this designation letter shall be furnished to the Contractor. The COR is not authorized to change any of the terms and conditions of this contract. Changes in the Scope of Work will be made only by the Contracting Officer by properly written modification(s) to the contract. Additional Contracting Officer's Representative(s) for other purposes as required may be designated in writing by the Contracting Officer.

G.4 ORO G25 Contract Administration (MAY 1997)

The contract will be administered by:

U.S. Department of Energy
Oak Ridge Office
Procurement and Contracts Division
ATTN: Beverly Schultz
P.O. Box 2001
Oak Ridge, Tennessee 37831

Written communication shall make reference to the contract number and shall be mailed to the Contract Specialist designated via separate correspondence to the above address.

G.5 ORO G30 Contract Technical Monitor (MAY 1997)

The Contract Technical Monitor (CTM) may be designated by separate letter by the COR. The CTM assists the Contracting Officer Representative. The CTM is not authorized to change any of the terms and conditions of the contract. Changes in the Scope of Work will be made only by the Contracting Officer by properly written modification(s) to the contract.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 ORO H01 Consecutive Numbering (MAY 1997)

Due to automated procedures employed in formulating this document, clauses contained within it may not always be consecutively numbered.

H.2 ORO H05 Modification Authority (MAY 1997)

Notwithstanding any of the other clauses of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) Accept nonconforming work,
- (b) Waive any requirement of this contract, or
- (c) Modify any term or condition of this contract.

H.3 ORO H15 Ordering Procedure (MAY 1997) (Revised)

Performance under this contract shall be subject to the following ordering procedure:

- (a) The Contractor shall incur costs under this contract only in accordance with this ordering procedure. No other costs are authorized without the express written consent of the Contracting Officer.
- (b) From time to time during the period of performance of this contract, Performance Based Task Orders will be approved in writing by the Contracting Officer to the Contractor designating (1) the task to be performed; (2) the schedule of performance; (3) authorized travel; (4) not to exceed estimate of cost and DPLH; (5) performance bases elements to be evaluated; and (6) any Government-furnished property. Such Task Orders will specify deliverables and required delivery dates. Deliverables may consist of statements, charts, reports, briefing notes, tabulations, viewgraphs, and other forms of presentation as appropriate. If appropriate, based on 48 CFR 945, property which is Government-furnished or Contractor-acquired will also be listed in the property schedules of this contract as well as in the individual Task Orders.
- (c) Task Orders will be issued on forms specified and provided by the Government. Task Orders will be numbered. A revision to a Task Order will be identified by a numeric designation following the existing Task Order number indicating the revision sequence.
- (d) The Contractor shall submit within ten (10) calendar days, after receipt of each Task Order issued by the Contracting Officer, a one-time Contractor Task Plan. The Task Plan is the Contractor's overall estimate for the completion of the Task Order and shall include the following:
 - (1) Date of commencement of work, and any necessary revision to the schedule of performance.

- (2) Direct Productive Labor-Hours (DPLH), both straight and overtime, (if authorized), on a monthly basis by applicable labor category, and the total DPLH, including those in paragraph (4) below, estimated to complete the task.
- (3) The travel and material estimate.
- (4) An estimate for subcontractors and consultants; including the DPLH, if applicable.
- (5) Estimated computer use time required, if applicable.
- (6) Other pertinent information, indirect costs, consultants, interdivisional transfers, etc.
- (7) The total estimated cost and fixed fee, if applicable, for completion of the Task Order.
- (e) The Contractor's Task Plan is subject to the approval of the Contracting Officer. If the approved Task Plan estimate of DPLH and dollars differ from the Task Order, a revised Task Order incorporating the approved Task Plan estimate of DPLH and dollars will be issued. After a Task Order is issued, if any revision becomes necessary to the estimated cost or level of effort, the Contractor shall promptly submit to the Contracting Officer a revised Task Plan with explanatory notes. Revised Task Plans submitted by the Contractor are subject to the approval of the Contracting Officer and a revised Task Order is required if a Revised Task Plan is approved.
- (f) Costs and DPLH shall be tracked by the Contractor for each task order. The contractor shall notify the Contracting Officer in writing whenever it has reason to believe that either the costs or DPLH it expects to incur under a task order in the next 60 days, when added to all costs or DPLH previously incurred, will exceed 75 percent of the total costs or DPLH designated on the task order.
- (g) Orders shall be issued for completion only within the TERM OF CONTRACT, unless unexercised options to extend the term are available to the Government. In that event, any task period of performance is considered provisional unless the TERM OF CONTRACT is extended.
- (h) This ordering procedure is of a lesser order of precedence than the "Limitation of Cost," "Limitation of Funds," "Completion Dates," "Term of Contract," "Level of Effort" or clauses of the contract. The Contractor is not authorized to incur costs on Task Orders which are not in compliance with any of those clauses of the contract.

H.4 ORO H35 Environment, Health and Safety (Government-Owned or Leased Facilities (JUL 2001) (Revised)

- (a) In performance of the work, the Contractor shall comply with all applicable Federal and State environmental, health, and safety regulations and shall take all reasonable precautions to protect the environment, health, and safety of its employees, DOE

personnel, and members of the public and shall comply with all applicable safety and health regulations and requirements set forth in 29 CFR Part 1910, Occupational Safety and Health Standards for General Industry, and 29 CFR Part 1926, Occupational Safety and Health Standards for Construction Industry. In addition, all workers shall wear eye and head protection that complies with American National Standards Institute (ANSI) Z87.1, Z89.1 and Z89.2 at all times while in designated construction or operational areas. The Contractor shall participate in all emergency response drills and/or exercises.

- (b) The Contractor shall take all necessary and reasonable steps to minimize the impact of its work on DOE functions and employees, and immediately report all job-related injuries and/or illnesses which occur in any DOE facility to the Contracting Officer Representative (COR). Upon request, the Contractor shall provide a copy of occupational safety and health self-assessments and/or inspections of work sites for job hazards for its DOE facilities to the COR. The Contractor shall maintain records required per 29 CFR 1904 Recording and Reporting Occupational Injuries and Illness, submitting injury/illness and man-hour reports as directed by DOE Order 231.1A (available at <http://www.directives.doe.gov/serieslist.html>).
- (c) The Contracting Officer may notify the Contractor, in writing, of any noncompliance with the terms of this clause, plus the corrective action to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action.
- (d) In the event that the Contractor fails to comply with the terms and conditions of this clause, the Contracting Officer may, without prejudice to any other legal or contractual rights, issue a stop work order halting all or any part of the work. Thereafter, a start order for resumption of the work may be issued at the discretion of the Contracting Officer. The Contractor shall not be entitled to an equitable adjustment of the contract amount or extension of the performance schedule on any stop work order issued under this special contract requirement.

H.5 ORO H45 Security Qualifications (SEPT 1999)

Clearance Requirements: All contractor employees shall be "Q", "L" or "BAO" cleared. For employees requiring DOE "Q" or "L" security clearances, the contractor shall not employ anyone who is not a citizen of the United States. (Clearance-Access authorizations are granted by the DOE pursuant to Title 10, Code of Federal Regulations, Part 710.) Security Badges must be worn properly at all times while working at any of the DOE facilities.

Obtaining Clearances: Prior to submitting individuals for clearance, the contractor must screen individuals in accordance with an employee screening plan approved by the DOE Contracting Officer's Representative (COR). The certification by the contractor to the COR of a favorable screening is required prior to employment. The screen shall include verification of identity, citizenship, previous employment and education and the results of credit and law enforcement checks. Clearances will be provided and paid for by DOE. The request for clearance and renewal

of clearances must be justified based on actual job performance requirements.

Maintenance of Clearances: Security Badges will be furnished by DOE. Neither the contractor nor its employees shall ever reassign badges to a different employee. The contractor shall assure that badges are turned in for employees who are no longer working on this contract, for employees who no longer need access for whatever reason, or when a badge expires. The Contractor must also follow checkout procedures as stated in H155, Contractor Employee Checkout.

The contractor, on a case-by-case basis, will provide its own cleared escorts as needed. The COR/CTM will approve contractor personnel for escort privileges and provide escort training.

H.6 ORO H50 Safeguards And Security Awareness Program (MAY 1997)

The contractor shall establish and maintain a Safeguards and Security Awareness Program acceptable to the Department of Energy (DOE) which satisfies the requirements of DOE Order 470.1. A Safeguards Security Awareness Coordinator must be appointed and will be responsible for ensuring all employees, cleared and uncleared, who are assigned to a DOE facility or who are performing work involving access to classified facilities, classified information, or special nuclear materials are informed of their security responsibilities. Any subcontracts in support of this work shall require subcontractors to comply with the contractor's Safeguards and Security Awareness Program.

H.7 ORO H57 Human Resources Considerations (SEPT 1999) (Revised)

The Contractor shall, for purposes of vacations only, credit those employees it hires from the former contractor under Contract No. DE-AM05-00OR22825 with length of service credit for any continuous employment with predecessor support service contractors for this work. The credited prior service, if any, will be applied to the Contractor's vacation plan, not the former contractor's vacation plan. Prior service will not be credited for any other purpose by the Contractor.

The contractor shall provide substantially equivalent pay and benefits in aggregate based on its company policy.

The contractor shall provide the transitioned employees a medical benefits program with no enrollment waiting period or pre-existing conditions exclusion.

The contractor shall obtain DOE approval prior to backfilling vacant positions.

The contractor shall provide quarterly employment data, payroll and residence data, and other information as specified in the Reporting Requirements.

The contractor shall comply with the Service Contract Act. The contractor shall resolve all employee concerns and any other human resource matters arising under the contract.

H.8 ORO H60 Observance Of Legal Holidays (SEPT 1999)

- (a) Government personnel observe the listed days as holidays. The Contractor shall conform to holidays observed by the Government and any other day designated by Federal statutes, Executive Orders, or Presidential proclamation: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.
- (b) The Contractor agrees to continue to provide sufficient personnel to perform critical tasks already in operation or scheduled and shall be guided by the instructions issued by the Contracting Officer.

H.9 ORO H63 Insurance (FEB 2000)

- (a) Except as provided in subparagraph (b) immediately following, the Contractor shall provide and maintain:

TYPE OF INSURANCE	AMOUNT
Worker's compensation	\$100,000
Employer's liability	\$100,000
Comprehensive general liability (bodily injury)	\$500,000 per occurrence
Comprehensive automobile liability (bodily injury)	\$200,000 per person and \$500,000 per occurrence
Comprehensive automobile liability (property damage)	\$20,000 per occurrence

- (b) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to worker's compensation, the Contractor is qualified pursuant to statutory authority.

H.10 ORO H65 Confidentiality Of Information (MAY 1997)

- (a) To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
- (1) Information which, at the time of receipt by the Contractor, is in public domain;
 - (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;

- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this contract, and to supply a copy of such agreement to the Contracting Officer.
- (d) The Contractor agrees that upon request by DOE it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.
- (e) This clause shall flow down to all appropriate subcontracts.

H.11 ORO H70 Key Personnel (DEC 1999) (Revised)

In furtherance of 952.215-70, the key personnel shall be assigned full time to this contract and available to begin working on the effective date of the contract. No substitution of Key Personnel is permitted in the first two years of the contract, absent illness, death, or termination. Notification of substitutions shall not be less than thirty (30) days. Whenever, for any reason, one or more of the following employees is unavailable for assignment for work under the contract, the Contractor shall, with the approval of the Contracting Officer, replace such employee with an employee of substantially equal abilities and qualifications with meritorious consideration of increasing opportunity to fully use the talents and capabilities of a diverse workforce. This clause may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

NAME

TITLE

H.12 ORO H95 Government Property Alternate II (SEPT 1999)

- (a) The Government shall provide space, utilities (including telephones and telephone service), equipment, and supplies necessary for the contractor to accomplish the work set forth in the Performance work statement.
- (b) Ordering supplies shall be through the ORO Stores. The Contracting Officer's Representative (COR) will approve requisitions prior to ordering. Removal of government-furnished property shall be in accordance with an inventory management program approved by the COR. Government-furnished property shall only be used for the accomplishment of work approved under this contract.
- (c) Equipment repair shall be at ORO expense. The source of maintenance shall be recommended by the contractor and approved by the COR.

H.13 ORO H117 Software Made Available For Contractor's Use (SEPT 1999)

- (a) The Government, from time to time, may make certain software acquired under license available to the Contractor for its use in the performance of this contract.
- (b) The Contractor recognizes and acknowledges that such software or data contained therein may be proprietary and confidential to a third party.
- (c) The Contractor agrees that it and its employees will not use, copy, disclose, modify, or reverse engineer such software except as permitted by the license and any other terms and conditions under which the software is made available to the Contractor.
- (d) The Contractor is not authorized to violate any software licensing agreement, or to cause the Government to violate any licensing agreement. If, at any time during the performance of this contract, the Contractor has reason to believe that its utilization of Government furnished software may involve or result in a violation of DOE's licensing agreement, the Contractor shall promptly notify the Contracting Officer, in writing, of the pertinent facts and circumstances. Pending direction from the Contracting Officer, the contractor shall continue to perform to the full extent possible without utilizing the software in question.
- (e) Paragraphs (a) through (d) of this clause shall flow down to all subcontracts.

H.14 ORO H150 Representations, Certifications And Other Statements Of The Offeror (MAY 1997)

The Representations, Certifications, and Other Statements of the Offeror, dated June 22, 2005 for this contract are, by reference, hereby incorporated in and made a part of this contract.

H.15 ORO H155 Contractor Employee Checkout (MAR 2004)

The Contractor must notify the Contracting Officer and the DOE Information Resources Management Division when an employee terminates employment with the company. This notification is required to ensure that all government-issued equipment and property assigned to the departing employee has been recovered and that access to facilities and computer networks has been terminated. Government-issued equipment and property includes, but is not limited to, keys, office equipment, computer equipment (hardware and software), manuals and books, telecommunications equipment, corporate credit cards, calling cards, badges, uniforms, tools, and safety gear. A notification must be completed for each employee terminating.

H.16 ORO H160 DOE Specific Definitions (reference 952.202-1 dated APR 2002)

- (a) Head of Agency means: (i) The Secretary; (ii) Deputy Secretary; (iii) Under Secretaries of the Department of Energy and (iv) the Chairman, Federal Energy Regulatory Commission. (DEAR)
- (b) The term DOE means the Department of Energy, FERC means the Federal Energy Regulatory Commission, and NNSA means the National Nuclear Security Administration.
- (c) The term Senior Procurement Executive means, for DOE:

Department of Energy--Director, Office of Procurement and Assistance Management, DOE;

National Nuclear Security Administration--Administrator for Nuclear Security, NNSA; and

Federal Energy Regulatory Commission--Chairman, FERC.

H.17 ORO H165 Lobbying Restriction (Energy and Water Act 2005)

The contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.18 ORO H167 Notice Regarding the Purchase of American-made Equipment and Products--Sense of Congress (FEB 2004)

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-Made.

H.19 ORO H200 Hours of Operation (MAY 2005)

Activities shall be performed during a normal work week (Monday - Friday) of five eight-hour days per employee with a minimum of one-half hour for lunch. Work shall normally be performed between the hours of 7:00 a.m. and 5:00 p.m. Hours may be specified in task orders. There shall be no break in daily services at locations where more than one employee is assigned. Alternate Work Schedules may be permitted at the

discretion of DOE. Travel may be required as directed in task orders.

If any of the federal facility becomes inaccessible to the contractor and no other local office or facility is available, DOE will pay for administrative leave for the necessary duration for the impacted employees. DOE will notify the contractor project manager to make notification to its employees in a manner that is consistent with its company policies.

H.20 ORO H202 Employee Training (MAY 2005)

Contractor's Responsibility: The contractor shall provide fully qualified and trained personnel from its own resources to support ORO requirements. ORO may provide training assistance at its discretion at no cost to the contractor. All training must be approved by the COR.

Mandatory Training: The contractor shall ensure that all employees attend safety and security training once within 30 days of beginning performance on this contract and at least once annually thereafter. Contractor shall ensure that every employee is instructed to safely and competently perform the work.

H.21 ORO H204 Cleanliness of the Work Area (MAY 2005)

The contractor has responsibility for maintaining the areas under its control in an acceptable and orderly manner, and for disposing of waste in accordance with established Department of Energy procedures. Routine janitorial cleaning will be provided by DOE.

H.22 ORO H206 Standards of Conduct (MAY 2005)

The contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, appearance, and integrity and shall be responsible for taking such disciplinary action with respect to his employees as may be necessary. All persons employed in the performance of this contract shall comply with the regulations and procedures pertaining to access and use of Government buildings, grounds, vehicles, equipment, and other property. Unofficial work or work unrelated to the contract cannot be performed at Government facilities.

H.23 ORO H208 Other Contracts (April 2005)

The Government may undertake or award other contracts for additional work, and the contractor shall fully cooperate with such other contractors and Government employees and carefully fit his own work to such other additional work as may be directed by the Contracting Officer. The contractor shall not commit or permit any act which will interfere with the performance of work by another contractor or by government employees.

H.24 ORO H210 Section 8(a) Direct Award

(a) This contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the Department of Energy. SBA does retain responsibility for 8(a) certification, 8(a)

eligibility determinations and related issues, and providing counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is Nashville, TN.

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the contracting activity shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with SBA prior to processing any novation agreement. The contracting activity may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) to notify the Contracting Officer, simultaneous with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S. C. 637 (a)(21), transfer of ownership or controls shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(2) it will adhere to the requirements of 52.219-14, Limitations on Subcontracting.

SECTION I - CONTRACT CLAUSES

I.1 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.

I.2 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.

I.3 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.

I.4 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.

I.5 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 the kickback. The Contracting Officer may order that 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 subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

I.6 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 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 subsection 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.

I.7 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.

I.8 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.

I.9 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.

I.10 52.204-7 Central Contractor Registration. (OCT 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.

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 the FAR at Subpart 32.11) 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; and

(2) The Government has validated all mandatory data fields and has marked the record "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.

I.11 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 debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

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

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the 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.

I.12 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.

I.13 52.215-8 Order of Precedence - Uniform Contract Format. (OCT 1997)

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

(a) The Schedule (excluding the specifications).

(b) Representations and other instructions.

(c) Contract clauses.

(d) Other documents, exhibits, and attachments.

(e) The specifications.

I.14 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 paragraph (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

(2) 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.

I.15 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.

(d) 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.

I.16 52.215-14 Integrity of Unit Prices. (OCT 1997)

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of cost or pricing data not otherwise required by law or regulation.

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

(c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

I.17 52.215-17 Waiver of Facilities Capital Cost of Money. (OCT 1997)

The Contractor did not include facilities capital cost of money as a proposed cost of this contract. Therefore, it is an unallowable cost under this contract.

I.18 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.

(2) 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.

I.19 52.216-18 Ordering. (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from October 16, 2005 through October 15, 2010.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

I.20 52.216-19 Order Limitations. (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$25,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor -

(1) Any order for a single item in excess of \$3 million;

(2) Any order for a combination of items in excess of \$35 million; or

(3) A series of orders from the same ordering office within 60 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one

requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

I.21 52.216-22 Indefinite Quantity. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government'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 shall not be required to make any deliveries under this contract after October 15, 2010.

I.22 52.217-8 Option to Extend Services. (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 5 days.

I.23 52.217-9 Option to Extend the Term of the Contract. (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years.

I.24 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.

(c) *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.

I.26 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.

I.27 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.

I.28 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.

I.29 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.

I.30 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.

I.31 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 special disabled veterans, the number of veterans of the Vietnam era, and other eligible veterans 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 the total, the number of special disabled veterans, the number of veterans of the Vietnam era, and the number of other eligible veterans; and

(3) The maximum number and the minimum number of employees of the Contractor during the period covered by the report.

(b) The Contractor shall report the above items by completing the Form VETS100, entitled "Federal Contractor Veterans' Employment Report (VETS100 Report)".

(c) The Contractor shall submit VETS100 Reports 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 12month 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 between July 1 and August 31 of the year the report is due; or the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The Contractor shall base the count of veterans reported according to paragraph (a) of this clause on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all special disabled veterans, veterans of the Vietnam era, and other eligible veterans 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-

- (1) The information is voluntarily provided;
- (2) The information will be kept confidential;
- (3) Disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and
- (4) The information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) 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.

I.32 52.222-41 Service Contract Act of 1965, as Amended. (JUL 2005)

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

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

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

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to

contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.*

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

(2)

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

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

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

(iv)

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

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

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

(v) The wage rate and fringe benefits finally determined under this subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties

and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

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

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

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

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees

employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

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

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

(i) *Records.*

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

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

(A) Name and address and social security number;

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

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

(D) Any deductions, rebates, or refunds from the
total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this

clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

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

(p) *Contractor's certification.*

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

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

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

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub.L.92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee

customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision

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- (1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;
- (2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);
- (3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and
- (4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) *Disputes concerning labor standards.* The U.S. Department of Labor has set forth in 29 CFR Parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

I.33 52.222-42 Statement of Equivalent Rates for Federal Hires. (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only:

It is not a Wage Determination

Employee Class	Monetary Wage - Fringe Benefits
[]	[]

(Refer to most recent Service Contract Act Directory of Occupations which contains Federal grade equivalents at www.dol.gov/esa/regs/compliance/whd/web/index.htm.)

I.34 52.222-43 Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts). (MAY 1989)

- (a) This clause applies to both contracts subject to area prevailing

wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, *et seq.*), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price or contract unit price

labor rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

I.35 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.

I.36 52.223-6 Drug-Free Workplace. (MAY 2001)

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

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of *nolo*

contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall - within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration -

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about -

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will -

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

I.37 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 section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(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).

I.38 52.224-1 Privacy Act Notification. (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C. 552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

I.39 52.224-2 Privacy Act. (APR 1984)

(a) The Contractor agrees to -

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies -

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c) (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

I.40 52.225-1 Buy American Act - Supplies. (JUN 2003)

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

"Component" means an article, material, or supply incorporated directly into an end product.

"Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (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 end product.

"Domestic end product" means -

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product 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 as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

"End product" means those articles, materials, and supplies to be acquired under the contract for public use.

"Foreign end product" means an end product other than a domestic end product.

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

(b) The Buy American Act (41 U.S.C. 10a-10d) provides a preference for domestic end products for supplies acquired for use in the United States.

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Act - Certificate."

I.41 52.225-13 Restrictions on Certain Foreign Purchases. (MAR 2005)

(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 <http://www.epls.arnet.gov/News.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.

I.42 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.

I.43 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement. (AUG 1996)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) 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.

I.44 52.227-3 Patent Indemnity. (APR 1984)

(a) The Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of 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 the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work.

(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to

participate in its defense. Further, this indemnity shall not apply to

(1) An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;

(2) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or

(3) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

I.45 52.227-14 Rights in Data-General (JUN 1987) Alternate I, II, III and V (JUN 1987)

(a) Definitions.

(1) Computer data bases, as used in this clause, means a collection of data in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

(2) Computer software, as used in this clause, means (i) computer programs, which are data comprising a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations and (ii) data comprising source code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the computer program to be produced, created, or compiled. The term does not include computer data bases.

(3) 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. For the purposes of this clause, the term does not include data incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

(4) 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.

(5) Limited rights data, as used in this clause, means data, (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and

confidential or privileged. The Government=s rights to use, duplicate, or disclose limited rights data are as set forth in the Limited Rights Notice of subparagraph (g)(2) of this section if included in this clause.

(6) 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. The Government=s right to use, duplicate, or disclose restricted computer software are as set forth in the Restricted Rights Notice of subparagraph (g)(3) of this section if included in this clause.

(7) Technical data, as used in this clause, means recorded data, regardless of form or characteristic, that are of a scientific or technical nature. Technical data does not include computer software, but does include manuals and instructional materials and technical data formatted as a computer data base.

(8) Unlimited rights, as used in this clause, means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner, including by electronic means, and for any purpose whatsoever, 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 contract.

(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

(iv) 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 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.

The Contractor agrees not to assert copyright in computer software first produced in the performance of this contract without prior written permission of the DOE Patent Counsel assisting the contracting activity. When such permission is granted, the Patent Counsel shall specify appropriate terms, conditions, and submission requirements to assure utilization, dissemination, and commercialization of the data. The Contractor, when requested, shall promptly deliver to Patent Counsel a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled.

(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 notice 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 prohibition.

(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 canceled 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-

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(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 of 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) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be withholdable. If delivery of such data is so required, the Contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with such Notice:

Limited Rights Notice (June 1987)

(a) These data are submitted with limited rights under Government Contract No. [__] (and subcontract [__], if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission

of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure: [Agencies may list additional purposes as set forth in 27.404(d)(1) or if none, so state.]

(b) This Notice shall be marked on any reproduction of these data, in whole or in part.

(3) (i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be withholdable. If delivery of such computer software is so required, the Contractor may affix the following "Restricted Rights Notice" to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the Notice:

Restricted Rights Notice (June 1987)

(a) This computer software is submitted with restricted rights under Government Contract No. [] (and subcontract [], if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this Notice or as otherwise expressly stated in the contract.

(b) This computer software may be-

(1) Used or copied for use in or with the computer or computers for which it was acquired, including use at any Government installation to which such computer or computers may be transferred;

(2) Used or copied for use in a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software are made subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors in accordance with paragraphs (b)(1) through (4) of this clause, provided the Government makes such disclosure or reproduction subject to these restricted rights; and

(6) Used or copied for use in or transferred to a replacement computer.

(c) Notwithstanding the foregoing, if this computer software is

published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

Restricted Rights Notice Short Form (June 1987)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. [] (and subcontract, if appropriate) with [] (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of 17 U.S.C. 401, it will be presumed to be published copyrighted computer software licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause, unless the Contractor includes the following statement with such copyright notice: "Unpublished-rights reserved under the Copyright Laws of the United States."

(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.

(i) 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.

(j) The Contractor agrees, except as may be otherwise specified in this contract for specific data items listed as not subject to this paragraph, that the Contracting Officer or an authorized representative may, up to three years after acceptance of all items to be delivered under this contract, inspect at the Contractor's facility any data withheld pursuant to paragraph (g)(1) of this clause, for purposes of verifying the Contractor's assertion pertaining to the limited rights or restricted rights status of the data or for evaluating work performance. Where the Contractor whose data are to be inspected demonstrates to the Contracting Officer that there would be a possible

conflict of interest if the inspection were made by a particular representative, the Contractor shall designate an alternate inspector.

I.46 952.227-82 Rights to proposal data. (APR 1994)

Except for technical data contained on pages 1-30 of the contractor's proposal dated June 22, 2005 which are asserted by the contractor as being proprietary data, it is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

I.47 52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts. (AUG 2005)

The Government will pay the Contractor as follows upon the submission of invoices or vouchers approved by the Contracting Officer:

(a) *Hourly rate.*

(1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expense, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer), to the Contracting Officer or designee. The Contractor shall substantiate vouchers by evidence of actual payment and by individual daily job timecards, or other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the Government shall, except as otherwise provided in this contract, and subject to the terms of (e) of this section, pay the voucher as approved by the Contracting Officer.

(2) Unless otherwise prescribed in the Schedule, the Contracting Officer may unilaterally issue a contract modification requiring the Contractor to withhold amounts from its billings until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interests. The Contracting Officer may require a withhold of 5 percent of the amounts due under paragraph (a), but the total amount withheld for the contract shall not exceed \$50,000. The amounts withheld shall be retained until the Contractor executes and delivers the release required by paragraph (f) of this clause.

(3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If no overtime rates are provided in the Schedule and overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the

overtime is approved by the Contracting Officer.

(b) *Materials and subcontracts.*

(1) The Contracting Officer will determine allowable costs of direct materials in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract. Direct materials, as used in this clause, are those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product.

(2) The Contractor may include reasonable and allocable material handling costs in the charge for material to the extent they are clearly excluded from the hourly rate. Material handling costs are comprised of indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR.

(3) The Government will reimburse the Contractor for supplies and services purchased directly for the contract when the Contractor-

(i) Has made payments of cash, checks, or other forms of payment for these purchased supplies or services; or

(ii) Will make these payments determined due-

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

(B) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government.

(4) (i) The Government will reimburse the Contractor for costs of subcontracts that are authorized under the subcontracts clause of this contract, provided that the costs are consistent with paragraph (b)(5) of this clause.

(ii) The Government will limit reimbursable costs in connection with subcontracts to the amounts paid for supplies and services purchased directly for the contract when the Contractor has made or will make payments determined due of cash, checks, or other forms of payment to the subcontractor-

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

(B) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government.

(iii) The Government will not reimburse the Contractor for any costs arising from the letting, administration, or supervision of performance of the subcontract, if the costs are included in the hourly rates payable under paragraph (a)(1) of this clause.

(5) To the extent able, the Contractor shall--

(i) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(ii) Take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. The Contractor shall give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The Contractor shall not deduct from gross costs the benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government.

(c) *Total cost.* It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during performing this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performing this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(d) *Ceiling price.* The Government shall not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that the ceiling price has been increased and shall have specified in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(e) *Audit.* At any time before final payment under this contract the Contracting Officer may request audit of the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of (f) and (g) of this section), the Government shall promptly pay any balance due the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) *Assignment.* The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) *Refunds.* The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and

substance satisfactory to the Contracting Officer.

(h) *Interim payments.*

(1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the 30th day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

I.48 52.232-17 Interest. (JUN 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.

(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.

I.49 52.232-22 Limitation of Funds. (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to this contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause -

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of -

(i) The amount then allotted to the contract by the Government or;

(ii) If this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Government or, (2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of -

(1) The amount previously allotted by the Government or;

(2) If this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Government does not allot sufficient funds to allow

completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated by this contract.

I.50 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.

I.51 52.232-25 Prompt payment. (OCT 2003)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Due date. (i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of

receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the

contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-- Central Contractor Registration, or 52.232-34,

Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (e.g., evidence of shipment).

(4) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) Computing penalty amount. The Government will compute the interest penalty in accordance with 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, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or

other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand,

provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payment. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) Overpayments. If the Contractor becomes aware of a duplicate 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.

I.52 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.

I.53 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 Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly

authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that 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 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.

I.54 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.

I.55 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.

I.56 52.237-2 Protection of Government Buildings, Equipment, and Vegetation. (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

I.57 52.237-3 Continuity of Services. (JAN 1991)

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption and that, upon contract expiration, a successor, either the Government or another contractor, may continue them. The Contractor agrees to -

(1) Furnish phase-in training; and

(2) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (*i.e.*, costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.58 52.239-1 Privacy or Security Safeguards. (AUG 1996)

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to

the attention of the other party.

I.58 52.242-3 Penalties for Unallowable Costs. (MAY 2001)

(a) *Definition.* "Proposal," as used in this clause, means either -

(1) A final indirect cost rate proposal submitted by the Contractor after the expiration of its fiscal year which -

(i) Relates to any payment made on the basis of billing rates; or

(ii) Will be used in negotiating the final contract price; or

(2) The final statement of costs incurred and estimated to be incurred under the Incentive Price Revision clause (if applicable), which is used to establish the final contract price.

(b) Contractors which include unallowable indirect costs in a proposal may be subject to penalties. The penalties are prescribed in 10 U.S.C. 2324 or 41 U.S.C. 256, as applicable, which is implemented in Section 42.709 of the Federal Acquisition Regulation (FAR).

(c) The Contractor shall not include in any proposal any cost that is unallowable, as defined in Subpart 2.1 of the FAR, or an executive agency supplement to the FAR.

(d) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal is expressly unallowable under a cost principle in the FAR, or an executive agency supplement to the FAR, that defines the allowability of specific selected costs, the Contractor shall be assessed a penalty equal to -

(1) The amount of the disallowed cost allocated to this contract; plus

(2) Simple interest, to be computed -

(i) On the amount the Contractor was paid (whether as a progress or billing payment) in excess of the amount to which the Contractor was entitled; and

(ii) Using the applicable rate effective for each six-month interval prescribed by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97).

(e) If the Contracting Officer determines that a cost submitted by the Contractor in its proposal includes a cost previously determined to be unallowable for that Contractor, then the Contractor will be assessed a penalty in an amount equal to two times the amount of the disallowed cost allocated to this contract.

(f) Determinations under paragraphs (d) and (e) of this clause are final decisions within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601, *et seq.*).

(g) Pursuant to the criteria in FAR 42.709-5, the Contracting Officer may waive the penalties in paragraph (d) or (e) of this clause.

(h) Payment by the Contractor of any penalty assessed under this clause does not constitute repayment to the Government of any unallowable cost which has been paid by the Government to the Contractor.

I.59 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.

I.60 52.243-3 Changes - Time-and-Materials or Labor-Hours. (SEP 2000)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Description of services to be performed.
- (2) Time of performance (*i.e.*, hours of the day, days of the week, etc.).
- (3) Place of performance of the services.
- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
- (5) Method of shipment or packing of supplies.
- (6) Place of delivery.
- (7) Amount of Government-furnished property.

(b) If any change causes an increase or decrease in any hourly rate, the ceiling price, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Contracting Officer will make an equitable adjustment in any one or more of the following and will modify the contract accordingly:

- (1) Ceiling price.
- (2) Hourly rates.

(3) Delivery schedule.

(4) Other affected terms.

(c) The Contractor shall assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) Failure to agree to any adjustment will be a dispute under the Disputes clause. However, nothing in this clause excuses the Contractor from proceeding with the contract as changed.

I.61 52.244-2 Subcontracts. (AUG 1998)

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

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that -

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds -

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space

Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: []

(f)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

- (i) A description of the supplies or services to be subcontracted.
- (ii) Identification of the type of subcontract to be used.
- (iii) Identification of the proposed subcontractor.
- (iv) The proposed subcontract price.
- (v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
- (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.
- (vii) A negotiation memorandum reflecting -
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
 - (G) A complete explanation of the incentive fee or

profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.

(g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination -

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: []

I.62 52.244-6 Subcontracts for Commercial Items. (DEC 2004)

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

"Commercial item" has the meaning contained in Federal Acquisition 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 following clauses shall be flowed down to 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, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998) (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.

I.63 52.245-1 Property Records. (APR 1984)

The Government shall maintain the Government's official property records in connection with Government property under this contract. The Government Property clause is hereby modified by deleting the requirement for the Contractor to maintain such records.

I.64 52.245-5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts). (MAY 2004) (as modified by 952.245-5)

(a) *Government-furnished property.*

(1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of -

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operation at any one plant, or separate location at which the contract is being performed; or

(iii) A separate and complete major industrial operation connected with performing this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

(3) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

(4) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

(5) If Government-furnished property is not delivered to the Contractor by the required time or times, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) *Changes in Government-furnished property.* (1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract or (ii) substitute other Government-furnished property for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make such property available for performing this contract and there is any -

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use property, if provided under any other contract or lease.

(c) *Title.* (1) The Government shall retain title to all Government-furnished property.

(2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(3) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon -

(i) Issuance of the property for use in contract performance;

(ii) Commencement of processing of the property for use in contract performance; or

(iii) Reimbursement of the cost of the property by the Government, whichever occurs first.

(4) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(d) *Use of Government property.* The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) *Property administration.* (1) The Contractor shall be responsible and accountable for all Government property provided under the contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5 and DOE Acquisition Regulation Subpart 945.5, as in effect on the date of this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5 and DOE Acquisition Regulation Subpart 945.5, as in effect on the date of this contract.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required,

the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(f) *Access.* The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) *Limited risk of loss.* (1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage) -

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3)(i) If the Contractor fails to act as provided by subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage

to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage -

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

(5) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of -

(i) The lost, destroyed, or damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

(6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss

to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.

(7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

(8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

(9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

(h) *Equitable adjustment.* When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for -

- (1) Any delay in delivery of Government-furnished property;
- (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of Government-furnished property; or
- (4) Failure to repair or replace Government property for which

the Government is responsible.

(i) Government property disposal. Except as provided in paragraphs (i)(1)(i), (i)(2), and (i)(8)(i) of this clause, the Contractor shall not dispose of Government property until authorized to do so by the Plant Clearance Officer.

(1) Scrap. (i) Contractor with an approved scrap procedure.

(A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing, the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that--

- (1) Requires demilitarization;
- (2) Is a classified item;
- (3) Is generated from classified items;
- (4) Contains hazardous materials or hazardous wastes;
- (5) Contains precious metals; or
- (6) Is dangerous to the public health, safety, or welfare.

(ii) Contractor without an approved scrap procedure. The Contractor shall submit an inventory disposal schedule for all scrap.

(2) Pre-disposal requirements. When the Contractor determines that a property item acquired or produced by the Contractor, to which the Government has obtained title under paragraph (c) of this clause, is no longer needed for performance of this contract, the Contractor, in the following order of priority:

(i) May purchase the property at the acquisition cost.

(ii) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(iii) Shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not purchased under paragraph

(i)(2)(i) of this clause, could not be returned to a supplier, or could not be used in the performance of other Government contracts.

(3) Inventory disposal schedules. (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify--

(A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of that contract; and

(B) Property acquired or produced by the Contractor, to which the Government has obtained title under paragraph (c) of this clause, that is no longer required for performance of that contract.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for--

(A) Special test equipment with commercial components;

(B) Special test equipment that does not contain commercial components;

(C) Printing equipment;

(D) Computers, components thereof, peripheral equipment, and related equipment;

(E) Precious Metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) Property with the same description, condition code, and reporting location may be grouped in a single line item. The Contractor shall describe special test equipment in sufficient detail to permit an understanding of the special test equipment's intended use.

(4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than--

(i) Thirty days following the Contractor's determination that a Government property item is no longer required for

performance of the contract;

(ii) Sixty days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) One hundred twenty days, or such longer period as may be approved by the Plant Clearance Officer, following contract termination in whole or in part.

(5) Corrections. The Plant Clearance Officer may require the Contractor to correct an inventory disposal schedule or may reject a schedule if the property identified on the schedule is not accountable under this contract or is not in the quantity or condition indicated.

(6) Postsubmission adjustments. The Contractor shall provide the Plant Clearance Officer at least 10 working days advance written notice of its intent to remove a property item from an approved inventory disposal schedule. Unless the Plant Clearance Officer objects to the intended schedule adjustment within the notice period, the Contractor may make the adjustment upon expiration of the notice period.

(7) Storage. (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to provide disposal instructions within 120 days following acceptance of an inventory disposal schedule, might entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises at which the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility must be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability under this contract for such property.

(8) Disposition instructions. (i) If the Government does not provide disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Government property as directed by the Plant Clearance Officer. The Contractor shall remove and destroy any markings identifying the property as Government property prior to disposing of the property.

(iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. Any equitable adjustment incident to the Contracting Officer's direction to demilitarize Government property shall be made in accordance with paragraph (h) of this clause.

(9) Disposal proceeds. The Contractor shall credit the net proceeds from the disposal of Government property to the cost of work covered by this contract, or to the Government as directed by the Contracting Officer.

(10) Subcontractor inventory disposal schedules. The Contractor shall require a subcontractor that is using property accountable under this contract at a subcontractor-managed site to submit inventory disposal schedules to the Contractor in sufficient time for the Contractor to comply with the requirements of paragraph (i)(4) of this clause.

(j) Abandonment of Government property. (1) The Government will not abandon sensitive Government property without the Contractor's written consent;

(2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place at which time all obligations of the Government regarding such abandoned property shall cease.

(3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) *Communications*. All communications under this clause shall be in writing.

(l) *Overseas contracts*. If this contract is to be performed outside the United States and its outlying areas the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

I.65 52.245-19 Government Property Furnished "As Is." (APR 1984)

(a) The Government makes no warranty whatsoever with respect to Government property furnished "as is," except that the property is in the same condition when placed at the f.o.b. point specified in the solicitation as when inspected by the Contractor pursuant to the solicitation or, if not inspected by the Contractor, as when last available for inspection under the solicitation.

(b) The Contractor may repair any property made available on an "as is" basis. Such repair will be at the Contractor's expense except as otherwise provided in this clause. Such property may be modified at the Contractor's expense, but only with the written permission of the

Contracting Officer. Any repair or modification of property furnished "as is" shall not affect the title of the Government.

(c) If there is any change in the condition of Government property furnished "as is" from the time inspected or last available for inspection under the solicitation to the time placed on board at the location specified in the solicitation, and such change will adversely affect the Contractor, the Contractor shall, upon receipt of the property, notify the Contracting Officer detailing the facts and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property or (2) effect repairs to return the property to its condition when inspected under the solicitation or, if not inspected, last available for inspection under the solicitation. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall equitably adjust any contractual provisions affected by the return, disposition, or repair in accordance with the procedures provided for in the Changes clause of this contract. The foregoing provisions for adjustment are the exclusive remedy available to the Contractor, and the Government shall not be otherwise liable for any delivery of Government property furnished "as is" in a condition other than that in which it was originally offered.

(d) Except as otherwise provided in this clause, Government property furnished "as is" shall be governed by the Government Property clause of this contract.

I.66 52.246-25 Limitation of Liability - Services. (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that -

(1) Occurs after Government acceptance of services performed under this contract; and

(2) Results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of -

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

I.67 52.248-1 Value Engineering. (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 net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) *Definitions.*

"Acquisition savings," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include -

(1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;

(2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and

(3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contracting office" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically

in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Future unit cost reduction," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either -

(1) Throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated; or

(2) To the calculation of a lump-sum payment, which cannot later be revised.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"Instant contract," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

"Instant unit cost reduction" means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

"Negative instant contract savings" means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

"Net acquisition savings" means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

"Sharing base," as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

"Sharing period," as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each

VECP.

"Unit," as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

"Value engineering change proposal (VECP)" means a proposal that -

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; *provided*, that it does not involve a change -
 - (i) In deliverable end item quantities only;
 - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
 - (iii) To the contract type only.

(c) *VECP preparation.* As a minimum, the Contractor shall include in each VECP the information described in paragraphs (c)(1) through (8) of this clause. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
- (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
- (3) Identification of the unit to which the VECP applies.
- (4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.
- (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
- (6) A prediction of any effects the proposed change would have on collateral costs to the agency.

(7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) *Submission.* The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

(e) *Government action.* (1) The Contracting Officer 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 will not be liable for any delay in acting upon a VECP.

(2) 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.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) *Sharing rates.* If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon -

(1) This contract's type (fixed-price, incentive, or cost-reimbursement);

(2) The sharing arrangement specified in paragraph (a) of this clause (incentive, program requirement, or a combination as delineated in the Schedule); and

(3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS (Figure in Percent)				
CONTRACT TYPE	INCENTIVE (VOLUNTARY)		PROGRAM REQUIREMENT (MANDATORY)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed price- award-fee; excludes other fixed-price incentive contracts)	*50	*50	25	25
Incentive (fixed-price or cost) (other than award fee)	(**)	*50	(**)	25
Cost- reimbursement (includes cost-plus- award-fee; excludes other cost-type incentive contracts)	***25	***25	15	15
<p>*The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.</p> <p>**Same sharing arrangement as the contract's profit or fee adjustment formula.</p> <p>***The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.</p>				

(g) *Calculating net acquisition savings.* (1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below). Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) of this clause). Additional Contractor shares

of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) *Contract adjustment.* The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall -

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts - add to contract price.

(ii) Cost-reimbursement contracts - add to contract fee.

(i) *Concurrent and future contract savings.* (1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by -

(i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and

(ii) Multiplying the result by the Contractor's sharing rate.

(3) The Contracting Officer shall calculate the Contractor's share of future contract savings by -

(i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;

(ii) Subtracting any Government costs or negative instant contract savings not yet offset; and

(iii) Multiplying the result by the Contractor's sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see paragraph (h)(3) of this clause) and shall not be subject to subsequent adjustment.

(5) *Alternate no-cost settlement method.* When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, 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, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(k) *Relationship to other incentives.* Only those benefits of an accepted VECP not rewardable under performance, design-to-cost

(production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) *Subcontracts.* The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments, *provided*, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(m) *Data.* The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

These data, furnished under the Value Engineering clause of contract DE-AC05-05OR23190, 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.)

I.68 52.249-6 Termination (Cost-Reimbursement). (MAY 2004) - Alternate IV (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if -

(1) The Contracting Officer determines that a termination is in the Government's interest; or

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the Contractor was not in default or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract; approval or ratification will be final for purposes of this clause.
- (6) Transfer title (if not already transferred) and, as directed by the Contracting Officer, deliver to the Government -
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated;
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and
 - (iii) The jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for this contract, the cost of which the Contractor has been or will be reimbursed under this contract.
- (7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (c)(6) of this clause; *provided, however,* that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(d) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(e) After expiration of the plant clearance period as defined in Subpart 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 the items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(f) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(g) Subject to paragraph (f) of this clause, the Contractor and the Contracting Officer may agree on the whole or any part of the amount to be paid (including an allowance for fee) because of the termination. The contract shall be amended, and the Contractor paid the agreed amount.

(h) If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount to be paid because of the termination of work, the Contracting Officer shall determine, on the basis of information available, the amount, if any, due the Contractor and shall pay the amount determined as follows:

(1) If the termination is for the convenience of the Government, include -

(i) An amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the Schedule, less any hourly rate payments already made to the Contractor;

(ii) An amount (computed under the provisions for payment of materials) for material expenses incurred before the effective date of termination, not previously paid to the Contractor;

(iii) An amount for labor and material expenses computed as if the expenses were incurred before the effective date of termination, if they are reasonably incurred after the effective date, with the approval of or as directed by the Contracting Officer; however, the Contractor shall discontinue these expenses as rapidly as practicable;

(iv) If not included in subdivision (h)(1)(i), (ii), or (iii) of this clause, the cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract; and

(v) The reasonable costs of settlement of the work terminated, including -

(A) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(B) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(C) Storage, transportation, and other costs incurred, reasonably necessary for the protection or disposition of the termination inventory.

(2) If the termination is for default of the Contractor, include the amounts computed under subparagraph (h)(1) of this clause but omit -

(i) Any amount for preparation of the Contractor's termination settlement proposal; and

(ii) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(i) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (f), (h), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (f), (h) or (l) of this clause, the Government shall pay the Contractor -

(1) The amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted -

(1) All unliquidated advance or other payments to the Contractor, under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file with the Contracting Officer a proposal for an equitable adjustment of price(s) for 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) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

I.69 52.249-14 Excusable Delays. (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless -

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

I.70 52.251-1 Government Supply Sources. (APR 1984)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. Such property shall not be considered to be "Government-furnished property," as distinguished from "Government property." The provisions of the clause entitled "Government Property," except its paragraphs (a) and (b), shall apply to all property acquired under such authorization.

I.71 52.252-2 Clauses Incorporated by Reference. (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): [<http://www.arnet.gov/far/>]

I.73 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.

(c) 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.

I.74 952.203-70 Whistleblower Protection for Contractor Employees. (DEC 2000)

(a) The contractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

I.75 952.204-2 Security. (MAY 2002)

(a) Responsibility. It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information and protecting against sabotage, espionage, loss or theft of the classified documents and material in the contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the contractor or any person under the contractor's control in connection with performance of this contract. If retention by the contractor of any classified matter is required after the completion or termination

of the contract, the contractor shall identify the items and types or categories of matter proposed for retention, the reasons for the retention of the matter, and the proposed period of retention. If the retention is approved by the contracting officer, the security provisions of the contract shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) Regulations. The contractor agrees to comply with all security regulations and requirements of DOE in effect on the date of award.

(c) Definition of classified information. The term "classified information" means Restricted Data, Formerly Restricted Data, or National Security Information.

(d) Definition of restricted data. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

(e) Definition of formerly restricted data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.

(f) Definition of National Security Information. The term "National Security Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.

(g) Definition of Special Nuclear Material (SNM). SNM means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) Security clearance of personnel. The contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the contractor or any person under the contractor's control in connection with work under this contract, may subject the contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United

States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and E.O. 12356.)

(j) Foreign Ownership, Control or Influence.

(1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Certificate Pertaining to Foreign Interests, Standard Form 328 or the Foreign Ownership, Control or Influence questionnaire executed by the Contractor prior to the award of this contract. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to safeguard any classified information or special nuclear material.

(4) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under this contract that will require subcontractor employees to possess access authorizations. Additionally, the Contractor must require subcontractors to have an existing DOD or DOE Facility Clearance or submit a completed Certificate Pertaining to Foreign Interests, Standard Form 328, required in DEAR 952.204-73 prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean Subcontractor and the term "contract" shall mean subcontract.

(5) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a FOCI situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to FOCI and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

I.76 952.204-70 Classification/Declassification. (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, "information" means facts, data, or knowledge itself; "document" means the physical medium on or in which information is recorded; and "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1954, as amended) and "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

I.77 952.215-70 Key Personnel (DEC 2000)

(a) The personnel listed below or elsewhere in this contract [ORO H70 Key Personnel], if applicable are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) Notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

(b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

I.78 952.223-75 Preservation of individual occupational radiation exposure records. (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under this contract shall be subject to inspection by DOE and shall be preserved by the contractor until disposal is authorized by DOE or at the option of the contractor delivered to DOE upon completion or termination of the contract. If the contractor exercises the foregoing option, title to such records shall vest in DOE upon delivery.

I.79 952.224-70 Paperwork Reduction Act. (APR 1984)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answer to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is to be used for statistical compilations of general public interest, the Paperwork Reduction Act will apply to this contract. No plan, questionnaire, interview guide, or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB).

(b) The contractor shall request the required OMB clearance from the contracting officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and to proceed with the collection of data shall be in writing by the contracting officer. The contractor must plan at least 90 days for OMB clearance. Excessive delay caused by the Government which arises out of causes beyond the control and without the fault or negligence of the contractor will be considered in accordance with the clause entitled "Excusable Delays," if such clause is applicable. If not, the period of performance may be extended pursuant to this clause if approved by the contracting officer.

I.80 952.226-74 Displaced Employee Hiring Preference. (JUN 1997)**(a) Definition.**

Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.

(b) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.

(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed \$500,000.

I.81 952.242-70 Technical Direction. (DEC 2000)

(a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:

(1) Providing direction to the contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Performance work statement.

(2) Providing written information to the contractor that assists in interpreting drawings, specifications, or technical portions of the work description.

(3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the contractor to the Government.

(b) The contractor will receive a copy of the written COR designation from the contracting officer. It will specify the extent of the COR's authority to act on behalf of the contracting officer.

(c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that:

(1) Constitutes an assignment of additional work outside the Performance work statement;

(2) Constitutes a change as defined in the contract clause entitled "Changes;"

(3) In any manner causes an increase or decrease in the total estimated contract cost, the fee (if any), or the time required for contract performance;

(4) Changes any of the expressed terms, conditions or specifications of the contract; or

(5) Interferes with the contractor's right to perform the terms and conditions of the contract.

(d) All technical direction shall be issued in writing by the COR.

(e) The contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the contractor, the Contracting Officer must:

(1) Advise the contractor in writing within thirty (30) days after receipt of the contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;

(2) Advise the contractor in writing within a reasonable time that the Government will issue a written change order; or

(3) Advise the contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR. *81009

(f) A failure of the contractor and Contracting Officer either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."

I.82 952.251-70 Contractor employee travel discounts. (DEC 2000)

(a) The contractor shall take advantage of travel discounts offered to Federal contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the contractor employee to furnish them a letter of identification signed by the authorized contracting officer.

(b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.

(c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.

(d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.

(e) Car rentals. The Military Traffic Management Command (MTMC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.

(f) Obtaining travel discounts.

(1) To determine which vendors offer discounts to Government contractors, the contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The contractor may also obtain this information from GSA contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.

(2) The vendor providing the service may require the Government contractor to furnish a letter signed by the contracting officer. The following illustrates a standard letter of identification.

OFFICIAL AGENCY LETTERHEAD

TO: Participating Vendor

SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR

{FULL NAME OF TRAVELER}, the bearer of this letter is an employee of {COMPANY NAME} which has a contract with this agency under Government contract {CONTRACT NUMBER}. During the period of the contract {GIVE DATES}, AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

SIGNATURE, Title and telephone number of Contracting Officer

I.83 970.5223-4 Workplace Substance Abuse Programs at DOE Sites. (DEC 2000)

(a) Program Implementation. The contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to the Government, the contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts. (1) The contractor agrees to notify the contracting officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the contractor believes may be subject to the requirements of 10 CFR part 707.

(2) The DOE prime contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE prime contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

SECTION J - LIST OF ATTACHMENTS

J.1 ORO J01 List Of Documents, Exhibits, And Other Attachments (MAY 1997)

Attachment	Description
A	Reporting Requirements
B	Billing Instructions, Summary Statement and Funding, Voucher/Invoices Supporting Statement of Cost and Price, Labor Cost Management and Accrual Report
C	Wage Determinations for Oak Ridge, TN; Newport News, VA; and Richland, WA
D	Quality Assurance Surveillance Plan

J.2 ORO J10 Report Distribution Addressee List (MAY 1997)

The mailing address for distribution of A, B, C, D, and E is as follows:

U. S. Department of Energy
Oak Ridge Office
P. O. Box 2001
Oak Ridge, Tennessee

Office Identifier	Addressee
A	Information Resource Management Division TBD, Contracting Officer Representative, AD-41
B	Information Resource Management Division TBD, Alternate Contracting Officer Representative, AD-41
C	Procurement and Contracts Division TBD, Contract Specialist, AD-42
D	TBD, Contractor Human Resource Group, AD-44
E	Jenise Mullins, SE-32 Safety and Occupational Health Manager e-mail: mullinsjg@oro.doe.gov
F	Energy Finance & Accounting Service Center (EFASC) e-mail: costing@hq.doe.gov and Tammy.Ware@hq.doe.gov

Reporting Requirements

<u>Reporting Requirements</u> (See ORO J10)	<u>Frequency</u>	<u>Distribution</u> (one copy each)
I. Vouchers/Invoices (SF 1034) Summary Statement of Cost and Funding Supporting Statement of Cost and Price	Monthly	through VIPERS (see ORO G10)
II Labor/Cost Management and Accrual Report (See Section J, Attachment B)	Monthly	A/B/C/F/CTMs
III. Management Plan including Task Order Labor Plans Task Order Cost Plans (See ORO H15) Workplace Substance Abuse Program (See 970.5223-4) Quality Control Plan Confidentiality Certifications Agreement (See ORO H65) Equal Employment Opportunity Report (EEO-1) (See 52-222-26)	60 days after award and yearly updates by March 31	A/B/C/D
IV. Corrective Action Items Status Report	Monthly	A/B/C
V. Other reports		
Individual Accident/Illness Report (DOE F 5484.3)	Monthly	A/B/C/E
Employee Clearance Screening Plan (See ORO H45)	Once upon award	A/B/C
Headcount Data Report by EEO-1	Quarterly	A/B/C/D
Quarterly Employment Report (See ORO H57)	10 days after each calendar quarter	A/B/C/D
Payroll and Residence Report (See ORO H57)	Annual by January 15	A/B/C/D
Tabulation of Work-Hours, Vehicle Usage and Property Valuation	Quarterly	A/B/C/E
Other task reports	As required	A/B/C/CTMs

BILLING INSTRUCTIONS
LABOR/COST MANAGEMENT AND ACCRUAL REPORTING

- (a) The voucher/invoice (Standard Form 1034) should include summary and supporting statements of cost, funding, and price for services rendered. These statements should include a breakout by task order number, Program Number (budget and reporting (B&R) code), Project (cost center Number code), and local project (activity data sheet - ADS) number, if applicable, of all services actually provided by the Contractor. The statements should also reflect amounts for the current billing period and cumulatively for the entire contract period to date. The statements of cost, funding, and price must include a certification statement signed by a responsible official of the Contractor.
- (b) The Contractor shall submit the Standard Form 1034 summary statement of cost and funding and voucher/invoice supporting statements of cost and price as prescribed by the reporting requirements.
- (c) Preparation of Standard Form 1034 PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL
 - (1) Enter:
U. S. Department of Energy
Oak Ridge Office
Oak Ridge Financial Service Center
P. O. Box 6017
Oak Ridge, Tennessee 37831
 - (2) Enter a consecutive Contractor voucher/invoice number beginning with "1".
 - (3) Enter the date the Contractor prepared the voucher/invoice.
 - (4) Enter contract number DE-AC05-06OR23190 and contract award date.
 - (5) Enter the Contractor's name and mailing address where payment is to be sent and name and telephone number of an appropriate contractor payments contact.
 - (6) If a task order contract reference the Summary Statement of Cost and Funding and Supporting Statements of Cost and Price in (e) and (f) below.
 - (7) Identify the billing period. For example, "Covers the Period September 1, 2005 through October 31, 2006".
 - (8) Provide an adequate description of the articles delivered or services rendered; or reference the Summary Statement of Cost and Funding and Supporting Statements of Cost and Price in (e) and (f) below.

(9) Enter the dollar amount of this billing. The amount claimed must agree with the Summary Statement of Cost and Funding and Supporting Statements of Cost and Price in (e) and (f) below.

(10) Enter the total dollar amount of this billing.

(d) Preparation of the Summary Statement of Cost and Funding and Supporting Statements of Cost and Price (See the attached formats)

(1) The Contractor, making due allowances for the Contractor's cost accounting and project management systems, shall complete the Summary Statement of Cost and Funding and Supporting Statements of Cost and Price.

(2) The Contractor shall complete the Statement of Cost and Price for each task order assignment and a Summary Statement of Cost and Funding by task order assignments supporting the total invoiced cost.

(3) Costs claimed must be only those recorded costs authorized for billing by the payment provisions of the contract and supported by the Contractor's cost accounting system.

(4) A separate line item should be identified for claimed overtime cost by each task order assignment.

(5) All claimed subcontractor, teaming partner, and/or joint venture associate costs shall be segregated and supported by attaching copies of the subcontractor's, teaming partner's, and/or joint venture associate's invoice with the same detail as outlined herein.

(6) The DPLH incurred during the current billing period as well as the DPLH cumulative must be shown. The funds costed for the current billing period as well as for the cumulative contract period must be shown. The remaining balances of DPLH and available funding must be reflected.

(7) The certification on the statements of cost, funding, and price must be signed by a responsible official of the Contractor.

(8) The certification statement with appropriate identification and signature will be placed at the bottom of the Statements of cost, funding, and price and appear as follows:

CERTIFICATION: I certify that this invoice is correct, was prepared in accordance with the terms of the contract, and is supported by the Contractor's cost accounting system. The costs included herein have been incurred, represent payments made by the contractor except as otherwise authorized in the payments provisions of the contract, and properly reflect the work performed.

Signature _____ Title _____

Name of Preparer _____ Telephone Number _____

Company _____ Address _____

(9) Additional supporting data for claimed costs shall be provided in such form and reasonable detail as an authorized representative of the Contracting Officer may require.

Summary Statement of Cost and Funding							
For the Period MM/DD/YYYY through MM/DD/YYYY							
Firm Name				Contract No. DE-AC05-06OR23190			
Firm Street Address				Voucher/Invoice No.			
Firm, City, State, Zipcode				Through Modification			
Task Order #	Program (B&R Number)	Project (Cost Center) Number	Local Project (ADS) Number	Amount This Invoice	Cumulative Total	Amount of Funding	Funds Remaining
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
Subtotal				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
Subtotal				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
Subtotal				\$0	\$0	\$0	\$0
Grand Totals				\$0	\$0	\$0	\$0

NOTE: THIS TYPE OF SUMMARY STATEMENT WILL BE REQUIRED CONTAINING MOST IF NOT ALL OF THE INFORMATION ABOVE.

SORTING THE INFORMATION BY TASK, PROGRAM – (B&R), PROJECT (COST CENTER) NUMBER, OR OTHER LOCAL PROJECT FUNDING ELEMENT WILL BE REQUIRED.

CERTIFICATION: I certify that this invoice is correct, was prepared in accordance with the terms of the contract, and is supported by the Contractor's cost accounting system. The costs included herein have been incurred. represent payments made by the contractor except as otherwise authorized in the payments provisions of the contract, and property reflect the work performed.

Signature: _____ Title: _____

Name of Preparer: _____ Telephone Number: _____

Company: _____ Address: _____

Voucher/Invoice Supporting Statement of Cost and Price					
For the Period MM/DD/YYYY through MM/DD/YYYY					
Task Order Number: _____					
Firm Name:		Program (B&R) Number:		Contract No.: <u>DE-AC05-06OR23190</u>	
Firm Street Address:		Project (Cost Center) Number: _____		Voucher No.: _____	
Firm City, State, Zipcode:		Local Project (ADS) Number: _____		Through Modification: _____	
<u>CLAIMED LABOR CATEGORY</u>	RATE/DPLH	DPLH THIS BILLING PERIOD	\$ CLAIMED THIS BILLING PERIOD	CUMULATIVE DPLH	CUMULATIVE \$ THIS BILL
(List Specific Labor Category)	\$0		\$0		\$0
(List Specific Labor Category)	\$0		\$0		\$0
(List Specific Labor Category)	\$0		\$0		\$0
	Subtotal Labor Cost		\$0		\$0
<u>OTHER DIRECT COSTS (ODC)</u>					
(List Details)			\$0		\$0
(List Details)			\$0		\$0
	Subtotal ODC Cost		\$0		\$0
<u>ODC Indirect Rate</u>			\$0		\$0
	TOTAL INVOICE		\$0		\$0
AMOUNT PREVIOUSLY INVOICED					
CURRENT AMOUNT CLAIMED					
<u>AMOUNT AUTHORIZED FOR EXPENTITURE (OBLIGATION):</u>				<u>DPLH SUMMARY THIS TASK:</u>	
BASIC CONTRACT		\$0		DPLH AUTHORIZED	
ALL MODIFICATONS		\$0		DPLH INCURRED	
CONTRACT TO DATE		\$0		DPLH BALANCE	
CERTIFICATION: I certify that this invoice is correct, was prepared in accordance with the terms of the contract and is supported by the Contractor's cost accounting system. The costs included herein have been incurred represent payments made by the contractor except as otherwise authorized in the payments provisions and properly reflect the work performed.					
Signature			Title		
Name of Preparer			Telephone Number		
Company			Address		

- (e) Preparation of the Labor/Cost Management and Accrual Report (See the attached format)
- (1) The Contractor, making due allowances for the flexibility and integration between the Contractor's cost accounting and project management systems, shall complete the Labor/Cost Management and Accrual Report.
 - (2) The Contractor shall complete the Labor/Cost Management and Accrual Reports by task order assignments and by budget and reporting code.
 - (3) Actual direct productive labor hours (DPLH) shall be supported by the contractor's payroll and project management systems for current month, fiscal year, and contract cumulative totals.
 - (4) The contractor's cost accounting, accrual, and project management systems shall support actual cost for current month, fiscal year, contract cumulative and accrued totals.
 - (5) Additional integrated or segregated reporting of DPLH's and/or costs shall be provided in such form and reasonable detail as an authorized representative of the Contracting Officer may require.

Labor/Cost Management and Accrual Report
Contract Number DE-AC05-06OR23190
Through Month, Day, Year

A	B	C	D	E	F	G	H	I	J	K	L	M
			ACTUAL LABOR HOURS			ACTUAL COST				FUNDING		
Task No.	Program (B&R) Number	Project (Cost Center) Number	Current Month Totals	Fiscal Year Totals	Contract Cumulative Totals	Current Month Totals	Fiscal Year Totals	Contract Cumulative Totals	Total Cost Accrued thru Next Month	Contract Totals	Net Available K-J	% Spent J/K
						\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%
						\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%
						\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%
						\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%
GRAND TOTALS						\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%
NOTE: A minimum of two reports will be required containing some or all of the information above.												
The first to be sorted/subtotalled by task to include columns A, B, C, D, E, F, G, H, K, I, & M.												
The second to be sorted/subtotalled by Program (B&R) Number to include columns B, C, G, I & J.												

09130 - Upholsterer	15.48
11030 - General Services and Support Occupations	
11030 - Cleaner, Vehicles	8.43
11060 - Elevator Operator	8.70
11090 - Gardener	11.57
11121 - House Keeping Aid I	7.75
11122 - House Keeping Aid II	8.89
11150 - Janitor	10.15
11210 - Laborer, Grounds Maintenance	9.53
11240 - Maid or Houseman	7.75
11270 - Pest Controller	13.16
11300 - Refuse Collector	11.58
11330 - Tractor Operator	12.24
11360 - Window Cleaner	10.60
12000 - Health Occupations	
12020 - Dental Assistant	12.02
12040 - Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	13.22
12071 - Licensed Practical Nurse I	11.67
12072 - Licensed Practical Nurse II	13.07
12073 - Licensed Practical Nurse III	14.64
12100 - Medical Assistant	11.33
12130 - Medical Laboratory Technician	12.23
12160 - Medical Record Clerk	9.77
12190 - Medical Record Technician	13.54
12221 - Nursing Assistant I	8.15
12222 - Nursing Assistant II	9.06
12223 - Nursing Assistant III	9.99
12224 - Nursing Assistant IV	11.22
12250 - Pharmacy Technician	12.19
12280 - Phlebotomist	11.36
12311 - Registered Nurse I	19.16
12312 - Registered Nurse II	23.46
12313 - Registered Nurse II, Specialist	23.46
12314 - Registered Nurse III	26.04
12315 - Registered Nurse III, Anesthetist	26.04
12316 - Registered Nurse IV	30.91
13000 - Information and Arts Occupations	
13002 - Audiovisual Librarian	18.37
13011 - Exhibits Specialist I	15.73
13012 - Exhibits Specialist II	19.86
13013 - Exhibits Specialist III	25.22
13041 - Illustrator I	15.13
13042 - Illustrator II	19.86
13043 - Illustrator III	25.22
13047 - Librarian	20.94
13050 - Library Technician	10.78
13071 - Photographer I	11.91
13072 - Photographer II	15.73
13073 - Photographer III	19.86
13074 - Photographer IV	25.55
13075 - Photographer V	30.07
15000 - Laundry, Dry Cleaning, Pressing and Related Occupations	
15010 - Assembler	7.75
15030 - Counter Attendant	7.75
15040 - Dry Cleaner	10.12
15070 - Finisher, Flatwork, Machine	7.75
15090 - Presser, Hand	7.75
15100 - Presser, Machine, Drycleaning	7.75
15130 - Presser, Machine, Shirts	7.75
15160 - Presser, Machine, Wearing Apparel, Laundry	7.75

15190 - Sewing Machine Operator	10.82
15220 - Tailor	11.52
15250 - Washer, Machine	8.57
19000 - Machine Tool Operation and Repair Occupations	
19010 - Machine-Tool Operator (Toolroom)	15.31
19040 - Tool and Die Maker	18.29
21000 - Material Handling and Packing Occupations	
21010 - Fuel Distribution System Operator	14.46
21020 - Material Coordinator	14.86
21030 - Material Expediter	14.86
21040 - Material Handling Laborer	11.28
21050 - Order Filler	10.28
21071 - Forklift Operator	12.52
21080 - Production Line Worker (Food Processing)	12.52
21100 - Shipping/Receiving Clerk	12.47
21130 - Shipping Packer	12.47
21140 - Store Worker I	10.08
21150 - Stock Clerk (Shelf Stocker; Store Worker II)	13.63
21210 - Tools and Parts Attendant	12.52
21400 - Warehouse Specialist	12.52
23000 - Mechanics and Maintenance and Repair Occupations	
23010 - Aircraft Mechanic	20.28
23040 - Aircraft Mechanic Helper	15.20
23050 - Aircraft Quality Control Inspector	20.72
23060 - Aircraft Servicer	17.05
23070 - Aircraft Worker	18.03
23100 - Appliance Mechanic	15.48
23120 - Bicycle Repairer	12.77
23125 - Cable Splicer	17.84
23130 - Carpenter, Maintenance	15.48
23140 - Carpet Layer	14.73
23160 - Electrician, Maintenance	18.72
23181 - Electronics Technician, Maintenance I	16.95
23182 - Electronics Technician, Maintenance II	17.82
23183 - Electronics Technician, Maintenance III	18.65
23260 - Fabric Worker	15.32
23290 - Fire Alarm System Mechanic	16.22
23310 - Fire Extinguisher Repairer	13.56
23340 - Fuel Distribution System Mechanic	17.74
23370 - General Maintenance Worker	14.74
23400 - Heating, Refrigeration and Air Conditioning Mechanic	16.22
23430 - Heavy Equipment Mechanic	16.22
23440 - Heavy Equipment Operator	13.97
23460 - Instrument Mechanic	20.52
23470 - Laborer	10.73
23500 - Locksmith	15.48
23530 - Machinery Maintenance Mechanic	19.19
23550 - Machinist, Maintenance	17.86
23580 - Maintenance Trades Helper	12.42
23640 - Millwright	16.60
23700 - Office Appliance Repairer	15.48
23740 - Painter, Aircraft	18.16
23760 - Painter, Maintenance	15.48
23790 - Pipefitter, Maintenance	17.01
23800 - Plumber, Maintenance	16.23
23820 - Pneudraulic Systems Mechanic	16.22
23850 - Rigger	16.95
23870 - Scale Mechanic	14.74
23890 - Sheet-Metal Worker, Maintenance	16.22
23910 - Small Engine Mechanic	14.74

23930 - Telecommunication Mechanic I	17.91
23931 - Telecommunication Mechanic II	18.72
23950 - Telephone Lineman	17.91
23960 - Welder, Combination, Maintenance	16.22
23965 - Well Driller	16.22
23970 - Woodcraft Worker	16.22
23980 - Woodworker	13.22
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	8.66
24580 - Child Care Center Clerk	10.78
24600 - Chore Aid	8.51
24630 - Homemaker	13.40
25000 - Plant and System Operation Occupations	
25010 - Boiler Tender	18.21
25040 - Sewage Plant Operator	17.52
25070 - Stationary Engineer	18.21
25190 - Ventilation Equipment Tender	12.61
25210 - Water Treatment Plant Operator	19.10
27000 - Protective Service Occupations	
(not set) - Police Officer	16.22
27004 - Alarm Monitor	13.60
27006 - Corrections Officer	13.60
27010 - Court Security Officer	14.38
27040 - Detention Officer	13.60
27070 - Firefighter	13.29
27101 - Guard I	9.14
27102 - Guard II	11.51
28000 - Stevedoring/Longshoremen Occupations	
28010 - Blocker and Bracer	14.40
28020 - Hatch Tender	14.40
28030 - Line Handler	14.40
28040 - Stevedore I	13.02
28050 - Stevedore II	14.44
29000 - Technical Occupations	
21150 - Graphic Artist	17.05
29010 - Air Traffic Control Specialist, Center (2)	31.49
29011 - Air Traffic Control Specialist, Station (2)	21.71
29012 - Air Traffic Control Specialist, Terminal (2)	23.92
29023 - Archeological Technician I	15.55
29024 - Archeological Technician II	17.39
29025 - Archeological Technician III	21.52
29030 - Cartographic Technician	23.50
29035 - Computer Based Training (CBT) Specialist/ Instructor	25.84
29040 - Civil Engineering Technician	18.74
29061 - Drafter I	11.77
29062 - Drafter II	13.21
29063 - Drafter III	17.37
29064 - Drafter IV	21.52
29081 - Engineering Technician I	14.20
29082 - Engineering Technician II	15.93
29083 - Engineering Technician III	19.58
29084 - Engineering Technician IV	23.44
29085 - Engineering Technician V	25.44
29086 - Engineering Technician VI	30.80
29090 - Environmental Technician	18.02
29100 - Flight Simulator/Instructor (Pilot)	27.62
29160 - Instructor	20.80
29210 - Laboratory Technician	15.86
29240 - Mathematical Technician	16.20
29361 - Paralegal/Legal Assistant I	15.31

29362 - Paralegal/Legal Assistant II	17.03
29363 - Paralegal/Legal Assistant III	20.78
29364 - Paralegal/Legal Assistant IV	25.20
29390 - Photooptics Technician	18.85
29480 - Technical Writer	23.31
29491 - Unexploded Ordnance (UXO) Technician I	20.02
29492 - Unexploded Ordnance (UXO) Technician II	24.22
29493 - Unexploded Ordnance (UXO) Technician III	29.03
29494 - Unexploded (UXO) Safety Escort	20.02
29495 - Unexploded (UXO) Sweep Personnel	20.02
29620 - Weather Observer, Senior (3)	16.52
29621 - Weather Observer, Combined Upper Air and Surface Programs (3)	14.86
29622 - Weather Observer, Upper Air (3)	14.86
31000 - Transportation/ Mobile Equipment Operation Occupations	
31030 - Bus Driver	12.73
31260 - Parking and Lot Attendant	7.86
31290 - Shuttle Bus Driver	13.62
31300 - Taxi Driver	8.96
31361 - Truckdriver, Light Truck	14.21
31362 - Truckdriver, Medium Truck	15.01
31363 - Truckdriver, Heavy Truck	16.24
31364 - Truckdriver, Tractor-Trailer	16.24
99000 - Miscellaneous Occupations	
99020 - Animal Caretaker	9.21
99030 - Cashier	8.32
99041 - Carnival Equipment Operator	10.21
99042 - Carnival Equipment Repairer	10.88
99043 - Carnival Worker	8.11
99050 - Desk Clerk	9.16
99095 - Embalmer	20.53
99300 - Lifeguard	10.52
99310 - Mortician	23.06
99350 - Park Attendant (Aide)	13.21
99400 - Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	10.04
99500 - Recreation Specialist	12.45
99510 - Recycling Worker	14.60
99610 - Sales Clerk	10.67
99620 - School Crossing Guard (Crosswalk Attendant)	9.81
99630 - Sport Official	10.52
99658 - Survey Party Chief (Chief of Party)	16.28
99659 - Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	14.80
99660 - Surveying Aide	10.79
99690 - Swimming Pool Operator	13.39
99720 - Vending Machine Attendant	11.28
99730 - Vending Machine Repairer	13.39
99740 - Vending Machine Repairer Helper	11.28

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS

HEALTH & WELFARE: \$2.87 an hour or \$114.80 a week or \$497.47 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.
- 3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

JNIFORM ALLOWANCE **

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an

adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

** NOTES APPLYING TO THIS WAGE DETERMINATION

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

Source of Occupational Title and Descriptions

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE Standard Form 1444 (SF 1444)

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. (See Section 4.6 (C) (vi)) When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

94-2569 WA, YAKIMA

WAGE DETERMINATION NO: 94-2569 REV (24) AREA: WA, YAKIMA

HEALTH AND WELFARE LEVEL - INSURANCE ONLY **OTHER WELFARE LEVEL WD:94-2570

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REGISTER OF WAGE DETERMINATIONS UNDER | U.S. DEPARTMENT OF LABOR
THE SERVICE CONTRACT ACT | EMPLOYMENT STANDARDS ADMINISTRATION
By direction of the Secretary of Labor | WAGE AND HOUR DIVISION
| WASHINGTON D.C. 20210

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Wage Determination No.: 1994-2569
Revision No.: 24
Date Of Revision: 05/23/2005

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States: Oregon, Washington

Area: Oregon Counties of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union, Wallowa, Wheeler
Washington Counties of Benton, Franklin, Walla Walla, Yakima

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support and Clerical Occupations	
01011 - Accounting Clerk I	10.69
01012 - Accounting Clerk II	11.99
01013 - Accounting Clerk III	13.67
01014 - Accounting Clerk IV	16.51
01030 - Court Reporter	16.45
01050 - Dispatcher, Motor Vehicle	16.34
01060 - Document Preparation Clerk	12.01
01070 - Messenger (Courier)	9.70
01090 - Duplicating Machine Operator	12.01
01110 - Film/Tape Librarian	13.35
01115 - General Clerk I	10.01
01116 - General Clerk II	11.26
01117 - General Clerk III	12.29
01118 - General Clerk IV	13.79
01120 - Housing Referral Assistant	18.66
01131 - Key Entry Operator I	11.26
01132 - Key Entry Operator II	12.29
01191 - Order Clerk I	11.26
01192 - Order Clerk II	12.29
01261 - Personnel Assistant (Employment) I	12.17
01262 - Personnel Assistant (Employment) II	13.48
01263 - Personnel Assistant (Employment) III	15.28
01264 - Personnel Assistant (Employment) IV	17.11
01270 - Production Control Clerk	18.72
01290 - Rental Clerk	12.75
01300 - Scheduler, Maintenance	14.12
01311 - Secretary I	14.12
01312 - Secretary II	15.78
01313 - Secretary III	18.66
01314 - Secretary IV	20.92

01315 - Secretary V	23.14
01320 - Service Order Dispatcher	16.61
01341 - Stenographer I	13.21
01342 - Stenographer II	14.66
01400 - Supply Technician	20.92
01420 - Survey Worker (Interviewer)	13.81
01460 - Switchboard Operator-Receptionist	11.42
01510 - Test Examiner	15.78
01520 - Test Proctor	15.78
01531 - Travel Clerk I	12.20
01532 - Travel Clerk II	13.12
01533 - Travel Clerk III	14.03
01611 - Word Processor I	11.84
01612 - Word Processor II	13.29
01613 - Word Processor III	14.87
03000 - Automatic Data Processing Occupations	
03010 - Computer Data Librarian	12.17
03041 - Computer Operator I	14.50
03042 - Computer Operator II	16.78
03043 - Computer Operator III	20.58
03044 - Computer Operator IV	23.79
03045 - Computer Operator V	25.52
03071 - Computer Programmer I (1)	17.97
03072 - Computer Programmer II (1)	23.03
03073 - Computer Programmer III (1)	27.62
03074 - Computer Programmer IV (1)	27.62
03101 - Computer Systems Analyst I (1)	26.40
03102 - Computer Systems Analyst II (1)	27.62
03103 - Computer Systems Analyst III (1)	27.62
03160 - Peripheral Equipment Operator	14.50
05000 - Automotive Service Occupations	
05005 - Automotive Body Repairer, Fiberglass	18.71
05010 - Automotive Glass Installer	16.84
05040 - Automotive Worker	16.84
05070 - Electrician, Automotive	17.78
05100 - Mobile Equipment Servicer	14.95
05130 - Motor Equipment Metal Mechanic	18.71
05160 - Motor Equipment Metal Worker	16.84
05190 - Motor Vehicle Mechanic	18.71
05220 - Motor Vehicle Mechanic Helper	14.00
05250 - Motor Vehicle Upholstery Worker	15.88
05280 - Motor Vehicle Wrecker	16.84
05310 - Painter, Automotive	17.78
05340 - Radiator Repair Specialist	16.84
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	18.71
07000 - Food Preparation and Service Occupations	
(not set) - Food Service Worker	9.89
07010 - Baker	15.66
07041 - Cook I	13.97
07042 - Cook II	15.66
07070 - Dishwasher	9.89
07130 - Meat Cutter	15.66
07250 - Waiter/Waitress	11.04
09000 - Furniture Maintenance and Repair Occupations	
09010 - Electrostatic Spray Painter	17.78
09040 - Furniture Handler	11.71
09070 - Furniture Refinisher	17.78
09100 - Furniture Refinisher Helper	14.00
09110 - Furniture Repairer, Minor	15.88

09130 - Upholsterer	17.78
11030 - General Services and Support Occupations	
11030 - Cleaner, Vehicles	10.30
11060 - Elevator Operator	10.88
11090 - Gardener	15.35
11121 - House Keeping Aid I	8.76
11122 - House Keeping Aid II	10.39
11150 - Janitor	11.97
11210 - Laborer, Grounds Maintenance	12.13
11240 - Maid or Houseman	9.22
11270 - Pest Controller	17.88
11300 - Refuse Collector	11.97
11330 - Tractor Operator	14.51
11360 - Window Cleaner	13.35
12000 - Health Occupations	
12020 - Dental Assistant	15.03
12040 - Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	14.21
12071 - Licensed Practical Nurse I	13.43
12072 - Licensed Practical Nurse II	15.05
12073 - Licensed Practical Nurse III	16.85
12100 - Medical Assistant	13.05
12130 - Medical Laboratory Technician	14.05
12160 - Medical Record Clerk	12.74
12190 - Medical Record Technician	13.95
12221 - Nursing Assistant I	8.51
12222 - Nursing Assistant II	9.56
12223 - Nursing Assistant III	10.43
12224 - Nursing Assistant IV	11.70
12250 - Pharmacy Technician	14.10
12280 - Phlebotomist	13.01
12311 - Registered Nurse I	21.08
12312 - Registered Nurse II	25.81
12313 - Registered Nurse II, Specialist	25.81
12314 - Registered Nurse III	31.23
12315 - Registered Nurse III, Anesthetist	31.23
12316 - Registered Nurse IV	37.40
13000 - Information and Arts Occupations	
13002 - Audiovisual Librarian	19.71
13011 - Exhibits Specialist I	16.31
13012 - Exhibits Specialist II	20.37
13013 - Exhibits Specialist III	22.58
13041 - Illustrator I	16.31
13042 - Illustrator II	20.37
13043 - Illustrator III	22.58
13047 - Librarian	24.50
13050 - Library Technician	14.95
13071 - Photographer I	15.80
13072 - Photographer II	17.86
13073 - Photographer III	22.21
13074 - Photographer IV	25.64
13075 - Photographer V	28.46
15000 - Laundry, Dry Cleaning, Pressing and Related Occupations	
15010 - Assembler	8.96
15030 - Counter Attendant	8.96
15040 - Dry Cleaner	11.32
15070 - Finisher, Flatwork, Machine	8.96
15090 - Presser, Hand	8.96
15100 - Presser, Machine, Drycleaning	8.96
15130 - Presser, Machine, Shirts	8.96
15160 - Presser, Machine, Wearing Apparel, Laundry	8.96

15190 - Sewing Machine Operator	12.11
15220 - Tailor	12.90
15250 - Washer, Machine	9.75
19000 - Machine Tool Operation and Repair Occupations	
19010 - Machine-Tool Operator (Toolroom)	19.85
19040 - Tool and Die Maker	24.06
21000 - Material Handling and Packing Occupations	
21010 - Fuel Distribution System Operator	17.35
21020 - Material Coordinator	18.32
21030 - Material Expediter	18.32
21040 - Material Handling Laborer	10.66
21050 - Order Filler	11.41
21071 - Forklift Operator	12.44
21080 - Production Line Worker (Food Processing)	12.44
21100 - Shipping/Receiving Clerk	12.03
21130 - Shipping Packer	12.03
21140 - Store Worker I	10.09
21150 - Stock Clerk (Shelf Stocker; Store Worker II)	13.76
21210 - Tools and Parts Attendant	12.44
21400 - Warehouse Specialist	12.76
23000 - Mechanics and Maintenance and Repair Occupations	
23010 - Aircraft Mechanic	20.53
23040 - Aircraft Mechanic Helper	15.40
23050 - Aircraft Quality Control Inspector	21.65
23060 - Aircraft Servicer	17.47
23070 - Aircraft Worker	18.52
23100 - Appliance Mechanic	19.56
23120 - Bicycle Repairer	14.44
23125 - Cable Splicer	22.64
23130 - Carpenter, Maintenance	20.56
23140 - Carpet Layer	18.52
23160 - Electrician, Maintenance	23.74
23181 - Electronics Technician, Maintenance I	18.43
23182 - Electronics Technician, Maintenance II	20.50
23183 - Electronics Technician, Maintenance III	21.69
23260 - Fabric Worker	17.64
23290 - Fire Alarm System Mechanic	21.69
23310 - Fire Extinguisher Repairer	16.27
23340 - Fuel Distribution System Mechanic	21.69
23370 - General Maintenance Worker	16.84
23400 - Heating, Refrigeration and Air Conditioning Mechanic	18.71
23430 - Heavy Equipment Mechanic	21.15
23440 - Heavy Equipment Operator	20.54
23460 - Instrument Mechanic	21.69
23470 - Laborer	10.66
23500 - Locksmith	17.78
23530 - Machinery Maintenance Mechanic	20.02
23550 - Machinist, Maintenance	19.95
23580 - Maintenance Trades Helper	14.00
23640 - Millwright	21.69
23700 - Office Appliance Repairer	20.29
23740 - Painter, Aircraft	20.29
23760 - Painter, Maintenance	17.78
23790 - Pipefitter, Maintenance	23.43
23800 - Plumber, Maintenance	22.26
23820 - Pneudraulic Systems Mechanic	21.69
23850 - Rigger	21.69
23870 - Scale Mechanic	18.99
23890 - Sheet-Metal Worker, Maintenance	22.64
23910 - Small Engine Mechanic	17.81

23930 - Telecommunication Mechanic I	21.86
23931 - Telecommunication Mechanic II	22.83
23950 - Telephone Lineman	21.69
23960 - Welder, Combination, Maintenance	18.71
23965 - Well Driller	21.69
23970 - Woodcraft Worker	21.69
23980 - Woodworker	16.27
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	9.13
24580 - Child Care Center Clerk	12.40
24600 - Chore Aid	10.51
24630 - Homemaker	13.13
25000 - Plant and System Operation Occupations	
25010 - Boiler Tender	22.75
25040 - Sewage Plant Operator	21.39
25070 - Stationary Engineer	22.75
25190 - Ventilation Equipment Tender	18.71
25210 - Water Treatment Plant Operator	21.33
27000 - Protective Service Occupations	
(not set) - Police Officer	25.74
27004 - Alarm Monitor	15.04
27006 - Corrections Officer	18.00
27010 - Court Security Officer	22.25
27040 - Detention Officer	18.00
27070 - Firefighter	21.26
27101 - Guard I	11.98
27102 - Guard II	15.04
28000 - Stevedoring/Longshoremen Occupations	
28010 - Blocker and Bracer	18.99
28020 - Hatch Tender	18.99
28030 - Line Handler	18.99
28040 - Stevedore I	17.64
28050 - Stevedore II	20.34
29000 - Technical Occupations	
21150 - Graphic Artist	19.54
29010 - Air Traffic Control Specialist, Center (2)	31.40
29011 - Air Traffic Control Specialist, Station (2)	21.71
29012 - Air Traffic Control Specialist, Terminal (2)	23.92
29023 - Archeological Technician I	14.36
29024 - Archeological Technician II	16.05
29025 - Archeological Technician III	19.89
29030 - Cartographic Technician	21.05
29035 - Computer Based Training (CBT) Specialist/ Instructor	27.19
29040 - Civil Engineering Technician	20.48
29061 - Drafter I	11.56
29062 - Drafter II	12.99
29063 - Drafter III	16.69
29064 - Drafter IV	19.89
29081 - Engineering Technician I	13.26
29082 - Engineering Technician II	14.88
29083 - Engineering Technician III	17.97
29084 - Engineering Technician IV	21.05
29085 - Engineering Technician V	26.52
29086 - Engineering Technician VI	35.66
29090 - Environmental Technician	19.95
29100 - Flight Simulator/Instructor (Pilot)	30.38
29160 - Instructor	21.09
29210 - Laboratory Technician	17.26
29240 - Mathematical Technician	20.14
29361 - Paralegal/Legal Assistant I	16.69

29362 - Paralegal/Legal Assistant II	19.89
29363 - Paralegal/Legal Assistant III	22.49
29364 - Paralegal/Legal Assistant IV	27.21
29390 - Photooptics Technician	20.14
29480 - Technical Writer	20.64
29491 - Unexploded Ordnance (UXO) Technician I	20.02
29492 - Unexploded Ordnance (UXO) Technician II	24.22
29493 - Unexploded Ordnance (UXO) Technician III	29.03
29494 - Unexploded (UXO) Safety Escort	20.02
29495 - Unexploded (UXO) Sweep Personnel	20.02
29620 - Weather Observer, Senior (3)	18.61
29621 - Weather Observer, Combined Upper Air and Surface Programs (3)	16.74
29622 - Weather Observer, Upper Air (3)	16.74
31000 - Transportation/ Mobile Equipment Operation Occupations	
31030 - Bus Driver	14.13
31260 - Parking and Lot Attendant	10.18
31290 - Shuttle Bus Driver	12.63
31300 - Taxi Driver	11.88
31361 - Truckdriver, Light Truck	12.28
31362 - Truckdriver, Medium Truck	13.95
31363 - Truckdriver, Heavy Truck	16.89
31364 - Truckdriver, Tractor-Trailer	16.89
99000 - Miscellaneous Occupations	
99020 - Animal Caretaker	12.19
99030 - Cashier	9.28
99041 - Carnival Equipment Operator	13.74
99042 - Carnival Equipment Repairer	14.68
99043 - Carnival Worker	10.29
99050 - Desk Clerk	9.13
99095 - Embalmer	20.02
99300 - Lifeguard	10.52
99310 - Mortician	20.02
99350 - Park Attendant (Aide)	13.21
99400 - Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	10.52
99500 - Recreation Specialist	15.29
99510 - Recycling Worker	15.13
99610 - Sales Clerk	11.18
99620 - School Crossing Guard (Crosswalk Attendant)	11.54
99630 - Sport Official	10.52
99658 - Survey Party Chief (Chief of Party)	21.48
99659 - Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	18.47
99660 - Surveying Aide	13.50
99690 - Swimming Pool Operator	19.25
99720 - Vending Machine Attendant	15.89
99730 - Vending Machine Repairer	19.25
99740 - Vending Machine Repairer Helper	15.89

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS

HEALTH & WELFARE: \$2.87 an hour or \$114.80 a week or \$497.47 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, 4 weeks after 10 years, and 5 weeks after 20 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

** UNIFORM ALLOWANCE

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

** NOTES APPLYING TO THIS WAGE DETERMINATION **

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C) (vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor

6) The contractor informs the affected employees

Information required by the Regulations must be submitted on SF 1444 or bond paper

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

01313 - Secretary III	19.00
01314 - Secretary IV	22.28
01315 - Secretary V	23.39
01320 - Service Order Dispatcher	13.13
01341 - Stenographer I	11.56
01342 - Stenographer II	14.19
01400 - Supply Technician	22.28
01420 - Survey Worker (Interviewer)	12.02
01460 - Switchboard Operator-Receptionist	10.43
01510 - Test Examiner	16.65
01520 - Test Proctor	16.65
01531 - Travel Clerk I	10.12
01532 - Travel Clerk II	10.81
01533 - Travel Clerk III	11.46
01611 - Word Processor I	11.95
01612 - Word Processor II	14.41
01613 - Word Processor III	15.07
03000 - Automatic Data Processing Occupations	
03010 - Computer Data Librarian	11.39
03041 - Computer Operator I	13.35
03042 - Computer Operator II	15.42
03043 - Computer Operator III	17.47
03044 - Computer Operator IV	20.13
03045 - Computer Operator V	21.51
03071 - Computer Programmer I (1)	19.54
03072 - Computer Programmer II (1)	22.11
03073 - Computer Programmer III (1)	26.37
03074 - Computer Programmer IV (1)	27.62
03101 - Computer Systems Analyst I (1)	27.62
03102 - Computer Systems Analyst II (1)	27.62
03103 - Computer Systems Analyst III (1)	27.62
03160 - Peripheral Equipment Operator	13.35
05000 - Automotive Service Occupations	
05005 - Automotive Body Repairer, Fiberglass	20.02
05010 - Automotive Glass Installer	16.60
05040 - Automotive Worker	16.60
05070 - Electrician, Automotive	17.38
05100 - Mobile Equipment Servicer	15.00
05130 - Motor Equipment Metal Mechanic	18.20
05160 - Motor Equipment Metal Worker	16.60
05190 - Motor Vehicle Mechanic	18.20
05220 - Motor Vehicle Mechanic Helper	14.15
05250 - Motor Vehicle Upholstery Worker	15.78
05280 - Motor Vehicle Wrecker	16.60
05310 - Painter, Automotive	17.38
05340 - Radiator Repair Specialist	15.78
05370 - Tire Repairer	13.37
05400 - Transmission Repair Specialist	18.20
07000 - Food Preparation and Service Occupations	
(not set) - Food Service Worker	7.94
07010 - Baker	9.25
07041 - Cook I	8.46
07042 - Cook II	9.35
07070 - Dishwasher	7.85
07130 - Meat Cutter	13.46
07250 - Waiter/Waitress	7.56
09000 - Furniture Maintenance and Repair Occupations	
09010 - Electrostatic Spray Painter	21.23
09040 - Furniture Handler	13.34
09070 - Furniture Refinisher	16.03

09100 - Furniture Refinisher Helper	13.05
09110 - Furniture Repairer, Minor	14.56
09130 - Upholsterer	16.03
11030 - General Services and Support Occupations	
11030 - Cleaner, Vehicles	9.58
11060 - Elevator Operator	9.58
11090 - Gardener	10.19
11121 - House Keeping Aid I	7.59
11122 - House Keeping Aid II	9.73
11150 - Janitor	9.77
11210 - Laborer, Grounds Maintenance	9.52
11240 - Maid or Houseman	7.59
11270 - Pest Controller	12.79
11300 - Refuse Collector	12.12
11330 - Tractor Operator	10.36
11360 - Window Cleaner	10.36
12000 - Health Occupations	
12020 - Dental Assistant	11.88
12040 - Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	13.79
12071 - Licensed Practical Nurse I	11.36
12072 - Licensed Practical Nurse II	12.75
12073 - Licensed Practical Nurse III	14.26
12100 - Medical Assistant	10.59
12130 - Medical Laboratory Technician	14.02
12160 - Medical Record Clerk	11.99
12190 - Medical Record Technician	13.15
12221 - Nursing Assistant I	7.77
12222 - Nursing Assistant II	8.74
12223 - Nursing Assistant III	9.54
12224 - Nursing Assistant IV	10.69
12250 - Pharmacy Technician	11.84
12280 - Phlebotomist	12.32
12311 - Registered Nurse I	19.72
12312 - Registered Nurse II	23.42
12313 - Registered Nurse II, Specialist	23.42
12314 - Registered Nurse III	28.34
12315 - Registered Nurse III, Anesthetist	28.34
12316 - Registered Nurse IV	33.96
13000 - Information and Arts Occupations	
13002 - Audiovisual Librarian	15.65
13011 - Exhibits Specialist I	16.06
13012 - Exhibits Specialist II	19.51
13013 - Exhibits Specialist III	21.67
13041 - Illustrator I	19.05
13042 - Illustrator II	23.14
13043 - Illustrator III	25.69
13047 - Librarian	24.61
13050 - Library Technician	13.02
13071 - Photographer I	12.66
13072 - Photographer II	16.78
13073 - Photographer III	20.39
13074 - Photographer IV	22.64
13075 - Photographer V	27.40
15000 - Laundry, Dry Cleaning, Pressing and Related Occupations	
15010 - Assembler	7.35
15030 - Counter Attendant	7.35
15040 - Dry Cleaner	9.39
15070 - Finisher, Flatwork, Machine	7.35
15090 - Presser, Hand	7.35
15100 - Presser, Machine, Drycleaning	7.35

15130 - Presser, Machine, Shirts	7.35
15160 - Presser, Machine, Wearing Apparel, Laundry	7.35
15190 - Sewing Machine Operator	10.06
15220 - Tailor	10.74
15250 - Washer, Machine	8.03
19000 - Machine Tool Operation and Repair Occupations	
19010 - Machine-Tool Operator (Toolroom)	20.07
19040 - Tool and Die Maker	22.24
21000 - Material Handling and Packing Occupations	
21010 - Fuel Distribution System Operator	15.62
21020 - Material Coordinator	19.83
21030 - Material Expediter	19.83
21040 - Material Handling Laborer	10.63
21050 - Order Filler	10.15
21071 - Forklift Operator	14.67
21080 - Production Line Worker (Food Processing)	14.67
21100 - Shipping/Receiving Clerk	12.25
21130 - Shipping Packer	12.25
21140 - Store Worker I	11.32
21150 - Stock Clerk (Shelf Stocker; Store Worker II)	14.14
21210 - Tools and Parts Attendant	14.93
21400 - Warehouse Specialist	14.67
23000 - Mechanics and Maintenance and Repair Occupations	
23010 - Aircraft Mechanic	20.68
23040 - Aircraft Mechanic Helper	15.24
23050 - Aircraft Quality Control Inspector	21.60
23060 - Aircraft Servicer	16.99
23070 - Aircraft Worker	17.87
23100 - Appliance Mechanic	17.63
23120 - Bicycle Repairer	13.37
23125 - Cable Splicer	22.35
23130 - Carpenter, Maintenance	16.03
23140 - Carpet Layer	17.61
23160 - Electrician, Maintenance	20.86
23181 - Electronics Technician, Maintenance I	18.47
23182 - Electronics Technician, Maintenance II	18.89
23183 - Electronics Technician, Maintenance III	20.24
23260 - Fabric Worker	15.25
23290 - Fire Alarm System Mechanic	17.92
23310 - Fire Extinguisher Repairer	14.35
23340 - Fuel Distribution System Mechanic	18.95
23370 - General Maintenance Worker	15.31
23400 - Heating, Refrigeration and Air Conditioning Mechanic	16.79
23430 - Heavy Equipment Mechanic	16.79
23440 - Heavy Equipment Operator	16.79
23460 - Instrument Mechanic	17.92
23470 - Laborer	10.02
23500 - Locksmith	18.17
23530 - Machinery Maintenance Mechanic	18.43
23550 - Machinist, Maintenance	16.79
23580 - Maintenance Trades Helper	13.05
23640 - Millwright	22.64
23700 - Office Appliance Repairer	17.05
23740 - Painter, Aircraft	18.24
23760 - Painter, Maintenance	16.03
23790 - Pipefitter, Maintenance	18.73
23800 - Plumber, Maintenance	17.88
23820 - Pneudraulic Systems Mechanic	17.92
23850 - Rigger	17.51
23870 - Scale Mechanic	16.13

23890 - Sheet-Metal Worker, Maintenance	16.79
23910 - Small Engine Mechanic	15.31
23930 - Telecommunication Mechanic I	18.47
23931 - Telecommunication Mechanic II	22.18
23950 - Telephone Lineman	18.47
23960 - Welder, Combination, Maintenance	17.08
23965 - Well Driller	16.79
23970 - Woodcraft Worker	17.92
23980 - Woodworker	13.84
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	7.32
24580 - Child Care Center Clerk	11.32
24600 - Chore Aid	6.93
24630 - Homemaker	10.88
25000 - Plant and System Operation Occupations	
25010 - Boiler Tender	17.90
25040 - Sewage Plant Operator	17.81
25070 - Stationary Engineer	17.90
25190 - Ventilation Equipment Tender	14.36
25210 - Water Treatment Plant Operator	17.81
27000 - Protective Service Occupations	
(not set) - Police Officer	19.22
27004 - Alarm Monitor	13.15
27006 - Corrections Officer	13.78
27010 - Court Security Officer	15.80
27040 - Detention Officer	13.78
27070 - Firefighter	14.27
27101 - Guard I	9.61
27102 - Guard II	11.50
28000 - Stevedoring/Longshoremen Occupations	
28010 - Blocker and Bracer	16.13
28020 - Hatch Tender	16.13
28030 - Line Handler	16.13
28040 - Stevedore I	16.59
28050 - Stevedore II	18.22
29000 - Technical Occupations	
21150 - Graphic Artist	18.24
29010 - Air Traffic Control Specialist, Center (2)	31.49
29011 - Air Traffic Control Specialist, Station (2)	21.72
29012 - Air Traffic Control Specialist, Terminal (2)	23.92
29023 - Archeological Technician I	14.11
29024 - Archeological Technician II	16.21
29025 - Archeological Technician III	20.02
29030 - Cartographic Technician	21.83
29035 - Computer Based Training (CBT) Specialist/ Instructor	29.49
29040 - Civil Engineering Technician	18.89
29061 - Drafter I	12.70
29062 - Drafter II	14.29
29063 - Drafter III	17.96
29064 - Drafter IV	21.83
29081 - Engineering Technician I	15.58
29082 - Engineering Technician II	16.67
29083 - Engineering Technician III	20.54
29084 - Engineering Technician IV	24.87
29085 - Engineering Technician V	29.05
29086 - Engineering Technician VI	35.89
29090 - Environmental Technician	16.43
29100 - Flight Simulator/Instructor (Pilot)	29.83
29160 - Instructor	22.57
29210 - Laboratory Technician	16.35

29240 - Mathematical Technician	21.83
29361 - Paralegal/Legal Assistant I	13.95
29362 - Paralegal/Legal Assistant II	16.94
29363 - Paralegal/Legal Assistant III	20.73
29364 - Paralegal/Legal Assistant IV	25.07
29390 - Photooptics Technician	21.83
29480 - Technical Writer	23.34
29491 - Unexploded Ordnance (UXO) Technician I	20.02
29492 - Unexploded Ordnance (UXO) Technician II	24.22
29493 - Unexploded Ordnance (UXO) Technician III	29.03
29494 - Unexploded (UXO) Safety Escort	20.02
29495 - Unexploded (UXO) Sweep Personnel	20.02
29620 - Weather Observer, Senior (3)	18.44
29621 - Weather Observer, Combined Upper Air and Surface Programs (3)	17.04
29622 - Weather Observer, Upper Air (3)	17.04
31000 - Transportation/ Mobile Equipment Operation Occupations	
31030 - Bus Driver	11.91
31260 - Parking and Lot Attendant	7.72
31290 - Shuttle Bus Driver	11.13
31300 - Taxi Driver	10.29
31361 - Truckdriver, Light Truck	11.13
31362 - Truckdriver, Medium Truck	12.19
31363 - Truckdriver, Heavy Truck	14.67
31364 - Truckdriver, Tractor-Trailer	14.67
99000 - Miscellaneous Occupations	
99020 - Animal Caretaker	8.25
99030 - Cashier	8.05
99041 - Carnival Equipment Operator	10.29
99042 - Carnival Equipment Repairer	10.80
99043 - Carnival Worker	7.33
99050 - Desk Clerk	8.48
99095 - Embalmer	18.35
99300 - Lifeguard	10.52
99310 - Mortician	25.42
99350 - Park Attendant (Aide)	13.21
99400 - Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	9.51
99500 - Recreation Specialist	14.85
99510 - Recycling Worker	14.85
99610 - Sales Clerk	9.98
99620 - School Crossing Guard (Crosswalk Attendant)	9.62
99630 - Sport Official	9.34
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VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the

performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

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- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.
- 3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

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UNIFORM ALLOWANCE

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION**

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

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REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE (Standard Form 1444 (SF 1444))

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. (See Section 4.6 (C) (vi)) When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

The contracting officer transmits the Wage and Hour decision to the contractor

- 6) The contractor informs the affected employees

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

Quality Assurance Surveillance Plan
for
DOE Administration Support Services
DE-AC05-05OR23190

1. Purpose

This Quality Assurance Surveillance Plan (QASP) is a Government developed and applied document used to make sure that systematic quality assurance methods are used in the administration of the Performance Based Work Statement included in this contract and in subsequent task orders issued thereunder. The intent is to ensure that the Contractor performs in accordance with performance metrics set forth herein, that the Government receives the acceptable quality level of services. The QASP will also afford the CO and the COR a productive mechanism to preclude major deficiencies in performance, provide input for the annual contractor performance evaluations, and make the determination of exercising contract options and that the Government only pays for acceptable level of services received. The QASP may be revised periodically as determined by the COR and CO. The Contractor shall be provided a 30 day notice of the revision.

2. Scope

To fully understand the roles and responsibilities of the parties, it is important to first define the distinction in terminology between the Quality Control Plan and the Quality Assurance Surveillance Plan. The Contractor, and not the Government, is responsible for management and quality control actions necessary to meet the quality standards set forth by the contract and follow-on task orders. The Contractor develops and submits his Quality Control Plan (QCP) for Government approval in compliance with his contract deliverables. Once accepted, the Contractor then uses the QCP to guide and to rigorously document the implementation of the required management and quality control actions to achieve the specified results. The QASP on the other hand, is put in place to provide Government surveillance oversight of the Contractor's quality control efforts to assure that they are timely, effective and are delivering the results specified in the contract or task order

3. Definitions of Terms

The following definitions for Government resources are applicable to this plan:

Contracting Officer (CO) – A person duly appointed with the authority to enter into, administer, or terminate contracts and make related determinations and findings on behalf of the Government.

Contracting Officer Representative (COR) – A federal employee, serves as the day-to-day manager of this Contract. The COR is the CO's technical representative and assists the CO in administration of the contract, i.e. contract changes, performance problems, payments, etc.

Contract Technical Monitor (CTM) – An individual appointed by the Contracting Officer Representative to act as his authorized representative for the technical administration of specific task order(s) issued under the contract. The duties and limitations of the Technical

Monitor are contained in a written letter of designation and/or in the body of the issued task order.

Quality Assurance Surveillance is the method by which the Contractor's performance will be monitored to ensure that the AQLs are met within the ceiling price.

4. Performance Monitors

The COR and CTM shall monitor performance. Responsibilities include:

1. Monitoring, evaluation, and assessing contractor performance of assigned tasks.
2. Reporting to the CO as appropriate, to support evaluation of Contractor's performance.
3. Providing feedback to the Contractor throughout the performance period.
4. Recommending changes to the QASP as appropriate.
5. Ensuring that the QASP is current and communicates performance expectations to the Contractor.

5. Methods of QA Surveillance

The below listed methods of surveillance shall be used in the administration of this QASP. In addition to specific instructions that may be mentioned, the appropriate and standardized form that is to be used for documentation of QA surveillance is the Surveillance Activity Checklist, included in this document.

Customer Feedback – Customer feedback may be obtained either from the results of formal customer satisfaction surveys or from random customer complaints. Customer complaints, to be considered valid, must set forth clearly and in writing the detailed nature of the complaint, must be signed and must be forwarded to the Contracting Officer Representative. The Contracting Officer Representative shall maintain a summary log of all formally received customer complaints as well as a copy of each complaint in a documentation file. The Contracting Officer Representative shall also keep the tabulated results of all customer satisfaction surveys on file. Customer actions which impact Contractor performance will be considered in the evaluation process.

Periodic Inspection - Periodic inspections shall be conducted. For the potential tasks that have been identified so far and included in this QASP, the appropriate Technical Monitor typically performs the periodic inspection on a monthly basis.

Random Monitoring - Random monitoring shall be conducted. For the potential tasks that have been identified so far and included in this QASP, the random monitoring shall be performed by the Contracting Officer Representative or by the appropriate designated Contract Technical Monitor.

7. IDENTIFIED QA SURVEILLANCE TASKS

All monthly invoices submitted should reflect an ½% retainage of the labor cost. On a annual basis corresponding with the contract dates, the performance objectives below will be evaluated. The Government will advise the contractor of the surveillance results and may request an invoice for the retainage minus any deduction, if applicable, identified during the review.

Performance Objective	Task No.	Acceptable Quality Level	Means of Surveillance	Deduction from Retainage Pool
Sufficient numbers of staff members are available to resolve day-to-day issues	All tasks	Average staffing levels shall not fall below 95% on any task order of approved positions	Invoices, reports and other records will be randomly reviewed to determine staffing levels	10%
Customer Satisfaction	All tasks	No more than 2 valid customer complaints which are not resolved within 15 calendar days	Verbal or written complaints initiated by customers	20%
Cost Control	All tasks	Maintain proposed average labor cost per DPLH within ± 5% for each contract year	Invoices, reports and other contract records	10%
Human Resources	All tasks	All Human Resource (HR) issues shall be resolved within 15 calendar days in accordance with applicable labor laws 100% of the time.	All internal communication concerning HR issues between CO, COR and HR Specialist.	10%
Deliverables	All tasks	Reports/Deliverables provided on time with no more than two occurrences of omission or inaccurate information	Reports identified in the reporting requirements of the contract	10%

Performance Objective	Contract Requirement or Specific Task No.	Acceptable Quality Level	Means of Surveillance	Deduction from Retainage Pool
Percentage of invoices paid on-time	Task 2a	Measured against 95% standard	STARS Tracking and Reporting Mechanisms & Analysis	20%
Amount of late payment interest by month	Task 2a	≤ .02%	STARS Tracking and Reporting Mechanisms & Analysis	10%
Number of erroneous payments made, per Departmental guidance on erroneous payments	Task 2a	< 1% (A Goal of .1%)	STARS Tracking and Reporting Mechanisms & Analysis	10%

8. DOCUMENTATION

The Contracting Officer Representative will, in addition to providing documentation to the Contracting Officer, maintain a complete Quality Assurance file. The file will contain copies of all reports, evaluations, recommendations, and any actions related to the Government's performance of the quality assurance function, including the originals of all Surveillance Activity Checklist. All such records will be retained for the life of this contract. The Contracting Officer Representative shall forward these records to the Contracting Officer at termination or completion of the contract.

9. SURVEILLANCE ACTIVITY CHECKLIST

The Surveillance Activity Checklist should be completed within 30 days of the annual contract review period and submitted to the Contracting Officer with backup documentation, comments on review to include compliance and/or recommendations for deductions.

Contractor: _____

Contract No.: DE-AC05-05OR23190

Performance Objective	Contract Requirement or Specific Task No.	Acceptable Quality Level	Means of Surveillance	Deduction from Retainage Pool	Comments	Compliance
Sufficient numbers of staff members are available to resolve day-to-day issues	All tasks	Average staffing levels shall not fall below 95% on any task order of approved positions	Invoices, reports and other records will be randomly reviewed to determine staffing levels	10%		
Customer Satisfaction	All tasks	No more than 2 valid customer complaints which are not resolved within 15 calendar days	Verbal or written complaints initiated by customers	20%		
Cost Control	All tasks	Maintain proposed average labor cost per DPLH within $\pm 5\%$ for each contract year	Invoices, reports and other contract records	10%		
Human Resources	All tasks	All Human Resource (HR) issues shall be resolved within 15 calendar days in accordance with applicable labor laws 100% of the time.	All internal communication concerning HR issues between CO, COR and HR Specialist.	10%		

Performance Objective	Contract Requirement or Specific Task No.	Acceptable Quality Level	Means of Surveillance	Deduction from Retainage Pool	Comments	Compliance
Deliverables	All tasks	Reports/Deliverables provided on time with no more than two occurrences of omission or inaccurate information	Reports identified in the reporting requirements of the contract	10%		
Percentage of invoices paid on-time	Task 2a	Measured against 95% standard	STARS Tracking and Reporting Mechanisms & Analysis	20%		
Amount of late payment interest by month	Task 2a	≤ .02%	STARS Tracking and Reporting Mechanisms & Analysis	10%		
Number of erroneous payments made, per Departmental guidance on erroneous payments	Task 2a	< 1% (A Goal of .1%)	STARS Tracking and Reporting Mechanisms & Analysis	10%		

Date Submitted: _____

Completed by: _____

Title: _____